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INVENTORY OF THE COUNTY ARCHIVES OF KANSAS

No. 89
SHAWNEE COUNTY
(TOPEKA)

KANSAS HISTORICAL RECORDS
SURVEY PROJECT
WORK PROJECTS ADMINISTRATION

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INVENTORY OF THE COUNTY ARCHIVES

OF KANSAS

No. 89. SHAWNEE COUNTY (TOPEKA)

Prepared by

The Kansas Historical Records Survey
Division of Professional and Service Projects
Work Projects Administration

Sponsored

by

The Kansas State Historical Society

Topeka, Kansas
The Kansas Historical Records Survey
December 1940

The Historical Records Survey Program

Sargent B. Child, Director
Jacob Hodnefield, Regional Supervisor
Harold J. Henderson, State Supervisor

Research and Records Section

Harvey E. Becknell, Director
Mark W. English, Regional Supervisor
Dillon Neal, State Supervisor

Division of Professional and Service Projects

Florence Kerr, Assistant Commissioner
Mildred T. Law, Chief Regional Supervisor
Mary Parkman, State Director

WORK PROJECTS ADMINISTRATION

Howard O. Hunter, Acting Commissioner
Linus C. Glotzbach, Regional Director
Clarence G. Nevins, State Administrator

FOREWORD

The Inventory of the County Archives of Kansas is one of a number of guides to historical materials prepared throughout the United States by workers on the Historical Records Survey Program of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Shawnee County, is number 89 of the Kansas series.

The Historical Records Survey Program was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research and clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local government, and which provide invaluable data for students of political, economic, and social history. The archival guide herewith presented is intended to meet the requirements of day-to-day administration by the officials of the county, and also the needs of lawyers, businessmen and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by the Historical Records Survey Program attempt to do more than give merely a list of records - they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives.

The successful conclusion of the work of the Historical Records Survey Program, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their cooperation is gratefully acknowledged.

The Survey Program was organized by Luther H. Evans, who served as Director until March 1, 1940, when he was succeeded by Sargent B. Child, who had been National Field Supervisor since the inauguration of the Survey. The Survey Program operates as a Nation-wide series of locally sponsored projects in the Division of Professional and Service Projects, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

HOWARD O. HUNTER
Acting Commissioner

PREFACE

The Historical Records Survey was initiated in Kansas in February 1936 as part of Federal Project No. 1. In October 1936 Harold J. Henderson became State Director. Since the termination of Federal Project No. 1 on August 31, 1939 the work of the Federal Historical Records Survey in Kansas has been continued by the Kansas Historical Records Survey Project, sponsored by the Kansas State Historical Society and supervised by Mr. Henderson.

When completed, the Inventory of the County Archives of Kansas will consist of a separate volume for each county. The volumes are numbered respectively according to the position occupied by each county in an alphabetical order. Thus, the inventory herewith presented for Shawnee County is number 89.

The arrangement of agencies in Part B of the inventory classifies them according to governmental function: administration; registration of property titles; administration of justice; law enforcement; finance; elections; education; public welfare; public works, and miscellaneous. The structural organization and evolution of the agency; the functions, powers, and duties (or jurisdiction of courts), and the records requirements are discussed in a section preceding the inventory of the records of the agency. Records are classified, in general, according to the agencies which make them, unless other disposition of the records is directed by law. Under agencies, records have been classified, so far as possible, according to the subjects with which they deal.

Records are described in entries whose style is formalized to give the following information: title of record, dates for which available, quantity, labeling of volumes or containers, variant titles, description of record contents, manner of arrangement, indexing, nature of recording, size of volumes or containers, and location at the time of the Survey.

The Historical Records Survey has proved itself of valuable assistance to county governments in Kansas. Records have been rearranged and made more accessible, material believed to have been lost has been discovered, and county officials have been encouraged to take a greater interest in the proper preservation of their records and to provide better storage space for them. Inasmuch as administrations are constantly changing, the inventories provide new officials with ready guides to the records in their own offices or which may be stored in other vaults or rooms, as well as supplying the public generally with a comprehensive epitome of all extant public archives in the county.

The Survey in Shawnee County opened in August 1937 and was completed in July 1938. The finished draft then was checked against the records, which work was completed in April 1939. The research work in the records was performed by Tom D. Williams, Victor C. Anderson, and Mrs. Ethel Murphy, under the supervision of Mr. Henderson. The draft entries were

compiled by A. L. Diamond and Mrs. Murphy. The Historical Sketch was compiled and written by Fagan D. Alder. The legal research was made and the governmental organization and office essays compiled by Walter M. Markley, under whose supervision the editorial work was performed. The stencils for mimeographing were cut by Mrs. Mae Farmer. Helpful editorial criticism of this inventory in manuscript form was made by Mabel S. Brodie, Assistant Archivist in charge of public records inventories, of the Washington, D.C., office.

The county officials of Shawnee County accorded the Survey workers every courtesy and assistance. The Survey aroused a deeper interest and appreciation on the part of the county officials in the proper housing and preservation of "overflow" records from their vaults and offices, and as a result, extensive improvements have been made in housing and filing in the attic storage room. At the beginning of the Survey the records in the attic, comprising about 40 percent of all those in the courthouse, were in a state of seemingly hopeless confusion and inaccessibility. Hundreds of bound volumes and scores of boxes of unbound documents were stacked promiscuously here and there, many of them threatened with deterioration and spoilage. The various county officers and their deputies, too busy in keeping up with the current demands of the county business to undertake the huge task of straightening out the old records, had no means of knowing the location, or even the existence, of records made long before their time, yet often needed for reference, especially since enactment of recent social security legislation.

Survey workers sorted, cleaned, and arranged the bound records in proper order. The county commissioners ordered lumber and caused 1,025 lineal feet of additional shelving to be built. The volumes then were arranged by offices and subjects in chronological order. Records, as they are retired from offices and vaults, now are placed in their proper order in the attic by the officials, with the result that any given record can be quickly and easily located. File boxes and other containers also are labeled with their contents and dates. The orderliness of the attic now attracts much favorable comment and county officials have expressed their appreciation of the change.

Survey workers also found opportunity to render other services to the county officers. Several old records believed to have been lost were discovered and restored. At the request of the then county clerk the Survey workers made a search for the first volume of the county commissioners' journals, missing for 20 years, and eventually found it in a pile of discarded day books. It has been rebound and placed with the later journals, thus making complete the record of the county governing board's official acts from the beginning of the county government. One of the earliest records of probate court proceedings also was found and restored. The record of vital statistics in which are recorded births, deaths, and marriages occuring in the county 1894-1910, and which has taken on a new importance since enactment of social security laws, was found in the attic and made available for ready reference. In land condemnation proceedings in the construction of a dike it was necessary to

refer to property assessments since 1900 and the required books were located by Survey workers. There were several other instances in which the location of specific records served valuable purposes to officials and individuals.

Acknowledgment is made of the services of the Kansas Library project in binding this volume through the authorization of Mrs. Mary Parkman, State Director of the Division of Professional and Service Projects.

The various units of the Inventory of the County Archives of Kansas will be issued in mimeograph form for free distribution to State and local public officials and public libraries in Kansas, and to a limited number of libraries and Government agencies outside the State. Requests for information concerning publications of the work of the Survey in Kansas should be addressed to Harold J. Henderson, State Supervisor, 912 Kansas Avenue, Topeka, Kansas.

To the public officials of Shawnee County and to all those whose cooperation was received in the preparation of this volume the State Supervisor and his staff extend their gratitude.

HAROLD J. HENDERSON
State Supervisor
Kansas Historical Records Survey Project

Topeka, Kansas
November 26, 1940

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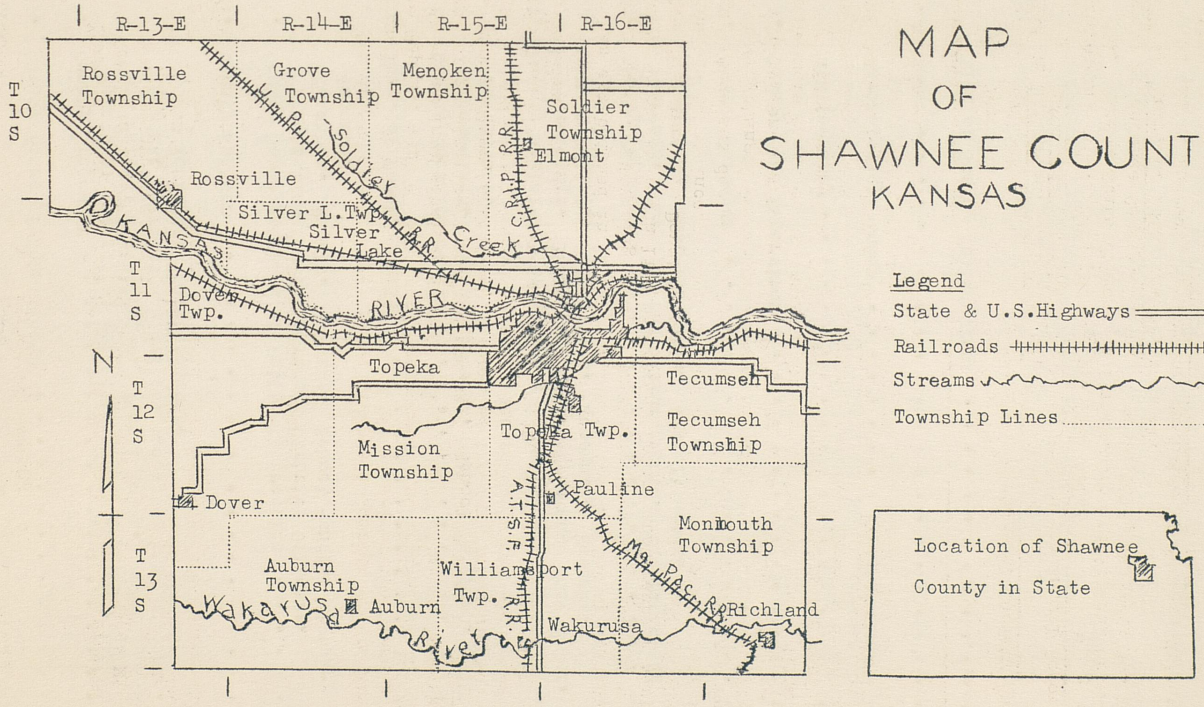

MAP OF SHAWNEE COUNTY KANSAS

(First entry, p. 207)

1. HISTORICAL SKETCH

Shawnee County was one of the 36 original counties created by the first Territorial legislative assembly which met at Shawnee Mission July 16 and adjourned August 30, 1855.[1] The county was named for the Shawnee Indians,[2] owners of large tracts of land in Eastern Kansas from 1825 to 1854.[3] Its present area is approximately 558 square miles, or 357,120 acres.[4]

Location and Boundaries

The county is situated in the northeast quarter of the Kansas rectangle. Its eastern border is 48 miles west of the Missouri line. From Topeka, seat of its county government and capital of the State, it is 56 miles in a straight line to Missouri, 66 miles to Nebraska on the north, 144 miles south to Oklahoma, and 354 miles west to Colorado. The Kansas River, equally well known as the Kaw, traverses the county's width to join the Missouri River at Kansas City just above the point where that stream swings eastward for its transit of Missouri to enter the Mississippi near St. Louis.

As established in 1855 the whole of Shawnee County lay south of the Kansas River, comprising an area extending from the river to a line continuous with the south line of Douglas County and reaching westward 24 miles from the west Douglas County line. The area north of the river which was to be incorporated in Shawnee County by future acts of the legislature was designated as a part of Calhoun County,[5] the name of which was changed to Jackson County on February 11, 1859.[6] The counties of Richardson, later to become Wabaunsee, and Weller, later to become Osage, were attached to Shawnee for administrative and judicial purposes by the first assembly. Richardson extended 24 miles westward from Shawnee, and Weller, 24 miles square, adjoined Shawnee on the south; thus Shawnee was given an administrative area approximately three times that of the county proper. The site of Burlingame, now in Osage County, was within the limits of Shawnee.[7]

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1. Terr. L. 1855, chs. 30, 33, 37.
2. Collections of the Kansas State Historical Society (hereinafter cited as Historical Collections), VII, p. 474.
3. Bureau of American Ethnology, Eighteenth Annual Report, 1896-97, Washington, D.C., 1899, part 2, pp. 792, 793.
4. Kansas State College of Agriculture and Applied Science, Soil Survey of Shawnee County, Kansas, Topeka, 1914, Bulletin No. 200, p. 717.
5. Terr. L. 1855, ch. 30, sec. 31.
6. A. T. Andreas, History of the State of Kansas, Chicago, 1883, p. 1335.
7. Terr. L. 1855, ch. 30, secs. 11, 12, 16, 34, 35.

Historical Sketch - Location and Boundaries (First entry, p. 207)

The boundaries of Shawnee County were first defined by section lines in 1857, though the legislature left the area unchanged. The act defined the boundaries as follows: "Beginning at the southwest corner of Douglas County; thence west with the section lines to the corners of sections 14, 15, 22, and 23, township 15 south of range 13 east; thence north with the section lines to the intersection of the middle of the main channel of the Kansas River; thence down said river, in the middle of the main channel thereof, to the northwest corner of Douglas County; thence south with the west boundary of said Douglas County to the place of beginning."[1]

The administrative area of Shawnee was reduced to the limits of the county proper on February 11, 1859 when the legislature detached Richardson and Weller counties from administrative purposes.[2] Richardson was also detached for judicial purposes through the creation of a district court in that county,[3] and its name was changed to Wabaunsee by the act organizing the county.[4] The name of Weller was changed to Osage and the county was organized for administrative purposes,[5] but it remained under the judicial jurisdiction of Shawnee[6] until 1861, when it was detached for judicial purposes.[7]

The Shawnee County boundaries were changed by the legislature of 1860. The southern boundary was moved 9 miles northward to the line between townships 13 and 14 and the six congressional townships comprising this area, including the town of Burlingame, were attached to Osage County. All that portion of Jackson County lying south of the line between townships 10 and 11, comprising about two townships north of the Kansas River, was annexed to Shawnee.[8]

The legislature of 1868 gave Shawnee County approximately its present boundary status by moving the north line 6 miles northward to the line between townships 9 and 10. The four congressional townships thus detached from Jackson and added to Shawnee made the latter approximately 24 miles north and south and 24 miles east and west, except that the east and west boundaries north of the river are approximately 5 miles farther west then those south of the river.[9] These boundaries as defined by the statute were as follows: "Commencing at the southeast corner of section 34, township 13, range 17 east; thence due north on section lines,

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1. Terr. L. 1857, p. 40, sec. 11.
2. Terr. L. 1859, ch. 59, sec. 2; ch. 100, sec. 1.
3. Ibid., ch. 40, sec. 6.
4. Ibid., ch. 59, sec. 1.
5. Ibid., ch. 100, secs. 1-3.
6. Ibid., ch. 40, sec. 4.
7. L. 1861, ch. 23, sec. 2.
8. Terr. L. 1860, ch. 46, sec. 1.
9. L. 1868, ch. 15 (Special Session); G.S. 1935, ch. 18, sec. 189.

being 2 miles west of the east line of range 17, to the Kansas or Kaw River; thence westward by and following the channel of said river for a distance of 5 miles, and indicated by section lines, to the southwest corner of section 25, township 11, range 16; thence north, to the second standard parallel; thence east (but a few chains) to the southwest corner of section 36, township 10, range 16; thence north on said line, being 1 mile west of east line of range 16, 6 miles to the north line of township 10; thence west on said line 24 miles to the northwest corner of section 1, township 10, range 12; thence south to the channel of the Kansas or Kaw River; thence down the channel of said river, to a point 2 miles west of the east line of range 13, as by the section lines; thence due south on said section lines, being 2 miles west of east line of range 13, being the present west line of Shawnee County, south of the Kansas River, to the southwest corner of section 35, township 13, range 13 east; thence east 24 miles to the place of beginning."[1]

The only subsequent change was made in 1899 when a portion of the boundary line between Shawnee and Jefferson Counties was modified by the legislature, but the areas were only slightly changed by the minute amount of territory Shawnee lost. This interpolation reads: "Commencing at the southeast corner of the northeast quarter of section 26, township 11, range 16 east of the sixth principal meridian; thence west to the center of the Kansas River; thence northerly along the center of said Kansas River to the south line of the northeast 1/4 of section 23, township 11, range 16 east of the sixth principal meridian; thence east to the east line of section 23, township 11, range 16 east of the sixth principl meridian, to the present boundary line between Shawnee and Jefferson Counties as now constituted."[2]

The legislative assembly of 1858 made an unsuccessful attempt to set up two new counties in the region between the Kansas River and the northern boundary of Jackson County, the one on the south embracing what now is the northern part of Shawnee County and to be designated as Kaw County, and the other to be named Osceola County. Holton, now county seat of Jackson County, was named as the county seat of Osceola and Cyrus K. Holliday, John M. Coe, and Asa Redmond were commissioned to select a temporary county seat for Kaw County. The bill was passed by the council and the house but was not signed by the Governor. And although the superintendent of public printing was instructed in a house resolution to publish the measure along with other acts of the session, this, for some undertermined reason, was not done and therefore the bill did not become a law.[3]

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1. L. 1868, ch. 15 (Special Session); G.S. 1868, ch. 24, sec. 70; G.S. 1935, ch. 18, sec. 189.

2. L. 1899, ch. 56, sec. 1; G.S. 1935, ch. 18, sec. 144a.

3. House Journal (Extra Session) of the Legislative Assembly of Kansas Territory . . . 1857-58, Lawrence, Kan., 1861, pp. 349, 359, 370, 442.

Topography and Climate

Topographically, Shawnee County is a high undulating plateau frequently cut by valleys of varying size. Along the streams are long gentle slopes in which it is frequently difficult to determine the extent of the overflowed land. The streams are fringed by steep slopes which give rise to a belt of rough country. The greater part of the drainage flows into the Kansas River. The northern part of the county is drained mainly by these tributaries of that stream: Bourbonnais, Cross, Big Soldier, Walnut, Little Soldier, Muddy Creeks. Indian and Little Muddy are creeks of minor importance. South of the river most of the drainage is carried by Mission, Shunganunga, and Wakarusa Creeks and their tributaries. Deer, Whetstone, and Tecumseh Creeks, streams of minor importance, drain the east central part of the county. There is a total range of elevation of over 350 feet. The lowest point, where the river leaves the county, is about 800 feet and the highest, in the southwest corner, is over 1,150 feet above sea level. The broad plateau strip which enters the county at its southwestern boundary and extends in an easterly direction forms the highest land in the county. East of Mission township the high rolling prairie gives way to a flat, level plain dissected by few streams. In Monmouth township on the eastern boundary the elevation is fully as high as that of the western part, with deep valleys and numerous outcrops of limestone along the streams. North of the Kansas River the topography is slightly modified by the presence of a thin layer of glacial till, although in general the typography is that of residual rather than glacial country. Here the elevation is slightly less than it is south of the river, and in only a few instances does it exceed 1,100 feet.[1] The soil of the county is a rich dark loam, highly productive, and it has been described in Government and county surveys as "bottom land, 31 percent; upland, 69 percent; forest, 8 percent, and prairie, 92 percent." The timber, natural growth, is confined largely to the bottoms of the Kansas River and its tributaries, elm, cottonwood, black walnut, oak, sycamore, box elder, hickory, and ash trees predominating.[2]

The county is well supplied with rainfall, especially during the growing season and is favored with more sunshine than most states to the east. The average rainfall, approximately 35 inches, is about equal to the average for such important corn-producing states as Iowa, Illinois, Indiana, Ohio, and Eastern Nebraska. From 70 to 74 percent of the precipitation is accounted for during the months of April to September, inclusive, when the need of soil moisture is most urgent. No states

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1. Kansas State College of Agriculture and Applied Science, Soil Survey of Shawnee County, Kansas, Bulletin No. 200, pp. 717, 718.
2. Andreas, op. cit., p. 521.

except a few along the Gulf Coast receive as much rainfall during those growing months as the eastern third of Kansas. The average annual temperature is about 55 degrees. January usually is the coldest month, July the hottest. Cooling breezes make their appearance in September, ushering in the most delightful season of the year. A period of Indian summer is common in October or the forepart of November, providing weather as nearly ideal as can be found on any part of the globe. Rigorous weather seldom sets in before the latter part of December.[1]

Floods in the Kansas River watershed are due almost entirely to the excessively heavy rains liable to occur during the warm season or early fall months. Among the most noteworthy floods were these of 1844, 1903, 1904, 1908, and 1915. Probably the greatest was that of May and June 1844. Investigation by weather bureau officials indicates that a stage of 42.2 feet on the present gage datum was attained, or 10 feet above the high water mark of 1903.[2] As a result of 6 weeks of daily rainfall the Kansas River extended from bluff to bluff, sweeping away the houses and crops of the 1,600 to 1,800 Kansas Indians. The water was 20 feet deep in what now is North Topeka, according to the measurements of Major Cummings, a paymaster of the United States army who crossed at the height of the flood.[3] Father Felix Verreydt in his memoirs recorded that in the spring of 1848 he found debris of the flood lodged in trees along the Kansas River to a height of 16 feet above the ground.[4]

Vastly more destructive, however, because of the increase in population and advancement in all lines was the flood of 1903, which brought Shawnee County its greatest calamity. Beginning on May 15, heavy rains continued for 2 weeks. Topeka received 8 inches of rainfall, Manhattan 9, Salina 17. The swollen river, fed by its gorged tributaries, ravaged a strip of territory 200 miles long and 6 miles wide. Because of its lower elevation and comparative density of population North Topeka suffered most, the entire area being submerged by May 30. Eight thousand persons were forced from their homes, 29 lives were lost, and in the Topeka district alone property damage was estimated at $2,268,000. The river reached its highest stage May 31 and it was June 4 before water ceased to run in the streets. On the south side it backed up Kansas Avenue for 3 blocks, flooding the low-lying parts of the city and washing away the approaches to the Melan bridge, completed in 1898. The only communication between the two parts of the city was by boats, only about 25 of which could be found. And though several lives were lost due to

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1. United States Department of Agriculture, Weather Bureau, Climatic Summary of the United States — Section 41---Eastern Kansas, p. 1.
2. Ibid., p. 2.
3. Historical Collections, VIII, pp. 476-478.
4. Gilbert J. Garraghan, The Jesuits of the Middle United States, New York, 1938, II, p. 607.

the force of the current, drifting objects, and unskilled boatmen, many were saved by these boats. Fire starting from unslaked lime in a lumber yard and spread widely by floating wreckage added to the danger and a cold wind brought a drop in temperature to November levels. Some assistance was sent from St. Joseph, Holton, and neighboring towns over the Rock Island railroad. A deposit of mud from 6 inches to 3 feet thick was left on the floors of every building in North Topeka, but within 2 years nearly all traces of the disaster had been removed.[1]

Early History and Settlement

The whole of Kansas except 7,766 square miles at the southwest corner originally was a part of the vast territory known as the Province of Louisiana, purchased by the United States from France in 1803. The region was claimed by both France and Spain in the Seventeenth and Eighteenth centuries. Spain based her claim on the expedition of Coronado in 1541, while France pointed to the explorations of Marquette and Joliet in 1673 and of LaSalle, who took possession of the entire Mississippi Valley "and the rivers which discharge themselves thereinto" in 1682. However, in 1762 France passed her claim to the Louisiana region on to Spain and in 1801 Spain retroceded the area to France, who in turn sold it to the United States on April 30, 1803.[2] That portion of the territory lying north of the 33rd parallel was designated as the District of Louisiana and placed under jurisdiction of the government of Indiana Territory. In 1812 it became a part of Missouri Territory, which was given a Governor, Secretary, legislative council, and courts of its own.[3] In 1819 Arkansas Territory was created out of that part of the area lying south of the present state of Missouri and north of the 33rd parallel.[4] This left the remainder of the Louisiana region, including the present area of Kansas, without organized government until passage of the Kansas-Nebraska Act in 1854.

Twenty Frenchmen headed by Etienne Venyard Sieur de Bourgmont made the first recorded visit of white persons to the present area of Shawnee County in 1724, journeying from the Kansas Indian villages on the Missouri River to the Comanche villages at the headwaters of the Smoky Hill.[5]

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1. James L. King, History of Shawnee County, Kansas, and Representative Citizens, Chicago, 1905, pp. 207-221.
2. Andreas, op. cit., pp. 43-49.
3. 2 Stat. 283, 743-747.
4. 3 Stat. 493, 494, 645, 797.
5. Pierre Margry, Descouvertes et Etablissements des Francais dans L'ouest et dans le Sud l'Amerique Septenrrionale, 1614-1754, Paris, 1879-88, VI, pp. 429-431, 448.

Historical Sketch - Early History and Settlement (First entry, p. 207)

The Kansas Indians, for whom the State is named, for many years occupied and claimed parts of what now is Eastern Kansas. By a treaty made at St. Louis on June 3, 1825 this tribe ceded to the United States all of the land to which it had claims excepting an area 30 miles wide beginning 20 leagues up the Kansas River and extending 300 miles westward through the land ceded. Twenty-three sections more were set aside on the north side of the river for certain half-breeds.[1] The land reserved, amounting to 9,000 square miles of the heart of Kansas, embraced the western portion of the present county of Shawnee, its eastern boundary being the center of range 14, which is 9 miles west of the center of Topeka.[2] Of the 23 sections given to the half-breeds a fraction more than 7 were in Shawnee County immediately north of the Kansas River, the remainder being in Jefferson County. Reserve number 4 was in what is now North Topeka.[3]

The first white person to settle within the limits of Shawnee County is generally believed to have been Frederick Choteau, who established a trading post on Mission Creek in 1830. Later in the year the Reverend William Johnson, a Methodist missionary, commenced work among the Kansas Indians at two villages close to Choteau's post. A Government farm in charge of Daniel Morgan Boone, son of the noted frontiersman, was established in 1835 for the benefit of the Indians. In the same year the Reverend Johnson built a mission on the northern part of this farm on the northwest corner of section 33, township 11, range 14. In 1840-41 four Papan brothers of French-Canadian descent came to this area, three of them marrying women of the Gonvil family, who, being half-breeds, had each received a section of land allotted under the treaty of 1825. The Gonvil land embraced the site of present North Topeka. In 1842 the Papan brothers started a ferry to meet the demands of the travel between Fort Leavenworth and the Southwest, and later the Oregon and California traffic.[4]

The Kansas Indians on January 14, 1846 ceded to the United States 2,000,000 acres of the eastern portion of their remaining lands, including that in Shawnee County. There being a shortage of timber in the area left to the Indians, the Government later took the remainder of the land and gave them in return a reservation about 20 miles square near

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1. War Department, Indian Treaties and Laws and Regulations Relating to Indian Affairs, Washington, D.C., 1873, pp. 253-259.
2. William E. Connelley, History of Kansas, State and People, Chicago, 1928, I, pp. 215, 216.
3. F. W. Beers, Atlas of Shawnee County, New York, 1873, p. 6.
4. Andreas, op. cit., pp. 71, 532; Connelley, op. cit., pp. 160, 210-214; King, op. cit., pp. 27, 30; Historical Collections, IX, pp. 195-197.

Council Grove.[1] In June 1846 the Government, desiring to bring the scattering bands of Pottawatomie Indians to one location, gave them a plat 30 miles square lying immediately west of the site the present city of Topeka. This plat was taken from the eastern portion of the area ceded to the Government earlier in the year by the Kansas Indians.[2]

Jonas Lykins, a Baptist missionary, settled among the Pottawatomies in November 1847 on section 17, township 12, range 15. In the same year a colony of settlers from Indiana, New York, and Iowa established themselves in what is now Silver Lake Township, and another small colony located in the present Rossville Township.[3] The Pottawatomie Baptist mission, the main building of which still stands, was constructed in 1848 under the direction of Isaac McCoy in the northwest 1/4 of section 32, township 11, range 15.[4] A school for Indian children was conducted by the Reverend Robert Simerwell and his daughter, Sarah, in connection with the mission.[5]

A group of Pottawatomie Indians from the Catholic mission at Sugar Creek established a village at the junction of the three forks of the Wakarusa River near the site of Auburn in February 1848. Father Christian Hoecken opened a mission among them the same year, but on September 9 it was decided to found a large and permanent Catholic mission at the site of the present town of St. Mary's, and the Indians were persuaded to move to that place.[6] The log cabins of the original mission were than occupied by a group of Shawnee Indians for about 6 years, and on August 10, 1854 the greater part of the site was purchased from them by John W. Brown.[7]

A Government trading post called Uniontown was established in 1848 on the Kansas River in the northwest 1/4 of section 23, township 11, range 13. Much of the travel along the old California Trail of 1849 forded the river at this point. It was a center for Indian traders, inasmuch as Government annuities were paid there to the Pottawatomies. When these payments ceased in 1855 the settlement dwindled and later disappeared.[8]

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1. United States Indian Affairs Office, A Compilation of All the Treaties Between the United States and the Indian Tribes Now in Force As Laws, Washington, D.C., 1873, pp. 415-417.
2. Ibid., p. 182.
3. Frank W. Blackmar, Kansas, A Cyclopedia of State History, Chicago, 1912, II, p. 684; Connelly, op. cit., pp. 260, 262.
4. Historical Collections, IX, p. 573.
5. Kansas State Historical Society, Archives Department, "Simerwell Papers;" Andreas, op. cit., p. 72.
6. St. Mary's College, Original Latin Diary of Father Christian Hoecken, 1848-51.
7. King. op. cit., p. 44.
8. Historical Collections, IX, p. 573; Giles, op. cit., pp. 15-18.

Historical Sketch - Establishment and Organization (First entry, p. 207)

Establishment and Organization

The first legislative assembly provided that the corporate affairs of each county should be administered by a board of county commissioners consisting of the probate judge of the county as president, and two commissioners, all of whom were elected by joint ballot of the assembly to serve until 1857, after which they were to be elected by the people for 4-year terms.[1] The first board of county commissioners for Shawnee County was elected by joint ballot of the assembly on August 25, 1855 and consisted of William O. Yager, president by virtue of his appointment as probate judge, and Edward Hoogland and William Yocum, commissioners.[2]

The board held its first meeting at Tecumseh, which had been designated as the county seat, on September 17, 1855, organized for business, divided the county into election precincts, and appointed judges and clerks for the October election for delegate to Congress. At its second meeting on September 24 the board appointed John Horner as sheriff to succeed George W. Berry, who had been appointed by the assembly but resigned at the first meeting of the commissioners. The board also appointed John Martin as its clerk, Duke W. Hunter as superintendent of public buildings, and Thomas W. Stinson as county treasurer.[3] Martin was commissioned by the Governor on October 10.[4]

In the first county election on October 5 and 6, 1857, Harvey W. Curtis and Hiram Shields were elected as commissioners and Phillips C. Schuyler as probate judge. Schuyler declined to serve, however, and Governor J. W. Denver appointed Edward Hoogland in his place. Because doubt existed concerning the legality of such an appointment by an acting Governor under chapter 44 of the laws of 1855 the county commissioners also appointed Hoogland on February 27, 1858.[5] By virtue of his office of probate judge Hoogland became chairman of the board of county commissioners.[6]

When the legislative assembly of 1858 enacted a law providing for a board of county supervisors composed of the chairmen of the township boards to replace the three-member board of commissioners,[7] Shawnee

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1. Terr. L. 1855, ch. 44, secs. 1, 28, 29, 39.
2. Journal of the House of Representatives of the Territory of Kansas, Shawnee Manual Labor School, 1855, p. 332; Recorder's Book, pp. 160, 161, see entry 123.
3. Commissioners' Journal, 1855-62, pp. 1-4, see entry 2.
4. Recorder's Book, pp. 50, 51, see entry 123.
5. Commissioners' Journal, 1855-62, p. 86, see entry 2.
6. Terr. L. 1855, ch. 44, secs. 28, 29.
7. Terr. L. 1858, ch. 13, sec. 3.

County embraced five townships: Tecumseh, Topeka, Brownsville, Burlingame, and Wakarusa. The first session of the board under the new organization, referred to in the records as a "supervisors' court," was held at the residence of Eli Hopkins at Tecumseh on September 4, 1858. Jeremiah Murphy of Topeka township was chosen as chairman. Other members recorded as present were Alonzo H. Hale of Brownsville Township and Eli Hopkins of Tecumseh Township. F. W. Giles was clerk. At this meeting the members arranged for the assessment of property for taxation purposes.[1]

The Territorial assembly of 1860 changed the name of the board of county supervisors back to board of county commissioners, and provided that it should again consist of three members, each elected from a designated district.[2] In Shawnee County a commissioner was elected March 26, 1860 from each of the commissioner districts, which were coextensive with the three townships into which the county had been divided a few days previously.[3]

County Seat and County Buildings

The Pro-slavery assembly of 1855 which incorporated the Tecumseh Town Association also designated Tecumseh as the county seat of Shawnee County.[4] At their meeting on September 24, 1855 the county commissioners ratified an agreement with the Tecumseh Town Association for erection of a courthouse. Under its terms the Association conveyed to the commissioners or their successors the plot of ground known as "Court Square" and lots 26 and 27 of the public square and agreed to do the digging, plastering, and brick and stone work on the building, the construction expense to be paid in county bonds. Duke W. Hunter was appointed superintendent of county buildings and he contracted with Luther M. Carter of Westport, Missouri, to do the carpentry and finishing work for $3,213, also payable in county bonds. The agreement stipulated that the bonds should be retired before February 1859 and should bear 10 percent interest from the time the building was completed until retirement of the issue.[5]

Despite murmurings of Free-State settlers and their refusal to pay the taxes levied by the county commissioners, construction work on the courthouse continued and on July 2, 1856 the commissioners authorized

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1. Commissioners' Journal, 1855-62, pp. 70, 71, 103, see entry 2.
2. Terr. L. 1860, ch. 28, secs. 3, 10.
3. Commissioners' Journal, 1855-62, p. 183, see entry 2.
4. Terr. L. 1855, ch. 30, sec. 35.
5. Commissioners' Journal, 1855-62, pp. 4, 118-120, see entry 2; Recorder's Book, pp. 14-16, see entry 123.

the superintendent of public buildings to arrange to have the edifice "painted in a cheap and economical style immediately." On August 18 Luther M. Carter was granted $1,071 of Shawnee County bonds for his services and on December 16 the Tecumseh Town Association was given $3,000 in county bonds to apply on the courthouse indebtedness.[1] The completed structure, about 40 by 50 feet and two stories high, had a portico in front mounted on brick pillars. The partition walls and the floors were of brick, but the walls were not plastered and the building "was generally without doors."[2] An act of the legislative assembly effective February 17, 1857 approved the contracts and agreements made by the county commissioners and declared the bonds previously issued to be valid and binding upon the county. Luther M. Carter and the Tecumseh Town Association were given liens on the new courthouse for the amounts due them.[3]

Quarters in the building were assigned by the county commissioners on March 23, 1857. One room was allotted to each county officer and one to the officials of the district court for the Second Judicial District. On the report that there were numerous families on route to Tecumseh to settle and that there were few vacant houses in the town, the commissioners authorized the sheriff to rent the large court room to any such family temporarily for a suitable consideration.[4]

When the Free-State officers chosen at the first county election in October 1857 took office, they found the county affairs in bad condition. No schools had been established, no bridges built; taxes were uncollected and financial matters were in a desperate state; and although there was no jail, no provision had been made for keeping prisoners.[5] Moreover, when the legislature of 1858 enacted a law to displace the board of commissioners with a board of county supervisors, the incumbent officers refused to take any action on fee bills presented to them or claims for construction of the courthouse, and laid all such business on the table awaiting installation of the new governing body.[6]

Under provisions of a legislative enactment of 1858 directing the selection of county seats by popular vote,[7] an election was held in Shawnee County on October 4, 1858 with Brownsville (Auburn), Burlingame, Topeka, and Tecumseh contesting. Tecumseh voters did not cast their ballots on the county seat question, though they voted on other propositions submitted at the election. Topeka received a majority of the votes

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1. Commissioners' Journal, 1855-62, pp. 27, 33, 41, see entry 2.
2. Fry W. Giles, Thirty Years in Topeka, Topeka, 1886, p. 106; King, op. cit., p. 31.
3. Terr. L. 1857, pp. 50, 51, secs. 1, 2; p. 366, sec. 1.
4. Commissioners' Journal, 1855-62, pp. 50, 51, see entry 2.
5. Blackmar, op. cit., p. 685.
6. Commissioners' Journal, 1855-62, pp. 81, 96, see entry 2.
7. Terr. L. 1858, ch. 21, sec. 1.

cast and Tecumseh citizens contended that the election was illegal. Probate Judge Hoogland, prominent Tecumseh citizen to whom the poll books were delivered, refused to certify the vote, and a part of the county records were forcibly removed to Topeka.[1] The board of supervisors met at Topeka for the first time on December 14,[2] and on January 24 the legislative assembly legalized the election of October 4 and declared Topeka the permanent county seat.[3]

All of the debts of Shawnee County "accruing from any cause whatsoever" prior to the first Monday of October 1857 were completely renounced and repudiated on January 4, 1859 by the board of supervisors at a meeting at Brownsville (Auburn). "The socalled legislature of Kansas Territory sitting at Shawnee Manual Labor School in 1855 defined boundaries for Shawnee County, elected for us county officers and prescribed ways in which they might proceed to the erection of county buildings at an unlimited expense," reads the official declaration, "thus characteristically withholding from the people any expression of their choice in the location of their county seat and making them liable to onerous taxes for the erection of county buildings in place and in character such as were entirely repugnant to their wishes." The Tecumseh Town Association, the largest creditor, was owed in bonds and interest $4,468.19 and Luther M. Carter had a claim of $3,750. It was estimated that the total of the county obligations of all forms was about $11,000.[4]

Eli Hopkins and Jeremiah Murphy were named by the board of supervisors on January 25 as a committee to procure rooms for the county offices in Topeka, and together with Fry W. Giles they became a committee to secure a jail in Topeka at a cost of not more than $600.[5] Until 1868 the county offices were scattered about Topeka without suitable accommodations or safe receptacles for the records. Sessions of the district and probate courts were held in the Ritchie Block at the southeast corner of Sixth and Kansas Avenues, in the Gale Block, and in a business building at 104 East Sixth Avenue.[6]

When the county boundary lines were moved northward in 1860 and again in 1868,[7] Topeka was given a more central position in the county.

At an election ordered by the county commissioners to be held February 12, 1867 Shawnee County electors voted 489 to 59 in favor of

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1. Giles, op. cit., pp. 109-111; King, op. cit., p. 137.
2. Commissioners' Journal, 1855-62, p. 114, see entry 2.
3. Terr. L. 1859, ch. 58, sec. 1.
4. Commissioners' Journal, 1855-62, pp. 117-124, see entry 2.
5. Ibid., pp. 128, 129, see entry 2.
6. Giles, op. cit., p. 112; King, op. cit., p. 40.
7. Terr. L. 1860, ch. 46, sec. 1; L. 1868, ch. 15 (Special Session); G.S. 1935, ch. 18, sec. 189.

issuing $50,000 in county bonds for the erection of a courthouse and jail. On April 5 a contract was let to T. B. Mills & Company for construction of the building on lots 109, 111, 113 on Kansas Avenue. The bonds, issued in $1,000 denominations and running 10 years at 10 percent interest, were issued on April 17 and the county treasurer was empowered to deliver them to the contractor as the work progressed.[1] The original issue, however, proved insufficient and on March 16, 1868 the county commissioners authorized the county treasurer to issue an additional $10,000 of internal improvement bonds to T. Mills and Company. At an election held May 23 a majority of the electors voting favored issuance of an additional $10,000 of county bonds for completion of the building, and on May 29 the commissioners ordered these bonds issued.[2] On July 10, 1868 the commissioners accepted the courthouse and jail as completed according to contract.[3] The building was two stories high, with a basement jail. The county offices were on the main floor and the district court room occupied most of the second floor. The United States district court also used the building.[4]

As a site for a new jail the county commissioners on November 19, 1884 bought lots 140, 142, 144 on Van Buren Street in Topeka from A. B. McCabe for $6,000.[5] The legislature of 1886 directed the commissioners to levy a tax of not to exceed 6 mills on the dollar valuation of all taxable property for erection of a jail and jailer's residence.[6] The contract was let June 12 to the Pauly Jail Building and Manufacturing Company for $45,000,[7] and the new building was accepted from the contractors February 26, 1887.[8]

The present courthouse was completed and occupied early in 1896.[9] The old courthouse and lots 109, 111, and 113 on Kansas Avenue on which it was situated were sold by the county commissioners on December 19, 1904 to Louis Hazelbarl for $8,500. The tenants were ordered to vacate by January 1, 1905.[10]

The proposition of Enoch Marple to sell his 115-acre tract of land in section 5, township 11, range 16 to the county for $4,400 as a site

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1. Commissioners' Journal, vol. A, pp. 270, 271, 273, 279, 286, 295, see entry 2.
2. Ibid., pp. 406, 435.
3. Ibid., vol. BC, p. 13.
4. King, op. cit., p. 40.
5. Commissioners' Journal, vol. G. p. 276, see entry 2.
6. L. 1886, ch. 74, secs.1-4.
7. Commissioners' Journal, vol. G, p. 582, see entry 2.
8. Topeka Daily Capital, February 27, 1887.
9. For details of erection of courthouse and description of building, see Housing, Care, and Accessibility of Records, p. 162.
10. Commissioners' Journal, vol. M, p. 175, see entry 2.

for a county poor farm was accepted by the commissioners August 10, 1870. On September 10 a contract in the amount of $1,785 was let to Hannum and McCarter for furnsihing materials and doing masonry work on the building. On September 15 the contract for the carpentry work was awarded to Morse and Kitchen. The overseers for the poor in the various townships were directed on April 4, 1871 to transfer all poor persons in their care to the completed county home.[1]

The legislature of 1923 authorized the county commissioners to issue bonds in the sum of $200,000 for construction of a modern grandstand at the county fair grounds and accept 40 percent of the receipts from the grandstand revenue to retire the bonds, giving a mortgage on the land as security.[2] The land, used as exposition grounds by the Kansas Free Fair, comprised 76 acres at Seventeenth Street and Topeka Avenue in the west 1/2 of the southwest 1/4 of section 6, township 12, range 16. Five percent bonds in the amount of $200,000 were issued and sold to the Brown-Crummer Company on March 30, 1923. On April 10 the main construction contract was let to the Pratt-Thompson Construction Company for their bid of $150,000.[3] An agreement was made with the fair association May 11 whereby the county was to receive 40 percent of the grandstand revenue. Proof of completion of the grandstand was presented to the commissioners November 5, 1923.[4]

The county commissioners on August 22, 1927 ordered a levy of .00061 of a mill on all taxable property in the county, as authorized by chapter 38, section 507 of the Revised Statutes of 1923, for purchase of a site and erection of a building for a juvenile detention home. Artchitects' plans for the building were accepted August 31 and the contract let to L. K. Bowers & Son on October 14 for $23,089.[5] The building was erected on lots 111-119 on Van Buren Street, which had been sold to the county by the Jane C. Stormont Hospital and Training School for Nurses for $10,325.[6]

The legislature of 1935 authorized the county commissioners to acquire land and establish thereon parks and recreation grounds, the cost to be paid by the issuance of bonds up to one-tenth of 1 percent of the total assessed valuation of the county for the year preceding the issue. No election on the question was required unless 20 percent of the qualified voters petitioned therefor.[7] On May 6, 1935 the commissioners selected a site on Deer Creek southeast of Topeka for a county lake and

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1. Commissioners' Journal, vol. BC, pp. 295, 300, 301, 362, see entry 2.
2. L. 1923, ch. 143, secs. 1-6.
3. Commissioners' Journal, vol. Q, pp. 100, 103, 107, see entry 2.
4. Ibid., pp. 119, 153.
5. Ibid., vol. R. pp. 48, 192, 193.
6. Deed Record, vol. 500, p. 373, see entry 157.
7. L. 1935, ch. 142, secs. 1-5.

park and on May 13 issued $100,000 in bonds to purchase the condemned land and begin construction of the lake. Specifications for the lake were approved by the State Board of Agriculture on December 13 and by March 20, 1936 the commissioners had purchased 968 acres of land, mostly in township 12, range 16, at a cost of $96,449.55.[1] The county commissioners assumed control over the completed project, designated as Lake Shawnee Park, on August 6, 1937.[2] The total cost of the project, including the amount paid for the land, was $970,517.69. Of this amount, $796,218.19 was paid by the Work Projects Administration and $174,299.50 by the county.[3]

Townships

The first assembly made it the duty of the county commissioners to divide the county into municipal townships, designate names therefor, and appoint the first township officers.[4]

The division of Shawnee County into townships began at the first meeting of the board of commissioners on September 17, 1855 when the region north of the Wakarusa River was designated as Tecumseh Township and the area south of that stream as Yocum Township.[5] Tecumseh Township was subdivided February 23, 1857 by a north-south line from the Kansas to the Wakarusa following the section lines 3 miles west of the town of Tecumseh, the area on the west being designated as Topeka Township,[6] and at the same session Weller and Richardson Counties, which had been attached to Shawnee for judicial and administrative purposes,[7] were subdivided into 2 townships each, Weller by a north-south line through its center, and Richardson by an east-west line through its center. Shawnee county was redivided on September 21, 1857 into five townships: Tecumseh, Topeka, Brownsville, Burlingame, and Wakarusa, and Richardson was re-divided into 3 townships: Mission, Alma, and Wabaunsee.[8] At the second official meeting of the board of county supervisors, successor to the board of county commissioners, on September 13, 1858 the board attached to Burlingame Township for judicial and municipal purposes

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1. Commissioners' Journal, vol. T, pp. 156, 160, 387, 498, 499, see entry 2.
2. Ibid., vol. U, p. 357, see entry 2.
3. County Engineer's Lake Shawnee Project File, September 5, 1935, and April 6, 1937, see entry 557.
4. Terr. L. 1855, ch. 157; G.S. 1868, ch. 25, sec. 16; G.S. 1935, ch. 19, sec. 212.
5. Commissioners' Journal, 1855-62, pp. 1, 2, see entry 2.
6. Ibid., pp. 46, 47.
7. Terr. L. 1855, ch. 30, secs. 11, 34, 35.
8. Commissioners' Journal, 1855-62, pp. 70, 71, see entry 2.
9. Ibid., pp. 105, 106.

all that portion of Weller County lying south of Burlingame, and for the same purposes attached to Wakarusa Township that portion of Weller Township lying south of Wakarusa.[1]

In 1860 when the boundaries of Shawnee County were shifted northward to embrace a portion of Jackson County north of the Kansas River and to relinquish 9 miles of territory to Osage County on the south,[2] the legislature also prohibited organization of any new townships containing less than 36 square miles and having fewer than 300 inhabitants.[3] Since the Organic Act excluded Indian reservations from the operation of any Territorial laws,[4] and since that portion of Jackson County which had been added to Shawnee contained less than 36 square miles exclusive of Indian lands, it became necessary to reorganize Shawnee County, and on March 17 the board of supervisors wiped out all former township lines and erected three compact townships: Tecumseh, comprising the eastern portion of the county south of the river; Topeka, comprising all the territory north of the river and the northwest portion of that lying south of the river; and Auburn, embracing the southwestern portion of the county.[5] Later that year there was a subdivision into six townships: Monmouth being cut off Tecumseh on the south; Williamsport from Auburn, on the east; and the new territory north of the river was erected into Soldier Township, thus confining Topeka Township to its former territory south of the river, Dover Township was carved from the west side of Topeka in 1862. When the north boundary of the county was shifted farther north in 1868, Silver Lake Township was detached from Soldier. By another change in 1871 Rossville Township was set off from Silver Lake, on the west, and in 1879 Menoken Township was set off from Silver Lake on the east. Mission township was formed of portions of Dover and Topeka in 1871.[6] Grove Township was set off from Silver Lake Township on July 15, 1918.[7] The city of Topeka has constituted a township separate from Topeka Township since 1868, when the legislature passed an act providing that each city of more than 2,000 inhabitants shall constitute a township for the purpose of electing justices of the peace and constables and for the exercise of the powers and jurisdiction of such officers.[8] Topeka's population was 3,120 in 1868.[9] Hence, Shawnee County's permanent arrangement of townships at this time is Rossville, Silver Lake, Grove, Menoken, and Soldier north of the Kansas River; Dover, Mission, Topeka, Tecumseh, Auburn, Williamsport, and Monmouth south of the river; and Topeka City Township, which lies on both sides of the river.

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1. Commissioners' Journal, 1855-62, pp. 105, 106, see entry 2.
2. Terr. L. 1860, ch. 46, sec. 1.
3. Ibid., ch. 28, sec. 19.
4. 10 Stat. 277, sec. 19.
5. Commissioners' Journal, 1855-62, pp. 177-179, see entry 2.
6. King, op. cit., pp. 29, 46, 49.
7. Commissioners' Journal, vol. P, p. 297 1/2, see entry 2.
8. G.S. 1868, ch. 110, art. 10, sec. 48; G.S. 1935, ch. 80, sec. 1404.
9. Giles, op. cit., p. 135.

Towns and Cities

The founding of numerous towns and villages naturally followed the passage of the Kansas-Nebraska Act and the opening of the Territory to settlement. In Shawnee County the Tecumseh townsite was surveyed by C. C. Spaulding on August 15, 1854 and settled largely by slavery advocates. Indianola was founded in November 1854 by H. D. McMeekin, who bought the site from a half-breed Indian. Rochester was founded by J. Butler Chapman.[1]

The Topeka (Town) Association was founded by a group of Free-State men December 5, 1854 at a meeting near Papan's ferry. Cyrus K. Holliday was named chairman and Fry W. Giles was secretary. Other members were M. C. Dickey, J. B. Chase, Enoch Chase, George Davis, Daniel H. Horne, L. G. Cleveland, S. A. Clark, Charles Robinson, and James A. Hickey.[2]

The town of Topeka was incorporated by the legislative assembly of 1857 to include all of section 30, township 11, range 16.[3] Three years of effort by the Topeka Association to obtain a clear title to the Topeka townsite ended successfully on July 1, 1859 when Isaiah Walker, Wyandotte Indian, and his wife gave a warranty deed for the site to Cyrus K. Holliday, a special trustee of the Association. This comprised 621.8 acres.[4] The Topeka Association, desirous of securing title to the land on which the town was situated, had on February 9, 1856 contracted to buy float number 20 of the Wyandotte grant and selected section 31, township 11, range 16. "Land floats" were made by the Federal Government to each individual of an Indian tribe under terms of the tribal treaty, the general grant specifying the amount of unoccupied land each tribal member could choose in a designated area. Purchase of floats facilitated the clearing of titles. When the Association contracted to purchase the float of Walker it had no funds and the purchase price was raised by selling part of the prospective holdings to F. L. Crane, John Ritchie, and Cyrus K. Holliday.[5] Walker had obtained his float under article 14 of the treaty of March 17, 1842 between the United States and the Wyandotte Indians by which each member of the tribe was allowed to select 640 acres of uninhabited lands west of the Mississippi River.[6] Walker obtained his patent for the Topeka townsite on February 9, 1859.[7]

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1. Giles, op. cit., pp. 20-24; Connelley, op. cit., pp. 262, 263; King, op. cit., pp. 30, 45, 55, 59, 61; Blackmar, op. cit., p. 684.
2. Kansas State Historical Society, Archives Department, "The Topeka Association," original record, p. 1.
3. Terr. L. 1857, pp. 299, 300, sec. 1.
4. Deed Record, vol. C, p. 229, see entry 157.
5. Giles, op. cit., pp. 61-63.
6. United States Indian Affairs Office, A Compilation of All the Treaties Between the United States and the Indian Tribes Now in Force as Laws, pp. 1017-1021.
7. Deed Record, vol. C, p. 227, see entry 157.

Conveyance of the deed to the Topeka Association set at rest concern over claims of a rival organization incorporated by the legislature on February 20, 1857 as the Valley Town Company.[1] This company also claimed the site and its claim gained some recognition because the Free-State men usually refused to enter their land transactions at the county offices in Tecumseh and registered them in books kept by Fry W. Giles, secretary of the Topeka Association.[2] These books were legalized in 1858 as the "land transfer" record for the city of Topeka.[3] The legality of grants made by Cyrus K. Holliday from land secured through purchase of the Wyandotte float was approved by the State Supreme Court at the January term in 1870.[4]

The legislative act of 1867 designated all cities of more than 1,000 and less than 15,000 population as cities of the second class,[5] but a supplemental act approved 3 days later provided that any city within that population range acting under any previous general or special legislative enactment might retain its form of government upon a majority vote of the electors at a special election called for that purpose.[6] A majority of the Topeka electors voting at a special election held May 21, 1867 favored the city becoming a city of the second class, and by resolution on May 23 the city council adopted the provisions of the law providing for organization of the government of cities of that class.[7]

Kansas laws provided that when any city had attained a population of 15,000 and such fact was certified by the mayor and council to the Governor, that the latter should issue a proclamation declaring it a city of the first class and subject to the legal provisions applying thereto.[8] In accordance with this statute Governor John P. St. John on March 14, 1881 proclaimed Topeka a city of the first class.[9]

As Topeka expanded and continued its stride toward becoming the third most populous city in the State, several small neighboring towns were annexed from time to time. Eugene, now North Topeka, was taken in on April 11, 1867[10] after the Topeka city council had passed an ordinance on April 8 providing for this expansion of its corporate limits.[11] The town of South Topeka, which had been incorporated as a third class city by Judge John Guthrie of the district court on July 15, 1885[12] was annexed

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1. Terr. L. 1857, pp. 291, 292, sec. 1.
2. Giles, op. cit., pp. 64, 65.
3. Terr. P.L. 1858, ch. 91, sec. 1.
4. 5 Kan. 263-268.
5. L. 1867, ch. 68, art. 1.
6. Ibid., ch. 69, sec. 1.
7. City of Topeka, Council Proceedings, vol. B, pp. 167, 168.
8. G.S. 1868, ch. 18, art. 1, sec. 2.
9. City of Topeka, Proclamation File, box. 3.
10. City of Topeka, Annexation Book, p. 64.
11. City of Topeka, Council Proceedings, vol. B, p. 136.
12. District Court, Journal, vol. S, pp. 204-207.

by an ordinance passed on April 25, 1887.[1] In 1888 the village of Potwin Place, lying just west of the Topeka city limits, had been incorporated by the county commissioners as a city of the third class in response to a petition of its citizens, and the first election for city officers ordered for June 15.[2] On April 13, 1899 the Topeka city commission passed an ordinance consolidating Potwin Place with Topeka.[3] By that time Potwin Place was a city of 700 inhabitants and with an area of 115 acres. The town of Oakland, lying south of the Kansas River and adjoining Topeka on the northeast, had been incorporated by the county commissioners as a city of the third class on January 18, 1904.[4] It was consolidated with Topeka by an ordinance passed on February 24, 1926.[5]

By a vote of 12,587 to 7,708 at the city election on April 6, 1937 Topeka voters authorized a bond issue of $850,000 to pay the city's part toward the erection and equipping of a new city hall to cost $1,545,454, the remaining $695,454 to be supplied by the Public Works Administration under a Federal grant.[6] The building, centering the block bounded by Seventh, Eighth, Quincy and Monroe Streets, was completed and accepted by the city in June 1940.[7] The old city hall, situated at the northwest corner of the above block, was razed.

The legislative assembly of 1857 incorporated the Wakarusa City Company to lay off Wakarusa city up to 640 acres,[8] and incorporated the Brownsville (Auburn) Town Company to hold up to 640 acres "where the present town is located." This grant was to Loring Farnsworth, John W. Brown, and Milton C. Dickey.[9]

Other incorporated towns in Shawnee County are Silver Lake, situated in the west half of the southeast quarter of section 9, township 11, range 14; Rossville, in section 34, township 10, range 13, and Willard, which occupies the site of the pioneer trading post of Uniontown, in section 14, township 11, range 13. The Silver Lake plat was filed on March 27, 1868,[10] the proprietors being M. B. Beaubien and A. S. Thomas. A bend in the Kansas River formed a body of water from which the town took its name.[11] Probate Judge Lewis Hanback ordered Silver Lake incorporated April 9, 1870 in response to a petition of 32 of its citizens. M. B. Beaubien, C. D. Ward, D. Codington, C. S. Palmer, and J. B. Oliver

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1. City of Topeka, Record of Ordinances, vol. D, p. 304.
2. Commissioners' Journal, vol. H. pp. 297, 298, see entry 2.
3. City of Topeka, Record of Ordinances, vol. L, p. 432.
4. Commissioners' Journal, vol. M, pp. 100, 101, see entry 2.
5. City of Topeka, Record of Ordinances, vol. FF, p. 206.
6. City Clerk's Journal of Proceedings, vol. XX, pp. 130, 132, 133.
7. City Clerk's Journal of Proceedings, vol. AAA, p. 192.
8. Terr. L. 1857, p. 296, secs. 1, 2.
9. Ibid., p. 310, secs. 1, 2.
10. Plat Book, Shawnee County, vol. 2, p. 10, see entry 172.
11. King, op. cit., p. 52.

were named as the first board of trustees.[1] The Rossville town plat was filed on July 8, 1870 with the register of deeds.[2] The town company, named in honor of W. W. Ross, agent of the Pottawatomie Indians,[3] was composed of A. C. Sherman, George W. Veale, H. H. Wilcox, and Fielding Johnson, all of Topeka. The town site of 100 acres was purchased from Anthony Navarre, a Mormon preacher, and his Indian wife, So-na-ne-qua.[4] In response to a petition of 60 citizens, Rossville was incorporated as a city of the third class by John T. Morton, judge of the district court, on June 7, 1881.[5] Willard was incorporated as a city of the third class on October 7, 1912.[6]

Beside Topeka, Rossville, Silver Lake, and Willard, others of the larger but unincorporated towns in the county now are Wakarusa, Auburn, Dover, Valencia, Richland, Elmont, and Berryton.

Political Trends

Slavery was the burning issue in the United States when Kansas Territory was thrown open to settlement on June 30, 1854 with passage of the Kansas-Nebraska Act, which carried the germ of future strife and bloodshed in the proviso that "the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission."[7] Many of the thousands who swarmed across the border came not so much to acquire land and establish homes as to aid either in the extension or suppression of slavery. Pro-slavery and Free-State parties centered the activities of the opposing factions whose conflicts were carried into all phases of social, economic, religious, and political life throughout the struggle for supremacy which led to and marked the course of the Civil War.

Although the slavery question presented a challenging problem to the sparsely settled Territory, it also accelerated the inflow of the very people who were to solve that problem. While slave sympathizers were establishing colonies in Kansas or were crossing the borders at election time to overwhelm the polling places with expressions of their will, well organized and financed Emigrant Aid Societies of Massachusetts and other Eastern States were sending anti-slavery enthusiasts into the Territory in ever increasing streams, laying the foundations for towns, establishing sawmills and newspapers, and aiding in the building of

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1. Probate Court Journal, vol. 4, pp. 170, 171, see entry 282.
2. Plat Book, Shawnee County, vol. 2, p. 19, see entry 172.
3. Historical Collections, VII, p. 483.
4. King, op. cit., p. 51.
5. District Court Journal, vol. N, pp. 381, 382, see entry 196.
6. Commissioners' Journal, vol. O, pp. 161-163, see entry 2.
7. 10 Stat. 283.

schools and churches. Through the conflicts of these two factions Kansas was to chart its course to destiny as expressed in the State motto, ad astra per aspera, "to the stars through difficulties,"[1] and the history of the struggle in Shawnee County closely paralleled that which was to take place first in the Territory and then in the State as a whole.

The first test of strength came in an election on November 29, 1854 to select the Territory's delegate to Congress. Preparatory for this event Governor Andrew H. Reeder, who had been appointed by President Pierce on June 30, had divided the Territory into election districts on November 10. All of the present area of Shawnee County lying south of the Kansas River was embraced in the Third District and the house of Thomas N. Stinson at Tecumseh was designated as the polling place. North of the river the area lying west of Soldier Creek was included in the Twelfth District, and that portion lying east of Soldier Creek was a part of the Thirteenth District.[2]

J. W. Whitfield, the Pro-slavery candidate, was opposed by J. A. Wakefield and R. P. Flenneken, Free-State men. Whitfield polled 40 votes in the Third District, Flenneken seven and Wakefield none. The vote in the Territory: Whitfield, 2,258; Wakefield, 248; Flenneken, 305; scattering, 21; total votes cast, 2,833; number of eligible voters, 2,905.[3]

The first semblance of law enforcement machinery was provided in the Third District on December 5, 1854 when the Governor commissioned John Horner of Tecumseh as a justice of the peace. On January 22, 1855 Cyrus K. Holliday and Daniel H. Horne of Topeka were commissioned as justice of the peace and constable, respectively.[4] James Kuykendall was commissioned as a justice of the peace of the Thirteenth District on December 14, 1854 and James Gray was sworn in by him as constable on February 2, 1855.[5]

At an election to select members of the first Territorial legislative assembly on March 30, 1855, Missourians swarmed across the border to vote, visiting all of the polling places except those in the extreme western districts. At Tecumseh the appointed judges were intimidated and offered their resignations. They were replaced by Pro-slavery men, and D. L. Croysdale, the Pro-slavery candidate, received 366 votes to four for his opponent, despite the fact that a census of the Third district

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1. L. 1879, ch. 166, sec. 15; G.S. 1935, ch. 75, sec. 201.
2. Kansas State Historical Society, Archives Department, "Executive Minutes. Minutes Recorded in the Governor's Office During the Administration of Governor Andrew H. Reeder," original manuscript, pp. 9-15.
3. Daniel W. Wilder, The Annals of Kansas, Topeka, 1875, p. 41.
4. Kansas State Historical Society, Archives Department, "Oaths of Office."
5. Historical Collections, III, pp. 243, 245.

taken by T. W. Hayes in February 1855 listed only 252 residents, of whom only 101 were legal voters. Governor Reeder ordered a new election to be held in the district on May 22. This time the Pro-slavery faction refused to vote and Cyrus K. Holliday, the Free-State candidate, won in the Third District, which polled 149 votes. However, when the first legislative assembly convened it recognized the Pro-slavery candidates elected March 30 and the Free-State party was practically unrepresented.[1]

Dissatisfaction with the administration of the Territorial government by Pro-slavery men led to a convention of the Free-State party in Topeka September 19, 1855 which resulted in an election being called for October 9 to select delegates to a constitutional convention in Topeka on October 23. On the designated day the delegates met in Constitution Hall on Kansas Avenue north of Fifth Street and drafted for submission to the voters a constitution which included a clause forbidding slavery. On December 15 the electors ratified the constitution by a vote of 1,751 to 46, few of the Pro-slavery men voting. State officers were elected and a capital established at Topeka. However, President Pierce recognized the legislature which had been elected March 30, characterized the Topeka government as revolutionary, and ordered it suppressed by Federal troops stationed at Fort Leavenworth and Fort Riley. The Free-State legislature was dispersed July 4, 1856 when Col. E. V. Sumner at the head of the Federal troops took possession of Constitution Hall.[2]

Free-State candidates were victorious in the first county election held in Shawnee County, October 5 and 6, 1857.[3] In an election on January 4, 1858 Shawnee County voters aligned themselves with an overwhelming majority in the Territory against adoption of the Lecompton Constitution, which sought to legalize slavery, the Shawnee County vote being: Against the constitution, 832; for, with slavery, 28; for, without slavery, 3.[4] This was the last stand of the Pro-slavery party in Kansas. Every election held in Kansas thereafter was carried either by the Free-State party or the Republicans until 1882 when Glick, a Democrat, was elected Governor. The action of Buchanan and his advisors in trying to force the Lecompton Constitution alienated Douglas and the northern Democrats, split the party at the election of 1860, and elected Abraham Lincoln President.[5] Shawnee County voters went along with the Territorial majority in favoring the adoption of the Wyandotte Constitution, which excluded slavery, at an election on October 4, 1859.

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1. Andreas, op. cit., p. 534; Connelley, op. cit., pp. 388, 392-407.
2. Connelley, op. cit., pp. 461-472; Andreas, op. cit., p. 535.
3. Commissioners' Journal, 1855-62, pp. 77, 79, see entry 2; Blackmar, op. cit., p. 685.
4. Wilder, op. cit., p. 160.
5. Connelley, op. cit., pp. 1001, 1002.

The Shawnee County vote: For the Constitution, 671; against, 109.[1] This is the Constitution under which Kansas was admitted to Statehood on January 29, 1861.[2]

Upon gaining control of the legislature in 1859 the Free-State forces repealed all of the laws enacted prior to January 1, 1857 and all those passed at the regular session of 1857 except an act[3] defining the boundaries of the 36 counties which had been created up to that time, and they also eliminated a number of laws enacted at the 1858 session.[4]

In 1893 occurred the political dispute known as the "Populist War." When Lorenzo D. Lewelling, Populist, was inaugurated as Governor January 9 both Republicans and Populists claimed a majority in the house of representatives, the latter, because of contested elections, refusing to recognize the certificates issued to 10 Republican members. On January 10th, each party organized as a house of representatives and the two bodies functioned side by side. On February 13 the Republican house issued warrants for the arrest of certain Populists for contempt. The next day a riot was precipitated when Republican sergeants-at-arms attempted to arrest the clerk of the Populist House. During the night the Populists took possession of the house chamber and barricaded its doors, but in the morning the Republicans battered down the doors with sledge hammers and dispossessed them. Governor Lewelling called out the militia, but the Republican sheriff of Shawnee County retaliated by swearing in about 1,000 deputies. For 2 days and nights the Republican house members were besieged in the house chamber by the militia, which in turn was surrounded by deputy sheriffs. On February 17 a compromise was effected whereby the armed forces were disbanded. The Republicans were to continue their sessions in the house chamber and the Populists were to meet elsewhere.[5] In a ruling February 25 in a habeas corpus action brought to obtain release of L. C. Gunn of Labette County, who had been arrested after refusing to testify before the Republican house, the State Supreme Court ruled that the Republican house presided over by Speaker George L. Douglas was the constitutional group.[6]

The State Capital

Sentiments stemming from the slavery question had considerable bearing upon the election of Topeka as the State capital and as the seat of the Shawnee County government. When Governor Reeder came to Kansas he maintained an office at Leavenworth for about 2 months, then moved it

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1. Wilder, op. cit., pp. 226, 227.
2. 12 Stat. 126-128.
3. Terr. L. 1857, pp. 37-46, secs. 1-37.
4. Terr. L. 1859, ch. 89, secs. 1-3.
5. Topeka State Journal, January 9, 10, February 14-17, 1893.
6. 50 Kan. 158-211.

to Shawnee Mission, which was used as the Territorial capital until the following spring, when the Governor shifted the capital to Pawnee. The legislature remained there only 5 days, then adjourned to Shawnee Mission, whither the Governor grumblingly followed and maintained an office for another year. In August 1855 the legislature selected Lecompton, which continued as the capital during the remainder of the Territorial period. When the Free-State forces gained control of the legislature in 1858, however, they made an effort to change the capital to Minneola, but failing in this they continued to open each session at Lecompton then promptly to adjourn to Lawrence. The Wyandotte Constitution, as had the discarded Topeka Constitution, designated Topeka as the temporary capital. At an election on November 5, 1861 Topeka was selected as the permanent capital. The vote: Topeka, 7,996; Lawrence, 5,291; all other locations, 1,184.[1]

At this time there were no public halls in Topeka suitable for the legislature to meet in. The senate convened on the third floor of a building known as the Ritchie Block at the southeast corner of Sixth and Kansas Avenues. Most of the State offices also were in this building. The house of representatives usually met on the second floor of the Gale Building on lots 194 and 196 on Kansas Avenue, but some sessions were held in the First Congregational Church building at Seventh and Harrison Streets. The legislature of 1863 authorized the Secretary of State to contract with Wilson L. Gordon, Theodore Mills, Guilford G. Page and Loring Farnsworth for the lease of a temporary capitol to be erected by them on lots 131-137 on Kansas Avenue. The building was to be leased by the State for 5 years, with privilege of renewal for another 5 years at the same rate, which was not to exceed $1,500 a year, and the property not to be taxed while so leased.[2] The temporary capitol, of which Constitution Hall was an intergral part, was erected and occupied by State officials in the autumn of 1863.[3]

The Topeka (Town) Association in 1855 had reserved a square of 20 acres, or about four city blocks, to be donated as a site for a State capitol,[4] and the legislature of 1862 accepted the offer and instructed the State Auditor to record the plat.[5] The legislature of 1866 provided for construction of a State capitol, the act appropriating $40,000 with which to erect and finish one wing for the use of the legislature and State officials, the money to be raised by the sale of 10 sections of land donated by the Congress to aid in the construction of a State house. The Governor, Secretary of State, Auditor, Treasurer,

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1. Anna E. Arnold, A History of Kansas, Topeka, 1914, pp. 100, 215; Kansas State Historical Society, Archives Department, "Original Election Returns," November 5, 1861.
2. L. 1863, ch. 13, secs. 1, 2.
3. Giles, op. cit., p. 258.
4. Ibid., p. 258; Plat Book, Shawnee County, vol. 2, pp. 11, 12, see entry 172.
5. L. 1862, Joint Resolution No. 6, p. 116.

and Superintendent of Public Instruction were constituted a committee to have general direction of the work.[1]

It was decided to build the east wing first, and the cornerstone was laid October 17, 1866. Construction was delayed by inadequate funds, and the necessity of replacing defective stone, so that rooms in the building could not be occupied until December 25, 1869. The west wing was erected in 1880, and work begun on the central portion in 1883, but it was not until March 24, 1903 that the completed structure was turned over to the State. The total cost was $3,200,588.92.[2]

A legislative act of 1875 provided for establishment of a State insane asylum at Topeka, to be located at some convenient and healthy spot within 2 miles of the capitol on a tract of not less than 80 acres, which should be obtained without cost to the State.[3] Another act authorized the board of commissioners of Shawnee County to purchase such a tract for not more than $6,000, convey it to the State, and levy a tax to pay for it in 1875.[4] A site on the south bank of the Kansas River in township 11, range 15, fitting the legislative specifications, was purchased from James M. Harvey for $5,700, and on September 6 a tax of 1 mill on the dollar valuation of all taxable property in the county was levied for the year 1875 to defray the cost.[5] The State still maintains this asylum, now known as the Topeka State Hospital, and has continued to enlarge it and improve the equipment.

Provision for establishment of a State reform school for boys at Topeka within 5 miles of the capitol was made by the legislature of 1879, which appropriated $35,000 for erecting and equiping a building, provided the city of Topeka should donate a suitable site of 160 acres.[6] The same body passed another act authorizing the board of commissioners of Shawnee County to pay for the site to the extent of $15 an acre out of available funds in its treasury.[7] On January 8, 1880 the commissioners appropriated $2,400 for the purpose,[8] but the sum was not sufficient to pay for the tract selected and individual citizens made up the difference of $1,600. The legislature of 1881 authorized Shawnee County to reimburse these citizens, together with interest from December 1, 1879,[9] and on October 12 the commissioners ordered that $1,806.65 be paid to E. W. Caldwell in their behalf.[10]

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1. L. 1866, ch. 92, secs. 1, 2, 12, 14.
2. King, op. cit., p. 145.
3. L. 1875, ch. 108, secs. 1-3.
4. Ibid., ch. 109, secs. 1, 2.
5. Commissioners' Journal, vol. D, pp. 520, 560, see entry 2.
6. L. 1879, ch. 170, secs. 1-3.
7. Ibid., ch. 171, sec. 1.
8. Commissioners' Journal, vol. E, p. 611, see entry 2.
9. L. 1881, ch. 82, sec. 1.
10. Commissioners' Journal, vol. F. p. 351, see entry 2.

The first State appropriation, in the sum of $1,500, to the Industrial and Educational Institute of Topeka was made by the legislature of 1899.[1] This institution, the name of which was changed to the Kansas Vocational School by legislative enactment in 1925,[2] was started in May 1895 as a kindergarten and reading room in a one-room house. Sufficient donations were received to buy a farm and in 1898 a two-story brick building at 1725 Kansas Avenue was purchased. The institution had as its purpose the preparation of Negro youths to successfully engage in agricultural, mechanical, and domestic pursuits. In 1903 it was moved to its present site east of Topeka and each biennium the legislature has made some provision for its expenses.[3] The State appropriation to the school for each of the years 1940-41 was $43,750.[4]

The State legislatures of 1909 and 1911 made appropriations totaling $514,760.42 for purchase of a site and erection of a building as a memorial to the Union soldiers of the State, to be used by the Grand Army of the Republic and the Kansas State Historical Society.[5] The site selected was at the northeast corner of the intersection of Tenth Avenue and Jackson Street, overlooking the capitol square. The cornerstone of the building was laid by President William Howard Taft on September 27, 1911,[6] but the construction work was not completed until 1914.[7]

The historical society, organized in Topeka in April, 1875,[8] serves as a depository for any county records not legally required to be kept in the courthouses and which officials may wish to surrender for preservation. The society is required to make a reference catalogue of records thus deposited and furnish transcripts upon application.[9]

Transportation

An awareness of the importance of providing the public with adequate transportation facilities in both local and National fields, and an eagerness to facilitate their advancement have fostered the growth and development of Shawnee County along many lines.

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1. L. 1899, ch. 8, sec. 1.
2. L. 1925, ch. 16, sec. 1.
3. Connelley, op. cit., pp. 1040, 1041.
4. L. 1939, ch. 41, sec. 1.
5. L. 1909, ch. 15; L. 1911, ch. 40.
6. Topeka Daily Capital, December 31, 1911.
7. Connelley, op. cit., II, p. 1106.
8. Ibid., p. 1103.
9. L. 1905, ch. 358, secs. 1, 2; G.S. 1935, ch. 75, secs. 2706, 2707.

Ferries and Bridges. The Papan ferry, established in 1842, was among the first ventures of the kind to be undertaken on the Kansas River. It was the Shawnee County area's first economic magnet. It drew traffic from the old trails by providing the emigrants and traders with a service which cut short by many days the hardships and dangers of overland travel. This ferry, together with the natural advantages favorable to the establishment of a river port, was a determining factor in the selection of the site for Topeka by Cyrus K. Holliday,[1] who was to become the founder and first president of the Atchison, Topeka & Santa Fe Railway Company,[2] the city's principal industry.

The ferry served its purpose well until May 1858 when it was replaced by a bridge built by a private company at a cost of $10,000. This bridge extended from near the foot of Kansas Avenue on the south side of the river and during its brief existence was a busy and popular crossing, helping Topeka to give a knockout blow to the rival town of Tecumseh. But on July 17, 1858 it was swept away by flood waters and the outmoded ferry was called upon to do duty again for the next 7 years.[3] Authorized by a special act of the legislature,[4] the county commissioners on July 30, 1864 entered into a contract with the Topeka Bridge Company for construction of a double-track toll bridge over the Kansas River at Topeka. The bridge company was given $15,000 in county bonds bearing 10 percent interest and maturing in 20 years. The county commissioners specified the toll rates and agreed that no ferry or bridge should be established within 3 miles of the toll bridge. The company gave the county $20,000 of its capital stock, also bearing 10 percent interest, and agreed to contribute from its toll collections to a sinking fund created for retirement of the county bonds.[5] The bridge, resting on 13 pontoons held in position by wire cable, was completed October 12, 1865 at a cost of $50,000.[6]

An iron toll bridge was built across the Kansas River in 1870.[7] On March 6, 1871 the county commissioners considered petitions asking that they submit to the voters the question of issuing bonds to buy the bridge or build a free bridge. A resolution was adopted to the effect that if the city of Topeka would issue city bonds equal to one-half the purchase price, the county commissioners would submit to the voters the question of issuing county bonds for the remainder.[8] The Topeka city council on March 13, 1871 ordered an election to be held April 3 on the question,[9] and the electors voted 1,212 to 168 in favor

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1. Giles, op. cit., p. 57; Andreas, op. cit., p. 539.
2. Andreas, op. cit., p. 243.
3. Giles, op. cit., 88-98; King, op. cit., p. 39.
4. L. 1864, ch. 27.
5. Commissioners' Journal, vol. A, pp. 114-116, see entry 2.
6. King, op. cit., p. 39.
7. Ibid., p. 39.
8. Commissioners' Journal, vol. BC, p. 350, see entry 2.
9. City of Topeka, Council Journal, vol. A, pp. 444, 445.

of a $50,000 bond issue.[1] On March 16 the county commissioners ordered an election held on the proposition of issuing county bonds in the sum of $50,000 to buy or build a free iron bridge across the Kansas River. The election was held May 1, and although the record which would contain the results is missing from the county archives, the question is known to have been favored by the county voters, as William Wellhouse, chairman of the county board, was empowered to sign the purchase contract with the Topeka Bridge Company.[2]

As the city grew, there was considerable agitation for a larger, sightlier, more substantial bridge. The legislature of 1895 passed an act authorizing the county commissioners to submit to the voters the proposition of issuing $150,000 in county bonds for this purpose.[3] The commissioners decided that the span, if constructed, should be of the Melan steel arch type and the bond issue question should be submitted at the general election of November 5, the bonds to run for 20 years and bear 5 percent interest.[4] The proposition carried by a vote of 3,081 to 2,181,[5] and on December 24 the bond issue was sold to Deitz, Denison & Prior of Cleveland, Ohio, for $155,355.[6]

The contract for the Melan style bridge was awarded April 11, 1896 to Keepers & Thatcher of Detroit, Michigan, for $125,000. The terms included removal of the old iron bridge, the supplying of all materials, the accommodation of public travel during construction, and completion of the span by December 1, 1896 unless prevented by conditions beyond control.[7] Later the commissioners authorized strengthening of the bridge at various places at a cost not to exceed $12,997.75. The completed span was accepted by the county February 8, 1899.[8] It was conceded to be the largest Melan arch bridge in the world.[9] Although the bridge itself was undamaged by the flood of 1903, its approaches were swept away. They were immediately restored, however, and in 1905 another span was added to the bridge.[10] All of these bridges were on the same site, at the foot of Kansas Avenue.

In 1938 the Topeka Avenue bridge was completed by the State Highway Department, forming a link on U.S. highway 75, Canada to Mexico. The city of Topeka provided the approaches at a cost of $62,204.38 and the right-of-way from the north end of the bridge to Soldier Creek at a

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1. City of Topeka Council Journal, vol. A, p. 458.
2. Commissioners' Journal, vol. BC, pp. 355, 356, 402, see entry 2.
3. L. 1895, ch. 82, secs. 1-3.
4. Commissioners' Journal, vol. J, p. 262, see entry 2.
5. Election Returns, vol. C, p. 91, see entry 115.
6. Commissioners' Journal, vol. J, p. 308, see entry 2.
7. Ibid., pp. 374, 375.
8. Ibid., p. 451; vol. K, pp. 192, 193.
9. King, op. cit., p. 39.
10. Ibid., pp. 39, 40.

cost of $56,667.63.[1] The remainder of the expense was borne by the State and Federal Governments.

Navigation. As early as March 12, 1855 the trustees of the Topeka Association began the construction of adequate boat landing facilities at the foot of Quincy Street, and there was considerable steamboat traffic on the river until the early 1860's. The death knell of water transportation was sounded on February 25, 1864 when the legislature declared the Kansas, Republican, Smoky Hill, Solomon, and Big Blue Rivers not to be navigable streams and provided that any duly incorporated railroad might dam them.[2]

Roads and Highways. The Shawnee County commissioners at their meeting on January 21, 1856 divided Tecumseh Township into road districts, appointed overseers, and ordered that the California road as laid out through the county by the legislative assembly of 1855 be improved with all possible speed.[3] However, Free-State citizens of Shawnee, Richardson, and Weller Counties refused to recognize the acts of this board, which had been appointed by a Pro-slavery assembly, and refused to pay taxes. The county's first tax assessor, John Horner, was removed from office on December 17, 1855; the second, Benjamin J. Crowson, resigned in the following February and the third, Gerald C. t'Hooft, resigned on April 21. The position was next offered to Anderson Imes, who declined it, and on May 30, 1856 John C. Sims assumed the duties of the office.[4]

The board of county supervisors created the first road in the county on November 30, 1858 when it declared the road from Topeka to Brownsville (Auburn) to be open and ordered it kept in repair. On December 14 the road was established from Topeka to Burlingame,[5] which then was in Shawnee County.

At the present time Shawnee County is traversed by three Federal highways, US24, US40, and US75, and two State highways, K4 and K10, and has a network of county and township roads connecting every community. The county road system consists of 262.17 miles and the township system of 781.01 miles of roadway, all well improved.[6]

Airports. Topeka's municipal airport was dedicated in the spring of 1940. It is situated on a tract of 164.146 acres formerly known as the Pugh farm, 4 miles northeast of the city in section 27, township 11, range 16. The land was leased by the city in 1933 and in 1937 acquired

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1. Topeka City Auditor's file, "Topeka Reviews its Work Relief," November 17, 1933, to Sept. 30, 1938, pp. 43, 44, 56, 57.
2. Giles, op. cit., pp. 57-59; L. 1864, ch. 97.
3. Commissioners' Journal, 1855-62, p. 13, see entry 2.
4. Ibid., pp. 9, 15, 21, 23, 27.
5. Ibid., pp. 111, 113, 116.
6. Road Map, Shawnee County, see entry 548.

by eminent domain when litigation resulted over the purchase price. The total cost of the airport was $540,773.40 of which $139,887.26 was expended by the city and the remainder by the Federal Government through its works agencies.[1]

Railroads. The Union Pacific Railroad was incorporated by the legislature in 1855 under the name of the Leavenworth, Pawnee & Western Railroad with an allowed capital stock of $5,000,000 and a land grant 100 feet wide along its route.[2] The same legislature incorporated the Kansas Central Railroad with an allowed capital of $1,000,000 to run from a point on the Missouri River to the western boundary of the Territory, with a branch leading to the north.[3] The St. Joseph & Topeka Railroad was chartered by the legislature in 1857.[4] W. Y. Roberts and others in 1858 contemplated building the Kansas Central up the Kansas River valley from Wyandotte through Topeka to Fort Riley, but this plan was frustrated by the Civil War and the drought of 1860.[5]

The Atchison & Topeka Railroad was incorporated by an act of the 1859 legislature. It was authorized to build from Atchison to Topeka and thence southwesterly in the direction of Santa Fe, and also south toward the Gulf of Mexico. The road, headed by Cyrus K. Holliday, Samuel C. Pomeroy, and other prominent Kansans was to have $1,500,000 capital stock and was given a right-of-way 100 feet wide throughout its route in the Territory.[6]

To inaugurate a movement to obtain a State railroad system, a general railroad convention was held in Topeka October 7, 1860, attended by 125 delegates. Five lines of railroad, two of which would have traversed Shawnee County, were favored. One would have extended from Wyandotte to the western boundary of the Territory, traversing the Kansas River Valley through Lawrence, Topeka, and Manhattan. The other would have started at Atchison and extended by way of Topeka southwesterly in the direction of Santa Fe. The Congress on March 3, 1863 granted lands in aid of the construction of the Atchison, Topeka & Santa Fe Railroad. However, because of the Civil War, further efforts at promotion were held in abeyance for several years.[7]

At a mass meeting held in Topeka July 29, 1865 citizens of Shawnee County resolved to subscribe to the capital stock of the Atchison, Topeka & Santa Fe. The county commissioners ordered an election for

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1. Topeka City Auditor's File, "Topeka Reviews Its Work Relief," October 31, 1938-April 1, 1940, last page.
2. Terr. L. 1855, (Special) ch. 86, secs. 1-21.
3. Ibid., ch. 84, secs. 1-21.
4. Terr. L. 1857, pp. 247-251, secs. 1-20.
5. King, op. cit., pp. 151, 152; Giles, op. cit., p. 271.
6. Terr. P.L. 1859, ch. 47, secs. 1-5.
7. Giles, op. cit., pp. 278, 279; King, op. cit., p. 150.

September 12 on the proposition of subscribing $150,000 in county bonds to the purchase of railroad stock, provided the line be constructed from Atchison through Shawnee County, and the bond issue was approved by the voters.[1]

The first railroad in Shawnee County was the Leavenworth, Pawnee & Western (Union Pacific), also known as the Kansas Pacific. The Congress on July 1, 1862 had passed the Pacific Railroad law aiding in the construction of this road, which was to extend from the junction of the Kansas and Missouri Rivers westward to the 100th maridian. It was controlled largely by citizens of Leavenworth who, not wishing to aid Topeka and Lawrence at their own expense, hoped to keep the railroad from passing through the two latter towns. After deliberate delay they succeeded in 1864 in obtaining legislation by the Congress directing that the railroad should pass on the north bank of the river, opposite Topeka and Lawrence. The law itself, however, defeated the plans of the Leavenworth interests, for it forced the railroad, instead of passing some distance from Topeka, to come where a bridge across the Kansas River made it easily accessible to the capital city, and Kansas City rather than Leavenworth became the real eastern terminus of the road.[2] On January 1, 1866 the Kansas Pacific was completed to Eugene (North Topeka) which at that time had more Indian than white inhabitants. The arrival of the first train was an occasion for a great celebration by the people of Topeka, who entertained the officials of Wyandotte and Lawrence, General James H. Lane delivering the principal address.[3] By 1872 the railroad had been completed into Denver.[4]

On June 7, 1867 the county commissioners received a petition signed by more than one-fourth of the legally qualified voters of the county asking that an election be held July 2 on the proposition of issuing $250,000 in county bonds to purchase stock of the Atchison, Topeka & Santa Fe Railroad, the $150,000 voted September 12, 1865 never having been delivered. The commissioners issued an order granting the petition. It provided that the bonds, subject to approval of the voters, should run for 30 years and bear 7 percent interest; that $100,000 would be issued when trains were running into Topeka from Atchison or some central point on the central branch of the Union Pacific; that the remaining $150,000 should be issued when the line was operating from Topeka southward to the county line; that the road should be completed within 5 years from July 2, 1867 and that the previously voted $150,000 should be considered part of the $250,000 issue if the latter carried in the election.[5] The electors favored the proposition by a vote of 603 to 397.[6]

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1. Commissioners' Journal, vol. A, pp. 147, 312, see entry 2.
2. Giles, op. cit., pp. 274-276.
3. Topeka Weekly Leader, January 4, 1866.
4. King, op. cit., p. 152.
5. Commissioners' Journal, vol. A, pp. 311, 312, see entry 2.
6. Giles, op. cit., p. 282; Topeka Weekly Leader, July 4, 1867.

Work on the railroad was commenced in the autumn of 1868. A preliminary step was the construction of a bridge across the Kansas River to connect with the Union Pacific so that rail facilities might be had. This was completed on March 30, 1869.[1] On July 17 the Shawnee County commissioners found that the Santa Fe was operating to the south line of the county and arranged to exchange the $150,000 of county bonds for a like amount of the capital stock of the railroad as provided for in the election of July 2, 1867.[2] On September 18 the road was completed to Burlingame,[3] and at ceremonies held October 4, Governor Harvey formally accepted the first 26 miles of the line, extending from Topeka to Burlingame.[4] On October 8 the county commissioners delivered the remaining $100,000 of bonds and received an equal amount of the company's stock.[5]

It had been presumed that the general offices and shops of the Santa Fe would be located in Topeka, but as the line was built westward several rival towns made bids for these important concessions. The company proposed that if Topeka would donate $100,000 of its bonds to the Santa Fe the shops and offices would be permanently maintained in the capital city.[6] Topeka voters gave their assent to this proposition on July 1, 1872[7]; but the bonds were not actually delivered until September 9, 1874, as the Santa Fe was slow in beginning construction.[8] The road, however, continued to add to and improve its property until the shops now cover 225 acres. The headquarters building in Topeka is said to be the largest office building in the world devoted exclusively to railroad purposes.[9]

At an election November 7, 1871 the electors of Shawnee County voted $100,000 of county bonds to subscribe to the capital stock of the Lawrence & Topeka Railroad Company and $100,000 to that of the Topeka, Ottawa & Fort Scott Railroad Company.[10] Topeka citizens a week later voted to subscribe $100,000 of city bonds to the Lawrence & Topeka, and Tecumseh Township subscribed $15,000 of its bonds to the same railroad. While there was really little expectation that the road to Fort Scott would be constructed, it was highly important that a railroad should operate between Topeka and Lawrence. A line was being

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1. Giles, op. cit., p. 280.
2. Commissioners' Journal, vol. BC, pp. 117, 118, see entry 2.
3. Topeka State Record, September 19, 1869.
4. Giles, op. cit., p. 280.
5. Commissioners' Journal, vol. BC, pp. 170-172, see entry 2.
6. Giles, op. cit., p. 282.
7. City of Topeka, Council Journal, vol. B, pp. 292-294.
8. Giles, op. cit., p. 283.
9. Kansas State Chamber of Commerce, Kansas Year Book, 1937-38, Topeka, 1938, p. 348.
10. Commissioners' Journal, vol. BC, pp. 456, 457, see entry 2.

constructed from Lawrence to St. Louis, which would give Lawrence a direct connection with the east which Topeka did not have. Lawrence interests also were building a branch line to connect with the Santa Fe at Carbondale in Osage County. Lawrence citizens realized the Santa Fe had to have connections with the St. Louis roads, and they hoped it would take over the Carbondale branch and go to St. Louis and the east through Lawrence, thus making Lawrence the hub city of the Santa Fe and leaving Topeka on a branch line. To prevent consummation of this plan, Topekans realized that their city must be directly connected with the railroad coming to Lawrence from the east. Work on the Topeka and Lawrence proceeded slowly due to financial difficulties, inclement weather, and the difficulty in obtaining a right-of-way into Lawrence to connect with the eastern line. The road therefore was not completed as provided for in the bond subscriptions by January 1, 1873.[1] The request of the railroad directors for a 6 months' renewal of the bond issues was refused by the county electors by a vote of 1,608 to 743, and by the city electors 664 to 663 at elections held December 28, 1872.[2]

Both the Topeka & Lawrence and the Carbondale branches were inactive during the early part of 1873 but the latter soon arranged to obtain from the Union Pacific the materials needed to finish that road. This aroused Topeka interests to new efforts. On May 3 the Topeka & Lawrence was reorganized and chartered as the Midland Railroad Company.[3] Shawnee County voters on August 22 rejected 1,288 to 1,910 a proposition to subscribe $200,000 in county bonds to the capital stock of the Midland,[4] but Topeka citizens voted 1,310 to 329 on November 4 to subscribe $160,000 in 8 percent 20-year bonds to the railroad's capital stock.[5] The first rail of the Midland was laid April 11, 1874 at Washington Avenue and Second Street in Topeka, and the first train moved over the new road from Topeka to Lawrence on June 5. On June 30 the Santa Fe leased the Midland for 99 years for $400,000, which insured Topeka of retaining the headquarters of the Santa Fe, and Shawnee County of having direct and regular connections with Kansas City and St. Louis.[6]

In response to a petition from 1,000 resident taxpayers presented March 4, 1881 the county commissioners ordered an election held April 14 on the question of subscribing $60,000 in county bonds to the capital stock of the Missouri Pacific Railroad Company to aid in the construction of its line from Ottawa to Topeka.[7] The electors favored the proposition by a vote of 1,858 to 1,656, and also voted 1,810 to 1,643

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1. Giles, op. cit., p. 293.
2. Election Returns, vol. B, p. 20, see entry 115.
3. Giles, op. cit., pp. 294, 295.
4. Election Returns, vol. B, p. 31, see entry 115.
5. City of Topeka, Returns of Elections, vol. C, pp. 35, 36.
6. Giles, op. cit., pp. 297, 298.
7. Commissioners' Journal, vol. F, pp. 194-197, see entry 2.

to sell the stock back to the railroad for $1,[1] as had been authorized by the legislature of that year.[2] On April 22 the county clerk was ordered by the county commissioners to subscribe the $60,000 in bonds to the company's stock.[3]

On December 1, 1885 Shawnee County electors voted by a majority of 2,831 to issue $100,000 in 20-year 6 percent bonds to subscribe to the capital stock of the Kansas, Nebraska & Dakota Railroad Company, which proposed to build a line from Fort Scott through Shawnee County and Topeka to a point north. Seventy-five thousand dollars of the bonds were to be delivered when the company had a line complete and cars running and the remaining $25,000 when it was running cars to Topeka and through the county.[4] On December 11, 1886 the county commissioners, having ridden over the line so far as completed and found it satisfactory,[5] ordered $75,000 in bonds delivered to the company.[6] This line not being completed from Topeka to the north county line by January 1, 1888 as prescribed by the terms of the bond issue, the commissioners on January 3 ordered the county treasurer to destroy the $25,000 in bonds remaining.[7] The Kansas, Nebraska & Dakota was purchased by the Missouri Pacific on February 5, 1887[8] and consolidated with that road May 29, 1909.[9]

Education

The first school in Shawnee County, exclusive of those conducted by the missions, was opened in Topeka in the early fall of 1855 by Miss Sarah Harlan and continued until cold weather made it impracticable. In the summer of 1857 the Massachusetts Emigrant Aid Company erected a school building in Topeka near the corner of Fifth and Harrison Streets. Thenceforth schools were maintained with some regularity, but it was not until 1862 that public revenue entirely replaced voluntary contributions to defray their expenses.[10] The county's first superintendent of common schools, R. M. Fish, was appointed by the board of county supervisors June 21, 1859,[11] and on December 21 the county supervisors

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1. Election Returns, vol. B, p. 137, see entry 115.
2. L. 1881, ch. 83, sec. 1.
3. Commissioners' Journal, vol. F, p. 235, see entry 2.
4. Commissioners' Journal, vol. G, pp. 453, 454, see entry 2.
5. Topeka Daily Capital, December 9, 1886.
6. Commissioners' Journal, vol. H, p. 31, see entry 2.
7. Ibid., p. 202.
8. Topeka Daily Capital, February 5, 1887.
9. Secretary of State, Corporation Amendments, vol. A, No. 6, pp. 407, 408.
10. Giles, op. cit., pp. 161, 162.
11. Commissioners' Journal, 1855-62, p. 145, see entry 2.

ordered that 2 mills on the dollar of the tax levy for 1859 be set apart for school purposes.[1]

In 1938 Shawnee County had 103 organized public school districts, with 94 of these operating schools and 9 sending their pupils elsewhere. The 1938 public school census for the county, including persons over 5 and under 21 years of age, totaled 25,243 listed as follows: White males, 11,737; white females, 11,466; colored males, 1,044; colored females, 996. In addition, for 1937 were 9 private and parochial schools, with enrollments totaling 1,185 grade and 359 high school pupils. The 1938 valuations of taxable property in the county were: Tangible property, $102,258,213; intangible, $16,482,625, and the school taxes were: general except Barnes and tuition, $1,213,589; interest and sinking fund, $285,247; Barnes fund, $111,519; grand total for all school purposes, $1,610,357.42.[2]

Investment in public school facilities in Topeka exceeds $4,000,000. In 1931 a new high school building was completed at a cost of nearly $2,000,000.[3]

The Congregational Church in convention at Manhattan in October 1857 decided to establish a college at Topeka. In 1858 Colonel John Ritchie and his wife donated 160 acres of land comprising the southwest 1/4 of section 1, township 12, range 15, lying directly southwest of the city, as the site for the college building.[4] The college was moved to Lawrence in 1859 but relocated at Topeka in 1860 under the name of the Topeka Institute. It was chartered as Lincoln College on February 6, 1865 and the first building, a temporary one, was erected at Tenth and Jackson Streets that year. School was opened in January 1866 and the catalog for the following year showed an enrollment of 92 students. In 1868 Dean Ichabod Washburn of Worcester, Massachusetts, gave $25,000 to the school endowment fund. A building was erected on the present site in 1870 at a cost of $60,000, and since then other large and substantial buildings have been added.[5] In view of the donation by Dean Washburn the trustees of the college at a meeting on November 3, 1869 changed the name of the institution to Washburn College.[6] In September 1938 the college by then fully accredited and nondenominational, had an enrollment of 828 students.[7]

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1. Commissioners' Journal, 1855-62, pp. 145, 170, see entry 2.
2. Thirty-first Biennial Report of the State Superintendent of Public Instruction, 1937-38, pp. 266, 287, 289, 301.
3. Kansas Year Book, 1937-38, Topeka, 1938, pp. 344, 346.
4. Deed Record, vol. 8, pp. 220, 221, see entry 157.
5. Connelley, op. cit., pp. 1062-1064; King, op. cit., pp. 191, 192.
6. Secretary of State, Corporation Book, vol. 3, p. 298.
7. W. T. Markham, compiler, Kansas Educational Directory, 1938-39, Topeka, 1938, p. 69.

Churches

The first religious services recorded in the county were held in the winter of 1855 at the home of A. A. Ward in Topeka, with the Reverend S. Y. Lum presiding.[1] The first church in the county, the First Congregational Church of Topeka, was organized October 14, 1855. Erection of a church building was begun at the northwest corner of Seventh and Harrison Streets and though the walls were twice demolished by windstorms it was completed in 1861 at a cost of $7,000. By 1860 Baptist, Methodist Episcopal, and Presbyterian churches also had been organized in the county.[2]

In 1926 church memberships, all denominations, in Shawnee County totaled 34,056. Topeka alone had 90 churches, with combined memberships of 31,803. Valuations of 80 churches reporting totaled $3,865,153. Forty-one churches reported debts of $769,210. Expenditures of 84 churches reporting for the year totaled $712,213. Seventy-six churches reported 1,979 Sunday school officers and teachers and 19,069 pupils.[3]

Agriculture and Industry

Wide diversification of farming activity is encouraged and practiced in Shawnee County because of favorable soil, climate, and moisture conditions, although the general droughts of the past decade have hampered production to a considerable degree.

The county's agricultural trends are reflected in the annual and biennial reports of the State Board of Agriculture. In 1872 Shawnee County farmers had 3,210 acres of winter wheat from which they harvested 47,938 bushels; barley, 138 acres, 1,243 bushels; corn, 16,589 acres, 261,894 bushels; buckwheat, 71 1/2 acres, 624 bushels; oats, 2,773 acres, 50,764 bushels; rye, 79 acres, 1,179 bushels; Irish potatoes, 387 3/4 acres, 36,447 bushels; sorghum, 15 acres, 1,779 gallons; and the list of livestock owned included 271 mules, 2,953 horses, 13,427 native cattle, 369 sheep, and 6,213 hogs.[4]

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1. King, op. cit., p. 222; Giles, op. cit., p. 332.
2. King, op. cit., pp. 196-200, 222; Giles, op. cit., pp. 332, 337-344; Andreas, op. cit., pp. 548, 549.
3. U.S. Department of Commerce, Religious Bodies, 1926, Washington D.C., 1930, I, pp. 350, 613, 615.
4. Transactions of the Kansas State Board of Agriculture, Topeka, 1873, pp. 16, 18.

Historical Sketch - Agriculture and Industry (First entry, p. 207)

Statistics for 1878: Winter wheat, 10,867 acres, 195,606 bushels harvested, valuation $176,045; rye, 5,127 acres, 133,302 bushels, $79,981; spring wheat, 302 acres, 2,718 bushels, $2,174; corn, 42,249 acres, 2,112,450 bushels, $528,112; barley, 635 acres, 15,240 bushels, $4,572; oats, 6,334 acres, 177,352 bushels, $31,923; Irish potatoes, 1,146 acres, 114,658 bushels, $74,527; sorghum, 148 acres, 16,307 gallons, $10,984; flax, 558 acres, 6,138 bushels, $9,374; broom corn, 114 acres, 114,250 pounds, $5,145; millet and Hungarian, 3,989 acres, 7,958 tons, $39,295; timothy meadow, 146 acres, 146 tons, $1,025; clover meadow, 221 acres, 443 tons, $3,101; prairie meadow, 11,370 acres, 11,370 tons, $39,795; horses, 5,587; mules, 541; milch cows, 6,407; other cattle, 11,630; sheep, 1,684; hogs, 6,861. The total valuation of taxable property in the county was $6,068,420, and the total county indebtedness was $298,000.[1]

In 1900: Winter wheat, 2,213 acres, 46,473 bushels, $29,742; corn, 101,129 acres, 2,629,354 bushels, $762,512; oats, 3,755 acres, 101,385 bushels, $25,346; rye, 140 acres, 266 bushels, $138; barley, 2 acres, 60 bushels, $18; Irish potatoes, 2,560 acres, 230,400 bushels, $71,424; sweet potatoes, 507 acres, 45,630 bushels, $18,252; flax, 309 acres, 3,708 bushels, $4,820; broom corn, 235 acres, 141,000 pounds, $5,640; millet and Hungarian, 4,186 acres, 10,463 tons, $36,628; sorghum for syrup or sugar, 410 acres, 28,700 gallons, $9,578; sorghum for forage or grain, 4,183 acres, $20,915; milo maize, 7 acres, 21 tons, $74; kafir-corn, 4,416 acres, 15,416 tons, $54,096; Jerusalem corn, 9 acres, 27 tons, $81; timothy hay, 17,000 acres, 11,746 tons, $57,973; prairie grass, fenced, 92,807 acres, 41,912 tons, $146,692; animals slaughtered and sold for slaughter, $721,865; poultry and eggs sold, $60,126; wool clip, 1,935 pounds, $312; cheese made, 240,757 pounds, $24,075; butter sold, 794,708 pounds, $124,337; Garden products marketed, $46,798; horticultural products marketed, $28,863; honey and beeswax sold, 2,433 pounds, $369; wine manufactured, 1,451 gallons, $1,088; wood marketed, $1,408; animals on hand: Horses, 10,997, worth $549,850; mules, 1,053, $63,180; milch cows, 10,480, $345,840; other cattle, 27,660, $774,536; sheep, 547, $1,641; hogs, 24,978, $149,969.[2]

In 1938: Federal Government soil conservation payments, $60,793; winter wheat, 76,800 acres, 1,436,200 bushels, $746,000; corn, 29,000 acres, 710,500 bushels, $333,900; oats, 17,590 acres, 504,830 bushels, $101,000; barley, 770 acres, 18,100 bushels, $5,970; rye, 230 acres, 2,640 bushels, $900; flax, 40 acres, 370 bushels $570; grain sorghum, all purposes, 6,410 acres, 126,280 bushels, $48,000; sweet sorghum,

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1. Fifth Annual Report of the State Board of Agriculture, for the Year ending November 30, 1876, Topeka, 1877, pp. 85-90, 92, 94, 97, 100-104, 108.

2. Twelfth Biennial Report of the Kansas State Board of Agriculture for the Years 1899 and 1900, Topeka, 1901, pp. 834, 835.

forage, 6,220 acres, 23,020 tons, $59,600; sweet sorghum, for syrup, 35 acres, 1,225 gallons, $802; Irish potatoes, 1,340 acres, 199,660 bushels, $79,860; sweet potatoes, 340 acres, 45,900 bushels, $29,835; all tame hay, 13,820 acres, 20,730 tons, $135,800; wild hay, 14,110 acres, 18,345 tons, $64,210; pop corn, 250 acres, 262,490 pounds, $5,919; apples, 718 bushels, $682; peaches, 486 bushels, $610; pears, 672 bushels, $637; grapes, 14 tons, $768; garden products, $68,800; livestock produced, $879,994; chickens and eggs produced, $355,360; turkeys, $11,040; wool clip, 31,240 pounds, $4,690; cheese, 162,883 pounds, $13,031; butter, 4,969,695 pounds, $1,292,120; condensed milk and ice cream manufactured, $250,143; milk sold retail, $166,700; honey and beeswax sold, 2,570 pounds, $320; livestock on hand: Horses, 5,494, worth $359,300; mules, 1,102, $94,100; milch cows, 9,260, $431,500; other cattle, 18,140, $471,600; sheep and lambs, 5,379, $31,700; hogs, 11,370, $111,400; chickens, 159,950, $99,170.[1]

The Shawnee County farm bureau was organized in 1917 and on April 27 of that year the county commissioners, having received proof that it had met with all legal requirements, voted to appropriate $1,400 annually toward the farm bureau's support. This yearly grant was increased to $1,600 on April 8, 1918.[2] The legislature of 1919 authorized the county commissioners to levy a tax on all taxable property, real and personal, sufficient to raise funds needed for farm bureau work.[3] The commissioners levied a tax of .0004 of a mill for this purpose and in November 1919 increased the farm bureau appropriation to $333.33 per month.[4] On August 12, 1921 the commissioners granted the farm bureau permission to move its office from the courthouse[5] to the Federal Building, where it has since maintained quarters.

Except for Government agencies the largest employers in Topeka are its four railroads, which have 4,430 persons on their payrolls, the Atchison, Topeka & Santa Fe having the majority. Food processing industries employ approximately 1,700 persons. Because of its location in the Kansas River valley, one of the richest agricultural regions in the Midwest, Topeka is the shipping point for millions of dollars worth of pork, beef, butter, eggs, poultry, and by-products annually consigned to various points in the United States and to foreign countries. Topeka is an important center in the printing and publishing business, annual production of the printing industry approximating $7,500,000. The Capper Publications, in Topeka since 1905, is one of the three largest publishing houses in the United States. The metal trades employ

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1. Thirty-first Biennial Report of the Kansas State Board of Agriculture, for the Years 1937 and 1938, Topeka, 1939, pp. 374, 375.
2. Commissioners' Journal, vol. P, pp. 240, 284, see entry 2.
3. L. 1919, ch. 157, sec. 2.
4. Commissioners' Journal, vol. P. pp. 365, 417, see entry 2.
5. Ibid., p. 541.

1,686 workers whose annual production is estimated to be worth $3,900,000. They include brass, iron, and bronze foundries, structural steel fabricators, sheet metal works, forges, and boiler and tank shops. Topeka has 106 wholesale establishments whose total net sales amount to $14,000,000 a year. Topeka also is the home of seven home life insurance companies, two fire insurance companies, and one crop insurance company. Topeka banks have resources of $43,000,000 and there are seven building and loan associations with combined resources of $18,044,352. Investment in public school facilities exceeds $4,000,000. In 1931 a central high school building was erected at a cost of nearly $2,000,000.[1]

Finance

The first Shawnee County tax levy of which there is a record was made on April 1, 1859 when the board of county supervisors ordered that the annual levy should raise $3,967 of which $2,645 was for county and township purposes and $1,322 for future use.[2] The levy for 1861, the first year of Kansas statehood, amounted to 7 mills on the dollar of taxable valuation for county purposes and 2 mills for road purposes, beside the additional levy in each township for township purposes. In Topeka township this amounted to 7 mills, and in the other townships, 1 mill each. The taxable valuation of all property in the county was $1,181,044. This levy was made by the county supervisors at their meeting of October 6, 1860.[3]

The total assessed valuation of all taxable property in the county as of March 1, 1939 was $122,854,673, of which $89,725,194 was listed within the city of Topeka.[4] The total tangible property valuation for the tax year ending October 31, 1939 was $103,530,584 as compared with $99,938,079 in 1936. The amounts of taxes levied and taxes realized on tangible property for county purposes for the last 5 tax years are as follows:[5]

Year	Tax Levied	Total Collected	Percent
1935	$463,192.17	$482,181.01	104.0
1936	579,897.03	570,058.72	98.3
1937	561,090.00	554,538.66	98.8
1938	725,372.86	680,820.47	93.8
1939	720,822.13	719,462.76	99.8

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1. Kansas State Chamber of Commerce, Kansas Year Book, 1937-38, Topeka, 1938, pp. 348-352.
2. Commissioners' Journal, 1855-62, p. 140, see entry 2.
3. Ibid., pp. 226, 227.
4. Abstract of Agriculture, Population, and other Statistics, 1939, see entry 405.
5. Annual Report of Shawnee County, Kansas, for Year Ending October 31, 1939, p. 10.

For the tax year ending October 31, 1939 the total receipts of the county amounted to $1,602,267.14 and expenditures totaled $1,423,917.61 leaving an unexpended balance of $178,349.51. The tangible property valuation increased steadily from $101,770,000 in 1919 to $135,076,000 in 1930. Thereafter it decreased to $99,938,000 in 1935, since when the trend has been upward again. The per capita principal debt of the county in 1920 was $3.96. It increased to $15.33 in 1922 and $20.48 in 1924 due principally to the construction of hardsurfaced roads and the $200,000 grandstand on the fairgrounds. There was a gradual decrease to $12.34 in 1933, an increase to $15.08 in 1937, and a drop again to $13.10 in 1939. Outstanding bonds as of October 31, 1939 were as follows: Public work relief, $404,500; poor relief, $339,000; other general obligations, $206,000; hardsurfaced road bonds, $213,500; grandstand bonds, $94,000; total, $1,257,000. The expendable budget appropriations for the year ending October 31, 1939 were $1,521,910.06 and the total expenditures were $1,423,917.63, or $97,992.43 under the estimate. The largest single item of cost in the county government was public welfare, amounting to $556,475.80.[1]

Population Trends

In 1860, when the State's population was 107,206, the Shawnee County total was 3,513, while Atchison County had 7,729; Bourbon, 6,109; Doniphan, 8,083; Douglas, 8,637; Jefferson, 4,459; Johnson, 4,364; Leavenworth, 12,606; Lynn, 6,336, and Lykins, 4,980. By 1880, Shawnee, with 29,093, was led only by Leavenworth, which had 32,355. In 1880 the Shawnee County census listed 23,655 whites and 5,438 Negroes. Two years later Shawnee topped the State, with a count of 34,136. Leavenworth was second, with 31,068, and Atchison third, with 28,798.[2] Shawnee now stands third, being led by Wyandotte and Sedgwick. In 1937 when the State total stood at 1,823,679, Wyandotte had 147,133; Sedgwick, 129,609, and Shawnee, 94,427.[3] The 1930 population of Shawnee County was 85,200, of which 6,785 were Negroes.[4]

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1. Annual Report of Shawnee County, Kansas, For Year Ending October 31, 1939, pp. 10, 11, 26, 27.
2. Andreas, op. cit., p. 306.
3. Kansas State Chamber of Commerce, Kansas Year Book, 1937-38, Topeka, 1938, p. 43.
4. U.S. Bureau of the Census, Fifteenth Census of the United States, 1930, III, part 1, Population, Government Printing Office, Washington, D.C., 1932, p. 837.

(First entry, p. 207)

2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

Shawnee County is one of the 105 counties of Kansas, the last being organized in 1889, which constitute the principal legal and political subdivisions of the State.

Legal Status of the County

The division of the State into counties had its origin in England before the organization of the kingdom itself. In the United States counties first were created by the legislatures of the colonies and later by the legislatures of the States.[1] The act of Congress organizing the Territory of Kansas in 1854 did not require that the Territory be divided into counties but such division was anticipated in provisions for township, district, and county officers.[2] The State Constitution at the time Kansas was admitted to the Union in 1861 provided that all the Territorial laws then in force should continue in force until they expired or were repealed and that the first legislature should have no power to change any county lines then existing. It also specified that the legislature thenceforth should provide for organizing new counties and for such county and township officers as might be necessary.[3]

In its legal status, powers, and functions the county in Kansas is similar to that in many other States, particularly Pennsylvania, Ohio, Indiana, Iowa, Missouri, Nebraska, North Dakota, and South Dakota. It is known as the Pennsylvania type, in that its administrative body consists of a board of commissioners elected from designated commissioner districts, as opposed to the New York type, in which the governing board consists of the supervisors of the various townships and often of the various villages and wards of cities also.[4]

From the beginning of local government in Kansas the county has been designated as a body politic and corporate,[5] but its powers and authority as such are limited and subject entirely to the will of the State legislature. Indeed, the county is but a political subdivision of the State created by the legislature for the purpose of carrying out the State's policies in the particular geographical area embraced

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1. Willis A. Estrich, editor in chief, American Jurisprudence, San Francisco, 1938, XIV, p. 185.
2. 10 Stat. 286.
3. Const., schedule, secs. 4, 24; art. 9, secs. 1, 2.
4. James Wilford Garner and Louise Irving Capon, Our Government, New York, 1935, p. 144.
5. Terr. L. 1855, ch. 39, sec. 1; G.S. 1935, ch. 19, sec. 101.

Governmental Organization and Records System - Legal Status of the County

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within the county boundaries, and invested by legislative enactment with limited corporate powers necessary for the administration of its own local affairs. The Kansas Supreme Court has held with the courts of other States that "a county is a creature of the statute and it and its officers can exercise no powers except such as the statute confers upon them;"[1] that counties are "mere agencies of the State for governmental purposes and the legislature possesses absolute power over them."[2] and that they are purely the creation of State authority. They are political organizations whose powers and duties are within the control of the legislature. That body defines the limits of their powers and prescribes what they must and must not do."[3] "Indeed, everything related to the management of counties, cities, and townships not defined and limited by the Constitution may be taken away by the State acting through its legislature, and as to these political subdivisions and their agents the legislature has the same power that it has over State officers."[4]

The status of the county is summed up by Corpus Juris as follows: "Comprehensively considered, a county is an involuntary political or civil division of the State created by statute to aid in the administration of government. Separating this definition into the elements that compose it and considering a county from the standpoint of its distinguishing characteristics, the authorities unite in holding that a county is a local, legal, and political subdivision of the State, created out of the territory of the State, and that it is but an agency or arm of the State, created, organized, and existing for civil and political purposes, particularly for the purpose of administering locally the general powers and policies of the State. Its status as a political subdivision is not affected by the existence of other political subdivisions within the same territory."[5]

In the exercise of its own corporate powers the county in Kansas may sue and be sued; acquire, hold, and dispose of real and personal property for its own use and land sold for taxes; make contracts and incur liabilities; levy and collect taxes for its own purposes; erect and maintain county buildings; maintain schools, provide for the poor, safeguard the public health, open and maintain roads, build bridges, acquire and improve public parks and playgrounds, and perform various other acts for the common welfare and convenience. But all these rights are prescribed and limited by legislative enactment. The county possesses no sovereign powers and can exercise no legislative functions except within the narrow limits authorized by statute.

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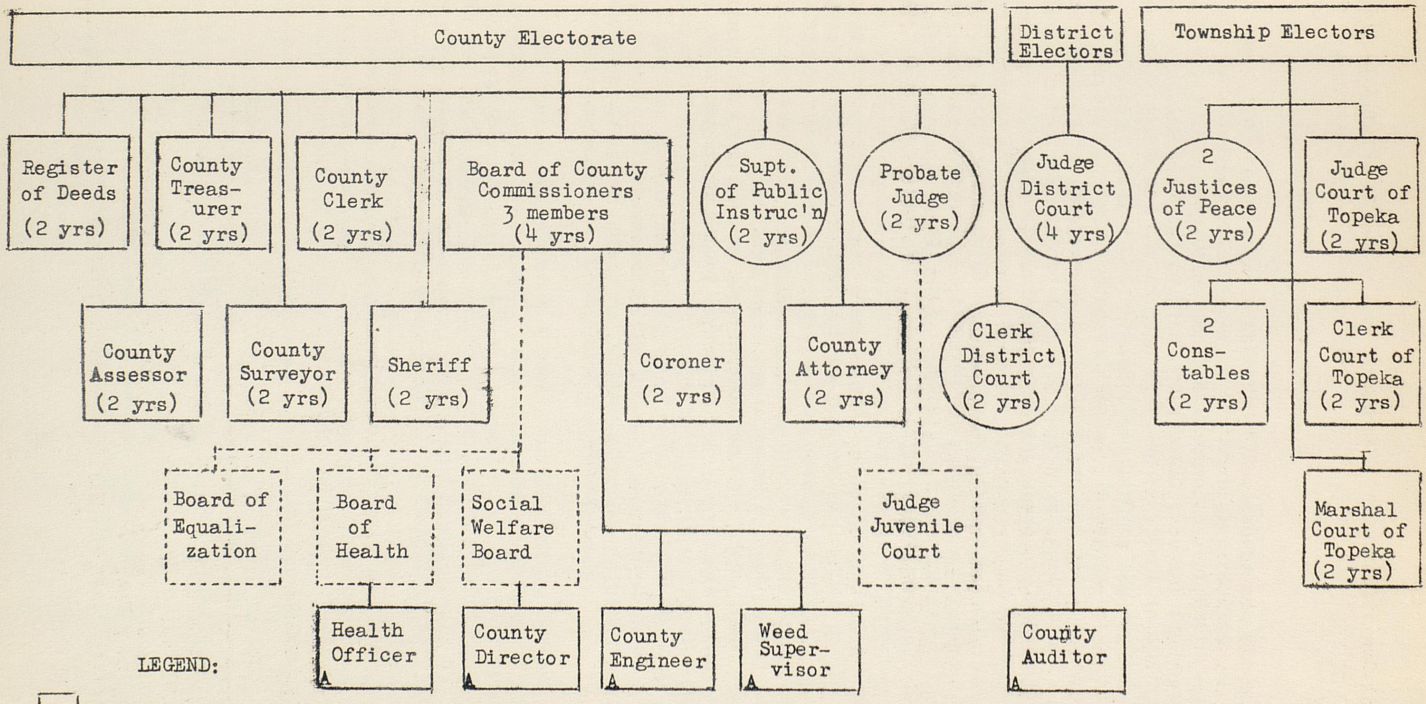
1. 104 Kan. 673.
2. 110 Kan. 545.
3. 28 Kan. 312.
4. 61 Kan. 264.
5. William Mack and William Benjamin Hale, editors, Corpus Juris, New York, 1918. XV, pp. 388-390.

SHAWNEE COUNTY GOVERNMENTAL ORGANIZATION 1940



Governmental Organization and Records System - Legal Status of the County (First entry, p. 207)

In most respects the functions of the county are closely allied with, or exercised primarily for, the State government. In levying and collecting its own revenue the county must collect State taxes levied upon the taxable property within its boundaries and is responsible to the State therefor. It acts as agent of the State in the issuance of game hunting licenses and certain other permits and the collection and distribution of various fees and funds. It serves as an instrument of the State in the preservation of the peace and the enforcement of State laws, and the regulation of public health and sanitation. It must conduct and supervise within its boundaries elections for National, State, and district officers as well as for its own officers. Thus it will be seen that the governmental machinery of each county, composed of officers elected by the people of the county, is required to perform certain functions incident to carrying out the State's policies within that area of the State's territory. And though these officers are vested with certain discretionary powers --- some more than others --- their duties are defined almost entirely by State laws. Any county officer neglecting or refusing to perform his duties may be ousted from office by civil action brought by the county attorney or the State Attorney General.[1] In some cases the State may take complete control of a specified function, as in the case of failure on the part of the county attorney to make prosecutions under a State law. "When directed by the Governor or either branch of the legislature to appear and prosecute criminal proceedings in any county, he (the Attorney General) becomes the prosecuting attorney of that county in these proceedings and has all the rights that any prosecuting officer there may have, including those of appearing before the grand jury, signing indictments, and pursuing cases to their final determination."[2]

In Kansas the township shares a portion of the burden of local government with the county. Exercising limited powers of its own as a body corporate and politic,[3] the township really is the creature of the county, although its powers, functions, and privileges are prescribed by statute. It is the duty of the county commissioners to "set off, organize, and change the boundaries of townships in their respective counties, to designate and give names therefor and to appoint township officers for such new townships, which officers shall serve until the next general election."[4] The State Supreme Court has held that it is within the power of the board to alter the lines of a township at any

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1. Terr. L. 1855, ch. 132, secs. 1, 2; Terr. L. 1859, ch. 106, secs. 1, 2; G.S. 1868, ch. 80, secs. 652-654; L. 1871, ch. 116, sec. 2; L. 1909, ch. 182, sec. 679; G.S. 1935, ch. 60, secs. 1601-1603, 1609-1611.

2. 70 Kan. 821-826; 79 Pac. 726.

3. Terr. L. 1858, ch. 71, sec. 1; G.S. 1935, ch. 80, sec. 101.

4. Terr. L. 1855, ch. 157; G.S. 1868, ch. 25, sec. 16; G.S. 1935, ch. 19, sec. 212.

time without notice and without a petition asking such action.[1] The township powers and functions consist chiefly of the construction, maintenance, and care of township roads and bridges;[2] the erection and maintenance of buildings for public purposes;[3] the establishment of public parks and cemeteries;[4] and the establishment of free libraries.[5]

Common school districts also are designated as bodies corporate and politic.[6] They exist only for school purposes and need not be bounded by township lines, nor even by county lines. Their powers and functions are prescribed by State laws and they are under the jurisdiction of the county superintendent of public instruction, by whom they are originally laid out and who may regulate and alter their boundaries.[7] Union, graded, and consolidated school districts and rural and community high school districts have similar existences.

With the initiative or consent of the electors taxing districts also may be created under various laws for certain other purposes, such as drainage, irrigation, street lighting, and fire protection. Most such districts are deemed bodies corporate, but their powers extend only to the purposes for which they were created. Otherwise the territory within such districts, as well as that within the school and high school districts, is entirely under the jurisdiction of the county government, and secondarily, the government of the townships in which they are located in whole or in part.

During the Territorial period cities were incorporated by special legislative enactment, and since statehood under various general laws. They have their own governing bodies whose legislative powers are much more elastic than those of boards of county commissioners. They are bodies corporate and politic with power to sue and be sued, to purchase and hold real and personal property, make contracts, and to exercise

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1. 112 Kan. 256, 257; 210 Pac. 619.
2. L. 1885, ch. 168, sec. 5; L. 1917, ch. 264, sec. 33; G.S. 1935, ch. 68, sec. 526.
3. L. 1899, ch. 278, sec. 1; L. 1909, ch. 259, sec. 1; L. 1917, ch. 329, sec. 1; L. 1920, ch. 69, sec. 1 (Special Session); L. 1929, ch. 296, sec. 1; G.S. 1935, ch. 80, sec. 104.
4. L. 1887, ch. 235, sec. 1; L. 1921, ch. 295, sec. 1; L. 1923, ch. 240, sec. 1; G.S. 1935, ch. 80, sec. 901.
5. L. 1889, ch. 169, sec. 1; G.S. 1935, ch. 80, sec. 801.
6. Terr. L. 1855, ch. 144, art. 1, secs. 1-4; Terr. L. 1858, ch. 8, sec. 37; L. 1861, ch. 76, art. 3, sec. 6; G.S. 1868, ch. 92, sec. 24; L. 1876, ch. 122, art. 3, sec. 2; R.S. 1923, ch. 72, sec. 302; G.S. 1935, ch. 72, sec. 302.
7. Terr. L. 1858, ch. 8, sec. 15; L. 1861, ch. 76, art. 2, secs. 2, 4; G.S. 1868, ch. 92, secs. 9, 10; G.S. 1935, ch. 72, secs. 204, 213.

such other corporate powers as may be conferred by law.[1] Their governing bodies are entrusted by law with "the care, management, and control of the city and its finances," and empowered to enact and repeal ordinances expedient to good government, the preservation of peace and order, the suppression of vice and immorality, the benefit of trade and commerce, and the health of the inhabitants.[2] School affairs in cities of the first and second class are under the management of boards of education, deemed to be bodies corporate and politic, and chosen by popular vote.[3] The inhabitants of cities may vote for county officers and are required to pay taxes for county purposes, and the care and relief of the poor within cities devolves upon the county. Otherwise the county may exercise none of its purely corporate powers within the boundaries of an incorporated city, but as an arm of the State government it must collect the State's taxes, enforce the State's laws, and conduct elections for National, State, and district officers within the city boundaries.

During the Territorial period counties in Kansas were organized only by legislative enactment. The State Constitution, effective January 29, 1861, specifies that "the legislature shall provide for organizing new counties, locating county seats, and changing county lines; but no county seat shall be changed without the consent of the majority of the electors of the county, nor any county organized nor the lines of any county changed so as to include an area of less than 432 square miles."[4]

The first State legislature made it the duty of the Governor, upon receiving the petition of 20 freeholders of any unorganized county, accompanied by the affidavits of three freeholders that the county had at least 600 inhabitants, to appoint a special board of county commissioners and county clerk, declare the county organized, and designate a temporary county seat. The commissioners were required to divide the county into townships and call the first election and the voters selected the permanent county seat and county officers.[5] The legislature of 1872 required that the petition or memorial to the Governor be signed by 40 householders who were electors of the county and further specified that before declaring the county organized the Governor should appoint a competent person to take the census to determine if the proposed new

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1. G.S. 1868, ch. 18, art. 1, sec. 6; R.S. 1923, ch. 12, sec. 101; G.S. 1935, ch. 12, sec. 101.
2. L. 1862, ch. 46, art. 2, secs. 1, 4; L. 1869, ch. 26, sec. 28; G.S. 1935, ch. 13, sec. 401; ch. 14, sec. 401; ch. 15, sec. 401.
3. L. 1867, ch. 69, sec. 5; G.S. 1868, ch. 18, sec. 73; G.S. 1935, ch. 72, sec. 1601.
4. Const., art. 9, sec. 1.
5. L. 1861, ch. 19, secs. 1-6; G.S. 1868, ch. 24, pp. 249, 250, secs. 1-6.

county actually had 600 inhabitants.[1] The legislature of 1876 raised the population requirement to 1,500, of whom 250 should be householders, and required the signatures of 250 bona fide householders to the petition to the Governor.[2] The requirements were raised again in 1887, the statute specifying that the proposed new county must have at least 2,500 inhabitants, of whom at least 400 should be householders, and a taxable property valuation exclusive of railroad property of at least $150,000.[3]

From the beginning of county government both organized and unorganized counties often were attached to other counties by legislative enactment for judicial purposes. The assembly of 1859 decreed that when any county was attached to another for judicial purposes the jurisdiction of the parent county should be the same as though the attached county formed a part of it, unless the attached county had an organization and officers of its own, in which event the jurisdiction of the county to which it was attached should extend only to such matters as were cognizable by the district court. The legislature of 1861 amended this law to provide that all writs and process to be served in the attached county should be directed to and served by the sheriff of the attached county.[4]

Concurrent with this statute a law was enacted in 1863 providing that any unorganized county attached to an organized county for judicial purposes should constitute one of the townships of the organized county, be entitled to township officers and other township rights and privileges, and be subject to the same regulations and liabilities as the other townships of the organized county, except that property therein could not be taxed for construction of county buildings or public improvements in the organized county. It also required that all school districts in the attached county be separately described and numbered.[5] This law was omitted from the revised statutes of 1868 but was re-enacted by the legislature of 1873, which also provided that electors of the attached county should be deemed legal electors of the county to which it was attached, except that they should not vote on any question of locating the county seat, erecting county buildings, or making public improvements in the organized county, nor on the election of county officers or representatives of the organized county. However, they were given power to vote bonds up to $10,000 for construction of bridges in the attached

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1. L. 1872, ch. 106, sec. 1.
2. L. 1876, ch. 63, sec. 1.
3. L. 1887, ch. 128, sec. 1; G.S. 1935, ch. 18, sec. 301.
4. Terr. L. 1859, ch. 40, sec. 9; L. 1861, ch. 23, sec. 10; L. 1867, ch. 52, sec. 13; G.S. 1868, ch. 28, p. 309, sec. 13; G.S. 1935, ch. 20, sec. 1037.
5. L. 1863, ch. 23, sec. 1.

county. The county commissioners of the organized county were required to appoint a deputy superintendent of public instruction and a deputy county surveyor to separately describe and number the school districts in the attached county. This law was repealed by the legislature of 1883, but re-enacted verbatim by that of 1884. It was finally repealed by the legislature of 1897 as being obsolete, all counties then being organized.[1]

The legislature of 1873 also had provided that when the county commissioners of an organized county were petitioned by 25 electors of an unorganized county attached to it, asking for a municipal organization, they should call a special election in the unorganized county for township officers. The officers thus elected held until the regular township election. A law enacted in 1883 required that the county commissioners, when an unorganized county was attached to their county for judicial purposes, should immediately appoint township officers for it, who held until the special election provided for in the law of 1873. These enactments also were repealed as obsolete by the legislature of 1897.[2]

The boundaries of two or more adjacent counties may be changed by a majority vote of the electors in each of the counties affected at an election called by the county commissioners of each county upon receipt of a petition signed by 50 percent of the voters, provided such change does not violate the constitutional provision that no county may contain less than 432 square miles of territory.[3]

Structural Development of County Government

The act of Congress organizing the Territory of Kansas, signed by President Franklin Pierce May 30, 1854, provided for a Governor and Secretary of the Territory and specified that the legislative power should be vested in the Governor and a legislative assembly, the latter to be elected by the people. The legislative power, the act provided, should extend to "all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act." It specified that all township, district, and county officers not otherwise provided for should be elected or appointed in such manner as the Governor and the legislative assembly might provide.[4] The first

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1. L. 1873, ch. 72, sec. 31; L. 1883, ch. 148, sec. 2; L. 1884, ch. 8, sec. 1 (Special Session); L. 1897, ch. 137, sec. 1.
2. L. 1873, ch. 72, sec. 32; L. 1883, ch. 48, sec. 1; L. 1897, ch. 137, sec. 1.
3. L. 1872, ch. 96, secs. 1-11; G.S. 1935, ch. 18, secs. 202-212.
4. 10 Stat. 284-286.

legislative assembly, elected March 30, 1855, convened July 16 at the Shawnee Manual Labor School and at this session created 36 counties, including Shawnee County, in eastern Kansas.[1] The first statutes for the Territory were taken almost bodily from the general statutes of Missouri, a clause being inserted that whenever the work "State" appeared it should be construed as meaning "Territory of Kansas."[2]

At that time the paramount issue in the Territory was whether Kansas should be admitted to the Union as a free or a slave State. The first assembly, known in Kansas history as the "bogus legislature," was composed of Pro-slavery men elected by the fraudulent votes of hundreds of non-residents, mostly Missourians, who entered the Territory on election day and took possession of the polls. Several of the assembly members themselves were residents of Missouri. And though the Missouri laws which they adopted were based on the code of New York and were not objectionable, the assembly added such strict enactments for the protection of slavery that Free-State men were practically disfranchised. A Free-State party was formed at Big Springs, with the declaration that "we owe no allegiance or obedience to the tyrannical enactments of this spurious legislature --- that their laws have no validity or binding force upon the people of Kansas. . ." The Free-State party adopted a constitution, and though it was rejected by Congress, set up a State government at Topeka. However, the National Government recognized the Pro-slavery legislature and the Free-State legislature was dispersed by Federal troops July 4, 1856.[3]

For the general administration of county affairs the first assembly created a board of county commissioners to consist of the probate judge as president and two commissioners, all of whom were appointed by the assembly to serve until the general election of 1857, after which they were to be elected by the people for 4-year terms. The board was authorized to appoint its own clerk, who was commissioned by the Governor and made ex officio clerk of the probate court.[4] For the recording of land titles, covenants, and other instruments the office of county recorder was created with the provision that it should be filled ex officio by the clerk of the probate court.[5]

The Organic Act had vested the judicial power of the Territory in a Supreme Court, district courts, probate courts, and justices of the peace, providing that the Territory should be divided into three judicial districts and that a term of the district court should be held by a

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1. Terr. L. 1855, chs. 30, 33, 37.
2. Ibid., ch. 152.
3. Connelley, op. cit., I, pp. 347-354, 388-411.
4. Terr. L. 1855, ch. 44, secs. 6, 28, 29, 33, 41.
5. Ibid., ch. 134, secs. 1, 2, 4.

justice of the Supreme Court at such times and places as might be prescribed by law.[1] A probate court was created in each county[2] and it was decreed that each township should be entitled to four justices of the peace with county-wide jurisdiction and who should be appointed by the assembly to serve 5-year terms.[3]

The enforcement of law and maintenance of the peace were made incumbent upon the district attorney, sheriffs, coroners, and constables. The office of district attorney was created for each of the three judicial districts, the officers to be appointed by the assembly for 4-year terms.[4] The first sheriffs were appointed by the assembly to serve until 1857, after which time they were to be elected by the people for 4-year terms.[5] The office of township constable was made appointive by the county commissioners.[6]

Authorizing them to "levy and cause to be collected a tax upon all county property taxable under the law," the assembly provided that the county commissioners should appoint an assessor annually and hear appeals from his assessments.[7] To receive and pay out the county revenue the office of county treasurer was created and made appointive by the county commissioners until 1857, after which it was to be elective by the people for a 2-year term.[8] The sheriff was made ex officio collector of revenue and required to pay into the county treasury the money he collected.[9] Common schools "open and free" to every class of white citizens were provided for and the county commissioners required to form school districts upon petition of the voters.[10] The county commissioners were required to provide for relief of the poor and unfortunate at county expense;[11] to make and enforce all orders pertaining to roads and bridges;[12] and to divide the county into townships, subdivide them, and alter their boundaries.[13] The office of county surveyor was created and made appointive by the county commissioners for a 4-year term.[14]

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1. 10 Stat. 286.
2. Terr. L. 1855, ch. 44, sec. 1.
3. Ibid., ch. 93, art. 1, secs. 1-4.
4. Ibid., ch. 10, secs. 1, 2.
5. Ibid., ch. 150, secs. 1, 2.
6. Ibid., ch. 23, sec. 1.
7. Ibid., ch. 137, art. 2, secs. 1, 31.
8. Ibid., ch. 32, secs. 1, 2.
9. Ibid., ch. 137, art. 3, secs. 1, 16; art. 4, sec. 4; ch. 150, sec. 5.
10. Ibid., ch. 144, art. 1, secs. 1, 2.
11. Ibid., ch. 126, secs. 4-6.
12. Ibid., ch. 139.
13. Ibid., ch. 157.
14. Ibid., ch. 154, sec. 1.

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No legislative session was held in 1856. That of 1857 made no important changes in the county organization. In the general election of 1857 the Free-State party gained control of the legislative assembly.[1] This body in the session of 1858 eliminated the probate judge as a member of the county governing board and adopted the New York system, providing that the county's affairs should be administered by a board of county supervisors composed of the chairman of each of the township boards of supervisors,[2] who were elected by the voters of the townships for terms of 1 year.[3] The office of clerk of the board was made elective for a 2-year term with the provision that the officer should continue as ex officio clerk of the probate court until provision for a clerk should be made by law. The office of register of deeds was created and made elective for a 2-year term in place of the ex officio office of recorder.[4] The office of county auditor was created and made elective for a 2-year term, with the conflicting provision that the auditor should be ex officio clerk of the board of county supervisors.[5] The office of probate judge was made elective for a term of 4 years. The office of district attorney was abolished and that of county attorney created and made elective for a 2-year term in each county organized for judicial purposes, with duties identical with those of the district attorney.[6] The coroner was required to perform the sheriff's duties when the sheriff was incapacitated for any reason,[7] and the justices of the peace were required to act for the coroner in cases in their townships when the coroner was absent.[8]

The same assembly created the office of county superintendent of common schools, elective for a 1-year term, and made it his duty to establish school districts on petition of the voters, make an annual report to the Territorial Superintendent, and an annual report of receipts and expenditures to the county supervisors. Each school district was declared to be a body corporate with a director, clerk, and treasurer as its officers.[9] Each organized township also was declared to be a body corporate and the township treasurers were designated as collectors of taxes for their townships.[10] However, the assembly provided that in certain counties, including Shawnee, the persons then holding the offices of clerk of the board of county supervisors, probate judge, sheriff, coroner, and county surveyor should continue in office

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1. Connelley, op. cit., II, p. 663.
2. Terr. L. 1858, ch. 13, secs. 3, 9.
3. Ibid., ch. 71, sec. 6.
4. Terr. L. 1858, ch. 13, secs. 26, 37, 40.
5. Ibid., ch. 5, secs. 1, 9.
6. Ibid., ch. 13, secs. 38, 49.
7. Ibid., ch. 13, secs. 78-81.
8. Ibid., ch. 42, art. 1, sec. 8.
9. Ibid., ch. 8, secs. 1, 13, 16, 18, 31, 37, 45.
10. Ibid., ch. 71, secs. 1, 54.

until the general election in November 1859, and that the clerk of the county board should continue until that time as ex officio recorder,[1] so that the new laws in fact had little effect on the Shawnee County government.

All laws passed prior to January 1, 1857 and all laws of a general nature passed by the regular 1857 session, excepting in both cases acts defining county boundaries, were repealed by the assembly of 1859. Many of the acts of the 1858 session also were repealed, including those creating the various county offices,[2] and new statutes enacted in their place. The office of county auditor was not re-established, but the office of county clerk was created in each county and made elective for a 2-year term with the provision that the officer should serve as clerk of the county board and ex officio clerk of the district and probate courts of his county.[3] Otherwise little change was made in the county governmental set-up. However, this assembly forbade organization of future townships containing less than 36 square miles and 500 inhabitants and in any case required that a petition signed by not less than 50 citizens in the area be first submitted to the county supervisors.[4] The township powers were broadened somewhat. The electors were empowered to raise revenue for the support of their common schools, the building and repair of roads and bridges, support of the poor, the prosecution and defense of suits, and all other proper charges against the township. The township supervisors were designated as commissioners of highways, overseers of the poor, and inspectors of elections for their townships.[5]

The assembly of 1860 abolished the board of supervisors as the governing body of the county and re-established the three-man board of county commissioners, the members being elected alternately by the voters of the whole county for 3-year terms, but each representing a designated district. The county clerk continued as clerk of the board of commissioners and also was designated as ex officio county auditor. The term of the probate judge was reduced to 2 years. The duties of collector of revenue were transferred from the sheriff to the county treasurer, and the office of county assessor was made elective for a 1-year term.[6]

The State Constitution, in providing for the change from the Territorial to the State government effective January 29, 1861, provided that "all laws and parts of laws in force in the Territory at the time of the acceptance of this Constitution by Congress, not inconsistent

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1. Terr. L. 1858, ch. 13, sec. 110.
2. Terr. L. 1859, ch. 89, secs. 1-3.
3. Ibid., ch. 42, secs. 39, 40.
4. Ibid., sec. 18.
5. Ibid., ch. 130, secs. 2, 38.
6. Terr. L. 1860, ch. 28, secs. 3, 10, 11, 43, 104, 121.

with this Constitution, shall continue and remain in force until they expire or are repealed."[1] Thus most of the offices provided for under the Territorial statutes continued under the State government.

The Constitution vested the judicial power of the State in a Supreme Court, district courts, probate courts, and justices of the peace, and further authorized the establishment of "such other courts, inferior to the Supreme Court, as may be provided by law." The State was divided into five judicial districts, which number may be increased by law, and provision made for election of a district judge in each district to serve a 4-year term, and a clerk of the district court in each organized county to serve a 2-year term. It was decreed that the jurisdiction of the district court and the times and places of its terms should be specified by law. Provision was made for a probate court in each county to have "such probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound mind as may be prescribed by law, and shall have jurisdiction in habeas corpus." The probate judge's term was fixed at 2 years. The Constitution also provided for two justices of the peace in each township, which number may be increased and whose duties are prescribed by law.[2] Provision also was made for a superintendent of public instruction in each county to be elected for a term of 2 years, and whose duties should be prescribed by law.[3]

The increase in population, the greater complexities of the social order, and the gradual development of travel facilities resulted in a rapid increase in the work of the district courts, especially in the more populous districts, in the third and fourth decades of statehood. From time to time special courts were established in various counties to relieve the burden on the district courts. These included the superior court of Shawnee County, 1885-87,[4] and the circuit court of Shawnee County, 1891-95.[5]

The first step in the establishment of city courts was taken in 1897. The legislature of 1868 had enacted a law providing that "no city of more than 2,000 inhabitants shall be included within the corporate limits of any township, but each of such cities shall constitute a township for the purpose of electing justices of the peace and constables . . . and for the exercise of the powers and jurisdiction of such officers as provided by law."[6] In 1897 the legislature established

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1. Const., schedule, sec. 4.
2. Const., art. 3, secs. 1, 5, 7, 9.
3. Ibid., art. 6, sec. 1.
4. L. 1885, ch. 140, sec. 1.
5. L. 1891, ch. 83, sec. 1; L. 1895, ch. 104, sec. 1.
6. G.S. 1868, ch. 110, art. 10, sec. 48; G.S. 1935, ch. 80, sec. 1404.

in Kansas City Township, Wyandotte County, two new courts styled "the city court of Kansas City," first district and second district, respectively, with the same jurisdiction as justices of the peace, but thereafter justices of the peace in that township were limited in their jurisdiction to cases in which the amount claimed did not exceed $1.[1] In 1899 a city court was established in City of Topeka Township, Shawnee County,[2] and in the same year similar courts were established in five other cities of Kansas. Up to this time the State Constitution had provided that "all laws of a general nature shall have a uniform operation throughout the State and in all cases where a general law can be made applicable no special law shall be enacted." In November 1906 an amendment was adopted which added this clause: "And whether or not a law enacted is repugnant to this provision of the Constitution shall be construed and determined by the courts of the State."[3] In 1907 the legislature passed a special law creating a city court in Chanute City Township, Neosho County.[4] A few months later the State brought proceedings in quo warranto to oust the judge on the grounds that the act creating the court was in violation of the Constitution, which contention was upheld. In its syllabus the Supreme Court pointed out that the acts creating the city court of Topeka and other cities were valid because at the time they were enacted the legislature alone had the power to determine whether a general law could be made applicable, but that by virtue of the Constitutional amendment of 1906 such power now lay with the Supreme Court.[5] Later a similar enactment attempting to create a city court in Arkansas City Township, Cowley County, was held to be unconstitutional.[6]

To comply with these decisions the legislature in 1923 passed a general law establishing courts with justice of the peace jurisdiction in any city of the first class which by ordinance of its governing body should adopt provisions of the law, and in 1927 the act was amended to make it applicable in the same manner to any city of the second class with more than 13,900 inhabitants.[7] The legislature of 1923 also provided for the establishment of county courts in any county which by resolution of its board of county commissioners should adopt provisions of the act, the probate judge being designated as judge of the county court; but no such court could be established in any county

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1. L. 1897, ch. 107; G.S. 1935, ch. 20, sec. 1401.
2. L. 1899, ch. 129; G.S. 1935, ch. 20, secs. 1901-1931.
3. Const., art. 2, sec. 17 as amended November 6, 1906.
4. L. 1907, ch. 179.
5. 78 Kan. 394-401; 96 Pac. 659.
6. 118 Kan. 191-235; 235 Pac. 1034.
7. L. 1923, ch. 132, sec. 1; L. 1927, ch. 179, sec. 1; G.S. 1935, ch. 20, sec. 1401.

wherein there was a city court established by special enactment or under the general laws of 1923 and 1927.[1] Small debtors' courts with jurisdiction of cases for the collection of small sums for wages and similar items were created in 1913 in any county or city which by resolution of its governing body should adopt provisions of the act.[2] A small debtors' court was established in Topeka by ordinance of the city commission in 1913 and W. H. Kemper appointed as the first judge.[3] The court has been dormant for several years.

In 1905 a juvenile court was created in each county, with the probate judge designated as its judge, to exercise the parental power of the State in cases of dependent, neglected, and delinquent children,[4] matters which had theretofore been handled chiefly by the probate court.

The first State legislature abolished the office of county attorney, which had been created in 1858, and restored the office of district attorney, elective in each judicial district of the State for a 2-year term.[5] Three years later this office was abolished and that of county attorney recreated and made elective for a term of 2 years.[6]

The office of assessor continued as an appointive one until 1869 when it was abolished and the duties transferred to the township trustees. It was restored beginning in 1908 and made appointive by the county commissioners for a 2-year term. Beginning in January 1911 it was made elective for a 2-year term, but with the provision that it should exist as a separate office only in counties of more than 12,000 population, and that in counties of lesser population the county clerk should be ex officio assessor. An enactment of 1913 limited the office as a separate one to counties of more than 55,000 population, but provided that in counties with fewer inhabitants it might be established as a separate one by majority vote of the electors. In 1931 a law was passed restricting the elective office to counties of more than 65,000 population, but retaining the local option clause for the counties of fewer inhabitants.[7] The office has always been a separate one in Shawnee County.

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1. L. 1923, ch. 131; G.S. 1935, ch. 20, secs. 801-803.
2. L. 1913, ch. 170, sec. 1; G.S. 1935, ch. 20, sec. 1301.
3. City of Topeka, Journal of Council Proceedings, vol. Z, pp. 172, 181.
4. L. 1905, ch. 190, sec. 1; G.S. 1935, ch. 38, sec. 401.
5. L. 1861, ch. 2, sec. 1.
6. L. 1864, ch. 31, secs. 1, 2, 13; G.S. 1935, ch. 19, sec. 701.
7. L. 1869, ch. 30, sec. 1; L. 1907, ch. 408, sec. 18; L. 1909, ch. 251, sec. 3; L. 1913, ch. 321, sec. 1; L. 1931, ch. 156, sec. 1; G.S. 1935, ch. 19, sec. 401.

Governmental Organization and Records System - Structural Development of County Government

(First entry, p. 207)

Boards of county commissioners, which from the beginning were empowered to adjust tax assessments,[1] were officially designated by the assembly of 1860 as county boards of equalization and review.[2] In 1885 they were designated as county boards of health for their respective counties and each board was required to appoint a qualified physician as county health officer to hold office at the board's pleasure.[3] The first assembly had decreed that the county commissioners should provide for the relief of the poor and unfortunate at county expense[4] but in 1862 the legislature designated the township trustees and mayors of cities as overseers of the poor, requiring them to make return to the county commissioners of the amounts needed to be paid from the county treasury for support of the poor in their districts.[5] In 1872 the office of county poor commissioner was created and made appointive by the county commissioners. At first it was confined to the more populous counties, but gradually extended until it was made to apply to all counties in the State.[6] The first Shawnee County poor commissioner was appointed June 19, 1882.[7] With enactment of the new public welfare laws in 1937 boards of county commissioners were designated as county social welfare boards for their respective counties and each board was required to appoint a county director as executive and administrative officer.[8]

The provision of the law of 1860 designating the county clerk as ex officio county auditor[9] was omitted in the general revision of the statutes in 1868. However, the office of county auditor was created in 1872 in all counties with a population in excess of 30,000 persons and made appointive by the district court. In 1876 provisions of the law were extended to all counties of more than 25,000 inhabitants, but since 1891 they have been restricted to counties of 45,000 or more inhabitants.[10] By virtue of population Shawnee County came under this law in 1880 and an auditor was appointed by the district court on July 28 of that year.[11]

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1. Terr. L. 1855, ch. 137, art. 2, sec. 31.
2. Terr. L. 1860, ch. 114, sec. 25; G.S. 1868, ch. 107, sec. 42; L. 1876, ch. 34, sec. 73; G.S. 1935, ch. 79, sec. 1601.
3. L. 1885, ch. 129, sec. 7; G.S. 1935, ch. 65, sec. 201.
4. Terr. L. 1855, ch. 126, secs. 4-6.
5. G.L. 1862, ch. 163, secs. 1, 19.
6. L. 1872, ch. 161, sec. 1; L. 1891, ch. 155, sec. 1; L. 1901, ch. 133, sec. 1; L. 1913, ch. 162, sec. 1; L. 1931, ch. 199, sec. 1; L. 1933, ch. 196, sec. 6; G.S. 1935, ch. 39, sec. 517.
7. Commissioners' Journal, vol. F. p. 471, see entry 2.
8. L. 1937, ch. 327, secs. 10, 11.
9. Terr. L. 1860, ch. 28, sec. 43.
10. L. 1872, ch. 67, sec. 1; L. 1876, ch. 67, sec. 1; L. 1891, ch. 87, sec. 1; G.S. 1935, ch. 19, sec. 601.
11. District Court, Journal, vol. N, p. 32, see entry 196.

Governmental Organization and Records System - Structural Development of County Government

(First entry, p. 207)

In 1909 the office of county engineer of highways and bridges was created and made appointive by the county commissioners in counties of more than 20,000 population, and adoption of the office made optional in the counties with lesser population, but in 1917 the office of county engineer was created and made appointive by the county board in all counties, the officer to serve an indefinite term. Since 1919 the county engineer has performed all the duties of county surveyor in counties of less than 60,000 population and not having a city of 40,000 or more inhabitants.[1] The first county engineer of Shawnee County was V. R. Parkhurst appointed by the county commissioners August 20, 1909.[2]

A half dozen minor offices, some appointive by the county commissioners and some elective by the people, have existed at different periods in various counties, some by virtue of special enactments, others by the adoption of a general law. None of these has existed in Shawnee County, however, except that of field bindweed inspector, created in 1937 and made optional with the county commissioners.[3] A bindweed inspector was appointed by the Shawnee County commissioners January 17, 1938.[4]

Although general elections were held annually until 1902, the terms of most elective county officers were fixed at 2 years even before statehood. The State Constitution at the time of its adoption fixed the terms of all county officers at 2 years and the first State legislature specified that certain officers should be elected in even-numbered years, others in odd-numbered years.[5] In 1876 the Constitution was amended to extend the terms of county commissioners to 3 years and in 1902 it was again amended to permit 6-year terms, but the legislature of 1903 fixed their terms at the present ones of 4 years each.[6] The terms of district judges are fixed by the Constitution at 4 years,[7] and since 1875 those of State senators have been fixed at 4 years and those of representatives at 2 years.[8]

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1. L. 1909, ch. 198, sec. 1; L. 1917, ch. 264, sec. 8; L. 1919, ch. 245, sec. 2; G.S. 1935, ch. 68, sec. 501.
2. Commissioners' Journal, vol. N, pp. 289, 290, see entry 2.
3. L. 1937, ch. 1, sec. 3.
4. Commissioners' Journal, vol. U, p. 436, see entry 2.
5. Const., art. 9, sec. 3; L. 1861, ch. 31, secs. 1-4.
6. Const., art. 9, sec. 3 as amended November 7, 1876; art. 2, sec. 4 as amended November 4, 1902; L. 1903, ch. 233, sec. 1; G.S. 1935, ch. 19, sec. 202.
7. Const., art. 3, sec. 5.
8. Const., art. 2, sec. 29 adopted November 2, 1875.

Governmental Organization and Records
System - Structural Development
of County Government

(First entry, p. 207)

The regular terms of office of all State, district, county, and township officers begin on the second Monday in January following their election unless otherwise provided by law.[1] The legislature of 1866 changed the terms of the county treasurer to begin the first Tuesday in July after his election, but since 1876 he has taken office on the second Tuesday in October following his election.[2] Beginning in 1901 the county superintendent of public instruction took office the second Monday in May of each odd-numbered year, but since 1923 his term has commenced on the first Monday of July of each odd-numbered year.[3] Terms of members of the legislature begin on the second Tuesday of January succeeding the election.[4]

Every elective county officer, before entering upon the duties of his office and within 20 days after receiving notice of his election or appointment, or within 20 days after the commencement of the term for which he was elected, must execute to the State and deposit his official bond as prescribed by law, and within the same time must subscribe the oath of office prescribed by law and deposit it with his bond, with which it must be filed and preserved. Any deputy he may appoint must subscribe a like oath and deposit it in the office in which the bond of the officer appointing him is filed. All such bonds must be recorded in a book kept by the register of deeds for this purpose.[5] Failure to file the official oath and bond vacates the office[6] unless for good cause shown.[7]

The statutes require every county officer to keep his office at the seat of justice and in the office provided by the county, or if there be none, then at such place as may be fixed by special provisions of law; and if there are no such provisions, then at such place as the county commissioners may designate. He must keep the office open during the usual business hours except Sundays,[8] and all books and papers required by law are open to the examination of any person concerned.[9]

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1. L. 1861, ch. 28, sec. 40; G.S. 1868, ch. 36, sec. 58; L. 1905, ch. 506, sec. 1; G.S. 1935, ch. 25, sec. 313.
2. L. 1866, ch. 36, sec. 1; G.S. 1868, ch. 25, sec. 61; L. 1875, ch. 77, sec. 1; G.S. 1935, ch. 19, sec. 501.
3. L. 1899, ch. 244, sec. 1; L. 1921, ch. 225, sec. 1; G.S. 1935, ch. 72, sec. 201.
4. L. 1861, ch. 28, sec. 43; G.S. 1868, ch. 36, sec. 61; G.S. 1935, ch. 25, sec. 316.
5. Terr. L. 1860, ch. 28, secs. 125, 126; G.S. 1868, ch. 25, secs. 173-175; G.S. 1935, ch. 19, secs. 2602-2604.
6. 7 Kan. 327-329; 14 Kan. 217-220.
7. 33 Kan. 7-9; 5 Pac. 412.
8. There are exceptions to this rule for certain offices in certain counties.
9. Terr. L. 1860, ch. 28, sec. 124; G.S. 1868, ch. 25, sec. 172; G.S. 1935, ch. 19, sec. 2601.

Governmental Organization and Records System - Structural Development of County Government (First entry, p. 207)

Any county commissioner or other county officer neglecting or refusing to perform any act which it is his duty to perform, or who "corruptly or oppressively" performs such duty, forfeits his office and may be removed therefrom by civil action. A county office becomes vacant in event of the death, resignation, or removal of an incumbent; his conviction of an infamous crime or any offense involving his official oath; his failure to give, renew, or deposit his official oath and bond; the decision of a competent tribunal declaring his election or appointment void; or his acceptance of an occupation in which, as such officer, he is barred by law from participating. The county commissioners also may declare any office vacant when a judgment is obtained against an incumbent's official bond.[1] There are in addition, several statutory provisions providing penalties or forfeiture of office in specific cases.

All county officers who hold their offices by election must make their resignations to the officer or officers authorized to fill vacancies in such office.[2] A general law provides that when there is no other statutory provision for filling a vacancy in a county office that it shall be filled by appointment by the Governor until the next ensuing election.[3] With the exception of the offices of coroner and county surveyor, however, special provision is made for the filling of vacancies by appointment until the next ensuing election. The Governor makes appointments to fill vacancies in the office of judge of the district court,[4] probate judge,[5] and sheriff.[6] Vacancies on the board of county commissioners are filled by the remaining commissioners and county clerk.[7] The county commissioners make appointments to fill vacancies in the offices of county clerk,[8] register of deeds,[9] county treasurer,[10]

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1. Terr. L. 1860, ch. 28, sec. 131; G.S. 1868, ch. 25, secs. 179, 180; G.S. 1935, ch. 19, secs. 2608, 2609.
2. Terr. L. 1860, ch. 28, sec. 130; G.S. 1868, ch. 25, sec. 177; G.S. 1935, ch. 19, sec. 2606.
3. L. 1861, ch. 28, sec. 39; G.S. 1868, ch. 36, sec. 57; G.S. 1935, ch. 25, sec. 312.
4. Const., art. 3, sec. 11.
5. Const., art. 3, sec. 11; G.S. 1868, ch. 25, sec. 86; G.S. 1935, ch. 19, sec. 1103.
6. G.S. 1868, ch. 25, sec. 102; G.S. 1935, ch. 19, sec. 804.
7. G.S. 1868, ch. 25, sec. 10; L. 1871, ch. 74, sec. 2; L. 1901, ch. 129, sec. 3; G.S. 1935, ch. 19, sec. 203.
8. Terr. L. 1860, ch. 28, sec. 45; G.S. 1868, ch. 25, sec. 42; G.S. 1935, ch. 19, sec. 303.
9. G.S. 1868, ch. 25, sec. 89; G.S. 1935, ch. 19, sec. 1203.
10. Terr. L. 1860, ch. 28, sec. 107; G.S. 1868, ch. 25, sec. 64; G.S. 1935, ch. 19, sec. 504.

and county superintendent of public instruction.[1] The judge of the district court fills vacancies in the offices of clerk of the district court[2] and county attorney.[3]

The functions of county government in Shawnee County since 1855 may be summarized as follows:

1. General administration and supervision of the affairs of the county as a body corporate, exercised by the board of county commissioners, 1855--.

2. The recording of instruments affecting title to property, performed by the register of deeds, 1855--.

3. The administration of justice, vested in the district court and justices of the peace, 1855--; the superior court, 1885-87; the circuit court, 1891-95; and the city court of Topeka, 1899--.

4. The probate of wills and the administration of the estates of deceased persons, minors, and incompetents, and the commitment of insane persons, vested in the probate court, 1855--.

5. The exercise of the parental power of the State in relation to minors, vested in the juvenile court, 1905--.

6. The enforcement of law and the maintenance of peace, incumbent upon the sheriff, coroner, county attorney, and the township constables, 1855--.

7. The assessment of property, levy of taxes, and collection of the public revenue, participated in by the governing bodies of the county and its subdivisions, the county assessor, county clerk, county treasurer, and sheriff working in conjunction, 1855--.

8. The supervision and conduct of elections for township, county, district, State, and National officers, performed chiefly by the county clerk, 1855--.

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1. L. 1861, ch. 76, art. 2, sec. 10; G.S. 1868, ch. 92, sec. 18; L. 1876, ch. 122, art. 2, sec. 10; L. 1881, ch. 152, sec. 8; L. 1911, ch. 278, sec. 1; G.S. 1935, ch. 72, sec. 209.

2. L. 1861, ch. 24, sec. 6; G.S. 1868, ch. 25, sec. 152; G.S. 1935, ch. 19, sec. 1306.

3. Terr. L. 1860, ch. 28, sec. 63; L. 1861, ch. 2, sec. 5; L. 1864, ch. 31, sec. 7; G.S. 1868, ch. 25, sec. 146; G.S. 1935, ch. 19, sec. 715.

9. The administration of education, supervised by the county commissioners, 1855-58, and by the county superintendent of public instruction, 1858--.

10. The regulation of health and sanitation and the promotion of the public welfare, both always administered by the board of county commissioners, but acting as a county board of health, 1885-- and a county social welfare board, 1937--, and working through the agency of appointive officers.

11. Engineering and public works activities, always administered by the county commissioners, but chiefly through the agency of the county engineer, 1909--.

12. The promotion of improved farming practices and better farm life through appropriations made toward the support of a county farm bureau and a county fair, and such optional matters as the conduct of experimental farms, measures to prevent soil drifting, and the eradication of noxious weeds and destructive birds and animals, all of them matters incumbent upon the board of county commissioners.

General Administration

The administrative functions of the county in Kansas, generally speaking, fall into three categories: First, the administration of the county's own affairs as a body corporate; second, administration of those affairs in which the county acts purely as the agent of the State or of its own political subdivisions; and third, administration of such affairs as education, law enforcement, public welfare, and health and sanitation, which are local in character and yet so closely regulated and supervised by the State that they might almost be said to be functions exercised for the State. Except in the case of the county's affairs as a body corporate it frequently is difficult to draw a line between those matters which are the county's and those which are the State's, for most State laws are applicable to all counties and it is the duty of county officers to enforce them in their own jurisdictions. Even the county's corporate affairs are closely regulated by law and the powers and duties of the governing bodies are prescribed by the legislature.

From the beginning of local government in Kansas the administration of the county's corporate affairs has been vested in a board of county commissioners. The first Territorial assembly placed complete control and management of the county property in the hands of the county board, which was empowered to erect and maintain courthouses, jails, clerk's offices, and other buildings necessary for transaction of the county business; to levy taxes on all property in the county subject to tax

by law; to build bridges and open roads and keep them in repair; and to audit and settle all demands against the county.[1]

The Free-State assembly of 1858 declared that "each organized county within this Territory shall be a body corporate and politic . . . The powers of the county as a body politic and corporate shall be exercised by the board of county supervisors thereof."[2] The assembly of 1860 used the same language, except to vest the powers in the newly recreated board of county commissioners, and further authorized the county: "First, to sue and be sued; second, to purchase and hold real and personal estate for the use of the county and lands sold for taxes as provided by law; third, to sell and convey any real or personal estate owned by the county and make such orders respecting the same as may be deemed conducive to the interests of the inhabitants; fourth, to make all contracts and do all other acts in relation to the property and concerns of the county necessary to the exercise of its corporate or administrative powers; fifth, to exercise such other and further powers as may be especially conferred by law. . . . Each county organized for judicial purposes shall at its own expense provide a suitable courthouse and a suitable and sufficient jail and fireproof offices and other necessary county buildings, and keep the same in repair." These provisions have remained in the statutes to the present day.[3]

In keeping with their powers to administer the affairs of the county as a body corporate the county commissioners have authority to apportion and order the levying of taxes; to organize townships and change their boundaries; to establish election precincts as the convenience of the inhabitants may require; to grant licenses for keeping ferries and bridges in the county, and to perform such other duties as may be prescribed by law.[4]

In some administrative matters the county commissioners possess considerable discretionary power. "The allowance of fees and claims as well as the management and control of all the business and financial affairs of a county are confided to the board of county commissioners. It is the executive branch of the county government and the representative and guardian of the county as to all its corporate affairs." The county attorney has no authority to prosecute a county action without the consent of the board of commissioners.[5] The Supreme

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1. Terr. L. 1855, ch. 44, secs. 31, 32, 35.
2. Terr. L. 1858, ch. 13, secs. 1, 3.
3. Terr. L. 1860, ch. 28, secs. 1-4; G.S. 1868, ch. 25, secs. 1, 3, 4; G.S. 1935, ch. 19, secs. 101, 103, 104.
4. Terr. L. 1860, ch. 28, sec. 15; G.S. 1868, ch. 25, sec. 16; G.S. 1935, ch. 19, sec. 212.
5. 71 Kan. 683; 81 Pac. 503; this refers to a civil action in the name of the county.

Court also has held that "it is within the power of the board to alter the lines of a township at any time and without a petition asking such action."[1] Yet the commissioners in most matters are rigidly bound by legislative enactments. To quote a leading authority, "The county board has no power to make appropriations for any purpose other than those authorized by law . . . and in the absence of express statutory authority to do so, it cannot appropriate county funds for other than strictly county purposes."[2] In the exercise of many of its functions the board may act only by authority of a majority of the electors expressed at the polls, such as levying a tax for the erection of county buildings,[3] the establishment of a county library,[4] or the establishment of a county hospital.[5]

The laying out, altering, and vacating of county roads always has been in the discretion of the county commissioners under statutory limitations, upon petition of the freeholders of the county,[6] though since 1885 their authority in the maintenance of roads within townships has been divided with the board of township trustees[7] except in those counties operating under provisions of the law making the whole county one road unit.[8]

Care of the poor and unfortunate in Kansas always has been incumbent upon the county.[9] During the Territorial period this duty devolved exclusively upon the county commissioners but the State legislature of 1862 designated the mayors and councils of cities and the trustees of townships as commissioners of the poor, requiring them to make return to the county clerk of the amounts needed, which were paid from the county treasury upon order of the county commissioners.[10] In 1872 a law was enacted relieving the city and township officers of these duties in counties with more than 30,000 population, which then included only Leavenworth County, and requiring the county commissioners to appoint a commissioner of the poor to have general supervision and care of the poor under authority of the county board. The system was gradually extended to counties of lesser population until in 1933 it was made

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1. 112 Kan. 256, 257; 210 Pac. 619.
2. Mack and Hale, Corpus Juris, XV, p. 587.
3. Terr. L. 1860, ch. 28, sec. 16; G.S. 1868, ch. 25, sec. 18; G.S. 1935, ch. 19, sec. 1503.
4. L. 1921, ch. 152, sec. 1; G.S. 1935, ch. 19, sec. 1701.
5. L. 1913, ch. 202, sec. 1; G.S. 1935, ch. 19, sec. 1801.
6. Terr. L. 1855, ch. 139, secs. 2, 6, 23; G.S. 1868, ch. 89, sec. 1; G.S. 1935, ch. 68, sec. 102.
7. L. 1885, ch. 168, secs. 1, 5; L. 1917, ch. 264, sec. 30; G.S. 1935, ch. 68, secs. 523, 526.
8. L. 1917, ch. 264, sec. 25; G.S. 1935, ch. 68, sec. 516.
9. Terr. L. 1855, ch. 126, sec. 1; Const., art. 7, sec. 4.
10. Terr. L. 1855, ch. 126, secs. 4-6; L. 1862, ch. 163, secs. 1-9.

to apply to all counties in the State.[1] In 1937 the legislature enacted laws to comply with the requirements of the Congress for obtaining Federal aid, created the State Board of Social Welfare, and designated boards of county commissioners as county social welfare boards with the requirement that each employ a county director as administrative and executive officer. The county boards are authorized to administer such public assistance in their respective counties as they deem necessary but subject to the supervision and regulation of the State board.[2]

In 1885 each board of county commissioners was designated as a county board of health and required to elect a qualified physician as health officer to hold office at the boards pleasure. The county boards and health officers possess considerable discretionary powers exercised under the supervision of the State Board of Health.[3]

Elective county officers are charged by statute with the performance of specific duties in administering the functions of the offices they fill and in general the county commissioners have no authority over them. Action in mandamus may be brought to compel performance of a specific duty which has been omitted by an officer,[4] but it must be brought in the name of the State and the county attorney is authorized to use the name of the State in proceedings to enforce the performance of public duties.[5] However, an officer cannot be compelled by mandamus to perform a non-ministerial act,[6] nor to do an unlawful act,[7] nor can such action be used to control the exercise of official judgment or discretion.[8] But the board of county commissioners, being the "guardian of the county as to all its corporate affairs," has broad powers in any circumstances in which the county funds are endangered. They may at any time order the probate judge to make an examination of the county treasurer's accounts and if a deficiency is found to exist they may take such action as they deem necessary to conserve and protect the county money, even to the extent of suspending or removing the treasurer from office and appointing someone else in his place.[9] On the

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1. L. 1872, ch. 161, sec. 1; L. 1891, ch. 155, sec. 1; L. 1901, ch. 133, sec. 1; L. 1913, ch. 162, sec. 1; L. 1931, ch. 199, sec. 1; L. 1933, ch. 196, sec. 6; G.S. 1935, ch. 39, sec. 517.
2. L. 1937, ch. 327, secs. 1, 8, 10, 11.
3. L. 1885, ch. 129, secs. 4, 7; G.S. 1935, ch. 65, secs. 101, 201.
4. Terr. L. 1858, ch. 11, sec. 568; Terr. L. 1859, ch. 25, sec. 580; G.S. 1868, ch. 80, sec. 688; L. 1870, ch. 87, sec. 28; L. 1909, ch. 182, sec. 714; G.S. 1935, ch. 60, sec. 1701.
5. 114 Kan. 727.
6. 1 Kan. 188.
7. 50 Kan. 129; 32 Pac. 129.
8. 40 Kan. 561; 20 Pac. 265.
9. L. 1874, ch. 8, sec. 4 (Special Session); R.S. 1923, ch. 19, sec. 523; G.S. 1935, ch. 19, sec. 523.

other hand the commissioners cannot interfere with a county officer in the exercise of his discretion in the performance of a duty, such as the county attorney in the prosecution of a criminal case.[1]

Registration of Title to Property

All persons owning lands not held by adverse possession are deemed to be seized and possessed of such lands. A conveyance of land or any other estate, or interest therein, may be made by deed executed by the person having authority to do so, or by his agent. When properly acknowledged and certified as provided by law any instrument in writing which conveys or affects the title to real estate may be recorded in the office of the register of deeds of the county in which the property is situated. From the time the instrument is filed all persons are deemed to have notice of its contents and all subsequent purchasers and mortgagees are deemed to purchase with notice. Until filed for record such a conveyance is valid only between the parties and those actually having notice. If the conveyance is made by power of attorney, the letter of attorney must be acknowledged and recorded before the conveyance. A power of attorney is not considered revoked until the revokation is recorded.[2]

Since 1877 the law has required the county clerk to keep a transfer record in which he records, upon presentation to him of the instrument of conveyance, a description of the property affected. If the instrument is presented for recording before being entered on the transfer record the register of deeds must have it so entered and collect the required fees before recording it. The county clerk must enter on the list of taxable lands presented by him annually to the assessor the names of the owners of all real estate as shown by his transfer record.[3] United States land patents and since 1907 patents issued by the State of Kansas, or properly certified copies thereof, may be recorded in the same manner as other conveyances.[4]

Any mortgage of real property that has been recorded may be discharged by an acknowledgment of satisfaction or released by a receipt

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1. 14 Kan. 293-306.
2. Terr. L. 1855, ch. 26, secs. 20-44; Terr. L. 1859, ch. 30, secs. 1, 13, 23; G.S. 1868, ch. 22, secs. 1, 3, 19-24; R.S. 1923, ch. 67, secs. 201, 205, 221-227; G.S. 1935, ch. 67, secs. 2, 3, 221-227.
3. L. 1877, ch. 145, secs. 1-4; G.S. 1935, ch. 67, secs. 201, 205, 239-241.
4. L. 1862, ch. 159, sec. 1; G.S. 1868, ch. 76, sec. 1; L. 1907, ch. 234, sec. 1; R.S. 1923, ch. 67, sec. 101; G.S. 1935, ch. 67, sec. 101.

entered on the margin of the mortgage record and signed by the mortgagee or his agent. The register of deeds must discharge a mortgage upon the record when presented with a written instrument acknowledging satisfaction.[1] When a real estate mortgage is foreclosed by judgment of the district court and the property sold, the clerk of the court must enter the fact on the margin of the mortgage record as soon as the judgment becomes final.[2] Assignments of real estate mortgages must be acknowledged by the assignor in the same manner as other instruments affecting real estate titles.[3]

Plats of proposed towns and cities of the second and third classes must be properly acknowledged and submitted to the county attorney, and if approved by him, must be recorded in the office of the register of deeds. The plat must fully and accurately describe all portions of ground set aside for public use and the purposes for which they are intended, and also all lots to be offered for sale. The same procedure must be followed in the case of additions to cities, except that the abstract and plat must be approved by the city attorney and governing body of the city.[4]

The county surveyor is required to keep a record of calculations by latitude and departure of all surveys made by himself or his deputies. It was made his duty to establish permanently the center corner of all sections in the north and west tiers of a congressional township and to obtain certified copies of the field notes of the original Government surveys.[5]

The first Territorial assembly provided for the recording of deeds, mortgages, deeds of trust, and other conveyances; bonds, covenants, marriage contracts and certificates, commissions, official bonds, and other instruments with the county recorder, an office established in each organized county and filled ex officio by the clerk of the probate court, which office in turn was filled ex officio by the clerk of the board of county commissioners.[6] The assembly of 1858, which changed

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1. Terr. L. 1855, ch. 114, secs. 22-24; L. 1862, ch. 151, secs. 1, 2; G.S. 1868, ch. 68, secs. 5-7; L. 1903, ch. 365, sec. 1; R.S. 1923, ch. 67, secs. 306-308; G.S. 1935, ch. 67, secs. 306-308.
2. L. 1885, ch. 145, secs. 1, 2; R.S. 1923, ch. 67, sec. 313; G.S. 1935, ch. 67, sec. 313.
3. L. 1897, ch. 160, sec. 1; L. 1899, ch. 168, sec. 1; R.S. 1923, ch. 67, sec. 319; G.S. 1935, ch. 67, sec. 319.
4. Terr. L. 1855, ch. 156, secs. 1-5; Terr. L. 1859, ch. 24, secs. 1-3; L. 1915, ch. 149, sec. 1; L. 1921, ch. 139, sec. 1; R.S. 1923, ch. 12, secs. 401-403; G.S. 1935, ch. 12, secs. 401-403.
5. L. 1862, ch. 196, secs. 6, 7, 10, 23-25; G.S. 1935, ch. 19, secs. 1406, 1407, 1410, 1413.
6. Terr. L. 1855, ch. 44, sec. 41; ch. 134, secs. 1, 2, 4.

the title of the office to its present one of register of deeds and made it elective,[1] also created the office of land district recorder in each Federal land district of the Territory and provided that deeds and other conveyances might be recorded in the district offices with the same effect as in the county offices. The district recorders were required to make out monthly abstracts of instruments recorded with them and transmit them to the registers of deeds of the counties wherein the land affected was situated.[2] The district offices were abolished by the legislature of 1862, which provided that all their records of instruments affecting land titles be transcribed and transmitted to the registers of deeds of the proper counties.[3]

Judiciary

The judicial power of the Territory was vested by the Organic Act in a Supreme Court, district courts, probate courts, and justices of the peace.[4] The State Constitution made the same provision and also authorized "such other courts, inferior to the Supreme Court, as may be provided by law."[5]

The first Territorial assembly adopted the common law of England as the rule of action and decision in the Territory except when repugnant to the Constitution of the United States and the Organic Act.[6] But the assembly of 1858, in establishing a new code of civil procedure, declared that "the rule of the common law that statutes in derogation thereof are to be strictly construed has no application to this code. Its provisions and all proceedings under it shall be liberally construed with a view to promote its object and assist the parties in obtaining justice." Remedies in courts of justice consist of actions and special proceedings. An action is an ordinary proceeding by which one party prosecutes another for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense. Every other remedy is a special proceeding. Actions are of two kinds, civil and criminal. A criminal action is one prosecuted by the State against a party for the punishment of a public offense against the State. Every other action is a civil action. Where the violation of a right admits of both a civil and criminal remedy the right to prosecute the one is not merged with the other. The distinction between actions at law and suits in equity, and the forms of all such actions and suits, were

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1. Terr. L. 1858, ch. 13, sec. 40.
2. Terr. L. 1858, ch. 59, secs. 1, 7, 11.
3. L. 1862, ch. 174.
4. 10 Stat. 286.
5. Const., art. 3, sec. 1.
6. Terr. L. 1855, ch. 96, sec. 1.

abolished by the assembly of 1858, which decreed that thereafter there should be but one form of action, "which shall be called a civil action."[1]

Civil Jurisdiction. The Organic Act vested the Supreme Court and district courts with chancery as well as common law jurisdiction. The act provided that the jurisdiction of the bodies in which the judicial power was vested should be limited by law, except that justices of the peace should not have jurisdiction in any controversy in which the title to land was in dispute or where the amount claimed should exceed $100.[2]

The first assembly gave the district courts exclusive jurisdiction within their respective districts in all civil suits where the amount in controversy exceeded $100, and in all cases in equity except in cases where concurrent jurisdiction might be given by law to some other court.[3] During the Territorial period divorces could be granted by any court in chancery, which included both the Supreme and district courts, but the Constitution vested exclusive jurisdiction in divorce matters, in the district courts.[4] Probate courts were given concurrent jurisdiction with the district court in all actions on bonds or notes, or other liquidated demands for the direct payment of money or property where the amount did not exceed $1,000, and on unliquidated claims not exceeding $500. All the practices and pleadings lawful in the district court were made applicable to the probate court. However, the assembly of 1859 divested the probate court of jurisdiction in civil cases except those relating to estates, and required the transfer of all civil cases then pending to the district court. The State Constitution gives the probate court jurisdiction in the administration of estates, guardianship of minors and incompetents, and habeas corpus.[5]

Jurisdiction coextensive with the county was given by the first assembly to justices of the peace in actions of debt, contracts, and damages not exceeding $100; trespass and injury to person or personal property not exceeding $50; and acts involving a penalty under the Territorial statutes not exceeding $100. They could enter judgment by confession in larger sums but could take no cognizance in actions in detinue, replevin, slander, malicious prosecution, or false imprisonment, nor against executors and administrators, nor where the title to land was in dispute.[6] Since 1858 justices have had jurisdiction coextensive

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1. Terr. L. 1858, ch. 11, secs. 1-4; Terr. L. 1859, ch. 25, secs. 1-11; G.S. 1868, ch. 80, secs. 1-11; G.S. 1935, ch. 60, secs. 101-109, 201.
2. 10 Stat. 286.
3. Terr. L. 1855, ch. 42, sec. 1.
4. Terr. L. 1855, ch. 62, sec. 2; Const., art. 2, sec. 18.
5. Terr. L. 1855, ch. 44, sec. 10; Terr. L. 1859, ch. 41, secs. 1, 2; Const., art. 3, sec. 8.
6. Terr. L. 1855, ch. 93, art. 2, secs. 1, 3, 4.

with the county in forcible entry and detention; attachment; cases where the balance claimed due on any open account does not exceed $300; and actions involving not more than $100 for trespass on real estate. They also have jurisdiction in actions on undertakings in civil cases pending before them when the undertaking does not exceed $500. They have no cognizance of any action to recover damages for assault or assault and battery, for slander or malicious prosecutions, nor in actions on contracts for real estate or where the title to real estate is drawn in dispute.[1] Actions against two or more defendants who reside in adjoining counties may be brought before any justice of the peace of the county wherein any of the defendants resides. However, in counties where there is a city court, justices residing outside the city have no jurisdiction of cases in which any defendant resides within the city.[2]

The superior court of Shawnee County, created in 1885 and expiring by limitation in 1887, had original jurisdiction concurrent with the district court in all civil actions except divorce, and authority to determine any action transferred to it from the district court according to law.[3] The circuit court of Shawnee County, created in 1891 and abolished in 1895, had the same jurisdiction as the superior court before it.[4] The court of Topeka, created in the City of Topeka Township in 1899, has the same jurisdiction in civil matters as have justices of the peace.[5] City courts established by ordinance of the governing bodies of first and second class cities under the general law of 1923 as amended in 1927 have jurisdiction in actions for recovery of money up to $1,000 and recovery of specific personal property up to $500.[6] County courts established by resolution of the board of county commissioners of any county under the general law of 1923 have concurrent jurisdiction with the district court in civil cases in any sum not exceeding $1,000 exclusive of costs, except that they have no cognizance of actions for damages for assault or assault and battery; against justices or other officers for misconduct in office; damages for slander or malicious prosecution; on contracts for real estate or where a real estate title is drawn in question; nor of actions to foreclose mortgages on real estate.[7] Small debtors' courts established under the act of

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1. Terr. L. 1858, ch. 42, secs. 1-9; Terr. L. 1859, ch. 87, secs. 1-9; G.S. 1868, ch. 81, secs. 1-8; G.S. 1935, ch. 61, secs. 101-108; L. 1939, ch. 236, secs. 1, 2.
2. L. 1899, ch. 93, sec. 1; G.S. 1935, ch. 61, sec. 101; L. 1939, ch. 236, secs. 1, 2.
3. L. 1885, ch. 140, secs. 1, 3, 21.
4. L. 1891, ch. 83, secs. 1, 3; L. 1895, ch. 104, sec. 1.
5. L. 1899, ch. 129, sec. 2; G.S. 1935, ch. 20, sec. 1902.
6. L. 1923, ch. 132, sec. 3; L. 1927, ch. 179, sec. 1; G.S. 1935, ch. 20, sec. 1403.
7. L. 1923, ch. 131, sec. 8; G.S. 1935, ch. 20, sec. 808.

1913 in counties or cities where the governing body adopts provisions of the act, have jurisdiction in actions on small debts and accounts not exceeding $20.[1]

Criminal Jurisdiction. General original jurisdiction in all criminal matters has been vested in the district courts since the meeting of the first Territorial assembly.[2] Jurisdiction in cases of simple assault and battery and breaches of the peace was conferred by the first assembly upon justices of the peace, except that in cases punishable by imprisonment under the Territorial laws or in which the fine exceeded $100 the justice was required to admit the prisoner to bail until the next term of the court having jurisdiction in that county.[3] Since 1867 justices have had concurrent original jurisdiction with the district court in cases in which the fine cannot exceed $500 nor the imprisonment one year, except as otherwise provided by law.[4]

No original criminal jurisdiction was vested in either the superior court of Shawnee County, 1885-87, or the circuit court, 1891-95, but both were authorized to try and determine criminal cases transferred to them according to law from the district court.[5] The court of Topeka in the City of Topeka Township has the same criminal jurisdiction as justices of the peace, and justices in Topeka have had no criminal jurisdiction within the city since the court was created.[6] The same is true of all city courts existing under the laws of 1923 as amended by the law of 1927,[7] and county courts existing under the law of 1923; justices of the peace throughout the county, in the latter case, being shorn of criminal jurisdiction.[8]

Probate Jurisdiction. From the beginning of county government original jurisdiction in the probate of last wills and testaments, the administration of the estates of decedents; the guardianship of the estates of minors and persons of unsound minds, and the commitment of insane persons, drunkards, and drug addicts to State institutions

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1. L. 1913, ch. 170, sec. 4; G.S. 1935, ch. 20, sec. 1304.
2. Terr. L. 1855, ch. 42, sec. 1; L. 1861, ch. 22, sec. 1; G.S. 1868, ch. 28, sec. 1; G.S. 1935, ch. 20, sec. 301.
3. Terr. L. 1855, ch. 93, art. 1, sec. 6; ch. 94, secs. 1, 2.
4. L. 1867, ch. 49, sec. 1; G.S. 1868, ch. 83, sec. 1; L. 1869, ch. 61, sec. 1; G.S. 1935, ch. 63, sec. 101.
5. L. 1885, ch. 140, secs. 1, 3, 21; L. 1891, ch. 83, secs. 1, 3; L. 1895, ch. 104, sec. 1.
6. L. 1899, ch. 129, secs. 1, 2; L. 1905, ch. 195, sec. 5; G.S. 1935, ch. 20, secs. 1901, 1904.
7. L. 1923, ch. 132, sec. 3; L. 1927, ch. 179, sec. 1; G.S. 1935, ch. 20, sec. 1403.
8. L. 1923, ch. 131, sec. 8; G.S. 1935, ch. 20, sec. 808.

has been vested in the probate courts.[1] Provision for a State insane asylum was first made in 1863,[2] but procedure for the admission of patients and commitments by the probate judges was not enacted until 1870. If the patient owns property the probate judge also may appoint a guardian of his estate.[3]

Minors. From 1855 the power to bind minors as apprentices and original jurisdiction in the relationship of master and apprentice was vested in the probate courts. The law was repealed by the legislature of 1939, as the master and apprentice system had been practically obsolete for many years.[4] Since 1864 the probate courts have had exclusive jurisdiction in proceedings for the adoption of minors, though the code of 1939 provides that the State Board of Social Welfare shall examine the child and its prospective home and foster parents and report to the court its findings and recommendations.[5]

It was not until after statehood that the legislature gave attention to orphan, friendless, and neglected children, except for the law governing masters and apprentices. After 1861 various special acts were enacted authorizing certain counties to establish and maintain orphan asylums. The Leavenworth Protestant Orphan Asylum and Home for Friendless Children was incorporated in 1867 and given all the rights pertaining to natural or legal guardianship.[6] In 1868 the legislature decreed that all orphan asylums then existing or thereafter established in counties of more than 25,000 population should have the same rights and priveleges.[7] The State soldiers' orphans' home was established at Atchison in 1885 for the orphans of deceased and disabled indigent soldiers and sailors and other indigent orphan children,[8] and provision

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1. Terr. L. 1855, ch. 44, secs. 8, 15; Const., art. 3, sec. 8; L. 1861, ch. 25, sec. 1; G.S. 1868, ch. 29, sec. 1; G.S. 1935, ch. 20, sec. 1101; L. 1939, ch. 180, secs. 17, 280.
2. L. 1863, ch. 30.
3. L. 1870, ch. 20; L. 1876, ch. 91; L. 1901, ch. 353, secs. 52-62; G.S. 1935, ch. 76, secs. 1205-1215; L. 1939, ch. 180, secs. 236-241, 247-249.
4. Terr. L. 1855, ch. 6, secs. 1-9; Terr. L. 1859, ch. 13, secs. 1-9; G.S. 1868, ch. 5, secs. 1-9; G.S. 1935, ch. 5, secs. 101-109; L. 1939, ch. 180, sec. 280.
5. L. 1864, ch. 83, sec. 1; L. 1867, ch. 89, sec. 1; G.S. 1868, ch. 67, secs. 5, 6; L. 1903, ch. 361, sec. 1; L. 1935, ch. 185, sec. 1; G.S. 1935, ch. 38, secs. 105, 106; L. 1939, ch. 180, secs. 173, 174, 253, 254.
6. L. 1867, ch. 93, sec. 1.
7. G.S. 1868, ch. 10, sec. 1; G.S. 1935, ch. 76, secs. 1801-1803.
8. L. 1885, ch. 185, secs. 1-4.

made in 1889 that applications for admission should be made to the probate court of the county of the child's residence. In 1909 the name was changed to the State Orphans' Home.[1]

Corporations existing for the purpose of establishing and maintaining children's homes were authorized by the legislature of 1889 to receive destitute and friendless children and provide for them until the age of majority. Indigent parents may relinquish to such corporations in writing their rights to the legal custody of their children.[2] The legislature of 1879 established the boys' industrial school at Topeka,[3] and that of 1881 provided that "courts of record and probate courts" could commit to it boys under 16 years old who were subject to legal punishment or who were incorrigible.[4] The industrial school for girls was established at Beloit in 1889 and the same provisions made for the commitment of girls under 18 years old.[5] By custom most cases relating to dependent, neglected, delinquent, and orphan children were handled through the probate courts until 1905, when the legislature created in each county a juvenile court to exercise the parental power of the State in all cases of dependent, neglected, and delinquent children.[6]

The legislature of 1931 created the Crippled Children's Commission to coordinate the efforts of all persons and agencies interested in the discovery, care, and education of the crippled children of the State.[7] The probate courts have jurisdiction over the examination, hospitalization, and treatment of such children, the cost of which formerly was paid by the counties through an advalorem tax levy.[8] but the legislature of 1937 provided that $200,000 yearly should be set aside from the retail sales tax fund for this purpose.[9]

Naturalization. During the Territorial period jurisdiction to naturalize aliens was vested in the Supreme Court and the district courts of the Territory, and thereafter until 1906 in the United States circuit and district courts within the State, as well as "courts of record

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1. L. 1889, ch. 236, secs. 1, 2; L. 1909, ch. 115, sec. 1; L. 1935, ch. 289, sec. 1; G.S. 1935, ch. 76, secs. 1701-1705.
2. L. 1889, ch. 134, secs. 1-3; G.S. 1935, ch. 38, secs. 112-114.
3. L. 1879, ch. 170, secs. 2, 3.
4. L. 1881, ch. 129, sec. 4; G.S. 1935, ch. 76, sec. 2105.
5. L. 1889, ch. 158, secs. 1-7, 11; L. 1917, ch. 303, sec. 1; G.S. 1935, ch. 76, secs. 2207.
6. L. 1905, ch. 190, sec. 1; L. 1917, ch. 154, sec. 1; G.S. 1935, ch. 38, sec. 401.
7. L. 1931, ch. 283, secs. 1-5, 12; G.S. 1935, ch. 74, secs. 3401-3406.
8. L. 1931, ch. 283, secs. 6-11, 13; L. 1933, ch. 222, sec. 2; G.S. 1935, ch. 65, secs. 5a01-5a07.
9. L. 1937, ch. 374, sec. 21; L. 1939, ch. 334, sec. 1.

having common law jurisdiction and a seal and a clerk."[1] By the act of the Fifty-ninth Congress exclusive jurisdiction to naturalize aliens was vested in United States circuit and district courts and courts of record "having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy in unlimited."[2] Thus, under the terms of the Federal statutes, only the Federal courts in Kansas and the district courts of the State have naturalization jurisdiction. Since 1929 all naturalization proceedings in Shawnee County have been handled in the United States district court for the district of Kansas, First Division, at Topeka.

Appeals. The first Territorial assembly provided that appeals from judgments of justices of the peace might be taken either to the probate court or the district court in the discretion of the appelant.[3] The district courts were given appellant jurisdiction in all cases from the probate courts and justices of the peace.[4] The Organic Act had specified that writs of error, bills of exception, and appeals from the final decisions of the district courts should be allowed in all cases to the Territorial Supreme Court. It also provided that writs of error and appeals from the final decisions of the Supreme Court should be allowed to the United States Supreme Court in cases where the value of the property or amount in controversy exceeded $1,000, except that appeals in cases involving title to slaves should be allowed without regard to value.[5]

Enacting a new code of civil procedure, the assembly of 1858 decreed that a judgment rendered or final order made by a justice of the peace, the probate court, "or any other tribunal, board, or officer exercising judicial functions and inferior to the district court" might be reversed, vacated, or modified by the district court. It also provided that judgments and final orders of the district court as well as other tribunals inferior to the Supreme Court might be reversed, vacated, or modified by the Supreme Court. Such proceedings were by petitions in error. Writs of error and certiorari were abolished. The revised civil code of 1909 specifies that "all reviews of the judgments and orders of inferior courts shall be by appeal. Petitions in error are abolished."[6]

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1. Revised Statutes of the United States of 1873, title 30, sec. 2165.
2. 34 Stat. 596.
3. Terr. L. 1855, ch. 44, sec. 12.
4. Ibid., ch. 42, sec. 1.
5. 10 Stat. 286, sec. 27.
6. Terr. L. 1858, ch. 11, secs. 511, 513; Terr. L. 1859, ch. 25, secs. 523, 525; G.S. 1868, ch. 80, secs. 540-542; L. 1909, ch. 182, sec. 567; G.S. 1935, ch. 60, secs. 3301, 3302, 3304.

Governmental Organization and Records System - Judiciary (First entry, p. 207)

In criminal cases an appeal to the Supreme Court may be taken by the defendant as a matter of right from any judgment against him. The State, however, may appeal only from a judgment for the defendant on quashing or setting aside an indictment or information, an order arresting judgment, or upon a question reserved by the State.[1] Defendants have the right of appeal to the district court from any judgment of a justice of the peace imposing fine or imprisonment.[2] Since the beginning of statehood Kansas laws have provided that district courts shall have "jurisdiction in cases of appeal and error from all inferior courts and tribunals, and shall have a general supervision and control over all such inferior courts and tribunals to prevent and correct errors and abuse."[3] Since 1867 appeals from the probate court may be taken only to the district court, the State Supreme Court having no jurisdiction in direct appeals from that tribunal.[4]

The superior court of Shawnee County, 1885-87, had no appellant jurisdiction from justices of the peace or the probate court but concurrent with the district court it possessed supervisory powers over inferior tribunals to prevent and correct errors and abuse.[5] Similar provisions applied to the circuit court of Shawnee County, 1891-95.[6] Appeals to the district court may be taken by either party from county courts established under the law of 1923,[7] city courts established under the laws of 1923 and 1933,[8] and all city courts created by special acts of the legislature, including the Court of Topeka in Shawnee County.[9]

In 1895 the legislature created two appeals courts inferior to the Supreme Court but superior to all other courts of the State. They comprised a northern and southern department, each of which had an eastern, western, and central division with one of six judges assigned to each. Shawnee County was in the eastern division of the northern department. This court had exclusive appellate jurisdiction in misdemeanor convictions and in civil appeals when the amount involved did

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1. Terr. L. 1858, ch. 12, art. 14, secs. 1, 3; Terr. L. 1859, ch. 27, secs. 264, 266; G.S. 1868, ch. 82, secs. 281, 283; G.S. 1935, ch. 62, secs. 1701, 1703.
2. Terr. L. 1855, ch. 94, sec. 15; Terr. L. 1859, ch. 86, sec. 15, G.S. 1868, ch. 83, sec. 21; G.S. 1935, ch. 63, sec. 401.
3. L. 1861, ch. 22, sec. 1; G.S. 1868, ch. 28, sec. 1; G.S. 1935, ch. 20, sec. 301.
4. L. 1867, ch. 4, sec. 1; G.S. 1868, ch. 37, sec. 188; G.S. 1935, ch. 22, sec. 1101; L. 1939, ch. 180, sec. 269; 27 Kan. 161.
5. L. 1885, ch. 140, sec. 4.
6. L. 1891, ch. 83, sec. 4.
7. L. 1923, ch. 131, sec. 17; G.S. 1935, ch. 20, sec. 817.
8. L. 1923, ch. 132, sec. 13; L. 1933, ch. 170, sec. 13; G.S. 1935, ch. 20, secs. 1413, 1436.
9. L. 1899, ch. 129, sec. 13; G.S. 1935, ch. 20, sec. 1920.

exceed $2,000, and original jurisdiction concurrent with the Supreme Court in quo warranto, mandamus, and habeas corpus. All their acts were subject to appeal to the Supreme Court. The first judges were appointed by the Governor with the approval of the senate to serve until January 1897, and their successors were elected for 4-year terms. These courts expired by limiation of the statute in January 1901. Their decisions were published in volumes separate from those of the Supreme Court, volumes 1-6, covering the period 1895-97 being designated as Kansas Courts of Appeals, and volumes 7-10 for 1897-1901 as Kansas Appeals Reports. The Supreme Court reporter supervised their publication.[1]

Law Enforcement

Preservation of the Peace. The first Territorial assembly gave to justices of the peace power and jurisdiction to cause to be kept all laws for the preservation of the peace; to cause to come before them anyone who broke the peace and commit him to jail or bail; and to cause the arrest of anyone who attempted to break the peace and compel him to give security for good behavior.[2] Judges of the district court also were designated as conservators of the peace.[3] For prevention of offenses generally the following magistrates have power to the present day "to cause to be kept all laws made for the preservation of the public peace, and in the execution of that power to require persons to give security to keep the peace. . . The judges of the Supreme Court throughout the State; judges of the district court throughout their respective districts; justices of the peace in their respective counties; the mayors and police magistrates or judges of incorporated cities and towns within the limits of such corporation."[4]

From the beginning of county government the sheriff has been designated as conservator of the peace. The sheriff, the undersheriff, and deputies are charged with the responsibility of preserving the peace in their counties and with suppressing affrays, riots, unlawful assemblies, and insurrections; and in the performance of this duty as well as that of apprehending or securing any person for felony or breach of the peace, or for service of process in civil or criminal cases, they, and every coroner and constable, "may call to their aid such person or persons of their county as they may deem necessary."[5]

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1. L. 1895, ch. 96.
2. Terr. L. 1855, ch. 93, art. 1, sec. 6.
3. Ibid., ch. 42, sec. 1.
4. Terr. L. 1855, ch. 129, art. 1, sec. 1; Terr. L. 1859, ch. 27, sec. 1; G.S. 1868, ch. 82, sec. 7; G.S. 1935, ch. 62, sec. 201.
5. Terr. L. 1855, ch. 150, sec. 3; Terr. L. 1860, ch. 28, sec. 76; G.S. 1868, ch. 25, sec. 107; G.S. 1935, ch. 19, sec. 813.

When there is no sheriff in an organized county the coroner must perform all duties of the office until a sheriff is elected and qualified; and if the sheriff is committed to jail the coroner becomes keeper of the jail so long as the sheriff remains a prisoner therein.[1]

During the Territorial period and early days of statehood the sheriffs and the mayors of cities were authorized to call upon militia officers for assistance in case of "riots, routs, unlawful assemblies, insurrections, or popular outbreaks of unlawful character," and any commandant refusing or neglecting to respond with his command was subject to a fine. This provision was not included in the General Statutes of 1868 but in 1885 a similar law was enacted. In 1901 this law was modified to authorize the militia commander to manuever his command at his own discretion rather than at the orders of the civil officers.[2]

Inquests. When a person is supposed to have died in the county from unlawful means, or when the cause of his death is unknown, it is the duty of the coroner, when notified of such death, to summon a jury of six citizens and hold an inquest. The coroner has authority to issue subpoenas, enforce attendance of witnesses, and punish for contempt the same as justices of the peace. Should the inquisition find that a crime has been committed against the deceased the coroner may order the arrest of the person charged and his warrant has the same effect as that of a justice of the peace. The inquisition, the written evidence, and a list of the witnesses he must return to the county clerk. In the coroner's absence any justice of the peace in the county may perform his duties in relation to dead bodies.[3]

Indictments. Offenses against the laws of the State may be prosecuted in the county having jurisdiction either by indictment or information.[4] The assembly of 1859 required that a grand jury attend all terms of court,[5] but the legislature of 1868 provided that grand juries should not thereafter be summoned except on orders of the court.[6] The legislature of 1887 specified that a grand jury should attend at two terms of court in each organized county and also at any other time

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1. Terr. L. 1858, ch. 13, secs. 79-81; Terr. L. 1860, ch. 28, sec. 86; G.S. 1868, ch. 25, sec. 117; G.S. 1935, ch. 19, sec. 1002.
2. Terr. L. 1855, ch. 110, sec. 26; L. 1861, ch. 49, secs. 25, 26; L. 1885, ch. 142, sec. 29; L. 1901, ch. 255, sec, 42; G.S. 1935, ch. 48, sec. 242.
3. Terr. L. 1855, ch. 86, secs. 1, 13, 16; Terr. L. 1860, ch. 28, secs. 89, 91, 94-98, 102; G.S. 1868, ch. 25, secs. 120, 122, 127-131, 133; G.S. 1935, ch. 19, secs. 1003, 1005, 1010-1014, 1016.
4. G.S. 1868, ch. 82, sec. 66; G.S. 1935, ch. 62, sec. 801.
5. Terr. L. 1859, ch. 27, secs. 57-85.
6. G.S. 1868, ch. 82, sec. 73.

upon proper petition of the voters.[1] Since 1899 the statutes have provided that a grand jury shall be called only upon petition of the electors of the county.[2] The prosecuting attorney of a county, as informant, may at any time file verified information in any court having jurisdiction of an offense, whereupon the clerk is required to issue a warrant directing the proper officer to take the accused into custody. However, except in cases not cognizable before a justice of the peace or in the case of a fugitive from justice, no information charging a felony may be filed until the accused has had a preliminary hearing before a justice of the peace or other examining magistrate, unless he waives such right.[3]

The legislature of 1885 gave county attorneys inquisitory powers in cases of reported violations of the prohibitory liquor law. Upon being notified of a violation of this law it was the county attorney's duty to "forthwith diligently inquire into the facts." He was required to issue his subpoena for any person he had reason to believe had knowledge of such violation and the witness was required to testify under oath concerning any such violation of which he had knowledge. Disobedience to the subpoena or refusal to testify was punishable as a misdemeanor.[4] In 1907 similar powers with regard to violations of the gambling laws was conferred upon the county attorneys and the State Attorney General,[5] and in 1909 the Attorney General also was closed with inquisitory powers with regard to liquor law violations.[6] Since 1915 the Attorney General, assistant Attorneys General, and the county attorneys have possessed inquisitory powers regarding violations of any State laws.[7]

Apprehension of Criminals. Justices of the State Supreme Court, judges of the district courts, justices of the peace, and the mayors and police judges of incorporated cities have power, upon proper complaint being made to them, to issue their warrants directed to the proper officer for the arrest of anyone accused of an offense against the laws of the State. In executing the warrant the officer to whom it is directed has power to apprehend the accused in any county to which he may have fled. Unless the offense is punishable by death or imprisonment in the penitentiary the prisoner, if he so requests, may be admitted to bail in the county in which the arrest is made, but if a

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1. L. 1887, ch. 167, sec. 1.
2. L. 1889, ch. 153, sec. 1; G.S. 1935, ch. 62, sec. 901.
3. L. 1864, ch. 64, secs. 2, 8; L. 1867, ch. 77, sec. 1; G.S. 1868, ch. 82, secs. 67, 69; L. 1871, ch. 117, sec. 2; L. 1887, ch. 178, sec. 2; G.S. 1935, ch. 62, secs. 802, 805.
4. L. 1885, ch. 149, sec. 8.
5. L. 1907, ch. 263, sec. 5.
6. L. 1909, ch. 164, sec. 6.
7. L. 1915, ch. 87, sec. 1; G.S. 1935, ch. 62, sec. 301.

magistrate of that county refuses to admit him to bail, the arresting officer must take him before the magistrate who issued the warrant.[1] When an indictment is found, the clerk of the court must within 20 days issue a warrant for the accused and summonses for the witnesses, directed to the sheriff of the county where the indictment or information is filed, unless the prosecuting attorney directs it to be issued to some other county. The sheriff must execute the warrant and serve the summonses as soon as they are delivered to him. Arrest is defined as "the taking of a person into custody that he may be held to answer to a public offense," and is made "by an actual restraint of the person of the defendant or by his submission to the custody of the officer." The officer must inform the accused that he acts under authority of a warrant and must show the warrant if required. If the accused forcibly resists arrest or attempts to escape, the officer may "use all necessary force to effect the arrest." All offenses are bailable by sufficient sureties except murder in the first degree when the proof is evident or the presumption great. The court at each term must fix the amount of bail in which persons charged by indictment or information are to be held.[2]

When the Governor of another State demands from the Governor of Kansas any person as a fugitive from justice, the Kansas executive must issue his warrant under the seal of the State directed to any sheriff, coroner, or other person to whom he thinks fit to entrust it, directing the arrest of the fugitive anywhere within the limits of the State and his conveyance to the place named in the warrant.[3] Before a fugitive from justice may be demanded from any other State by the Governor of Kansas, the county attorney of the county where the offense was alleged to have been committed must examine into the case, and if satisfied that the crime has been committed and that the person charged is the guilty person he must so certify to the Governor upon the affidavit, indictment, or information and ask that a requisition be made upon the Governor of the State to which the accused has gone.[4]

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1. Terr. L. 1855, ch. 129, art. 2, secs. 1-3, 5-11; Terr. L. 1858, ch. 12, art. 3, secs. 1-7; Terr. L. 1859, ch. 27, secs. 28-35; G.S.1868, ch. 82, secs. 35-43; G.S. 1935, ch. 62, secs. 601, 602, 604-609.

2. Terr. L. 1858, ch. 12, art. 5, secs. 1-3, 5-9; Terr. L. 1859, ch. 27, secs. 112-115, 117-120; G.S. 1868, ch. 82, secs. 126, 127, 129-132, 134, 135; G.S. 1935, ch. 62, secs. 1101, 1102, 1201-1207.

3. Terr. L. 1855, ch. 75, sec. 1; Terr. L. 1858, ch. 34, sec. 1; Terr. L. 1859, ch. 73, sec. 1; G.S. 1868, ch. 44, secs. 1, 2; G.S. 1935, ch. 62, secs. 701, 702.

4. Terr. L. 1855, ch. 129, art. 9, sec. 18; Terr. L. 1859, ch. 27, sec. 297; L. 1867, ch. 37, sec. 1; G.S. 1868, ch. 82, sec. 314; L. 1886, ch. 109, sec. 2; G.S. 1935, ch. 62, secs. 706, 707.

Custody of Prisoners. Kansas statutes provide that the sheriff shall have custody of the county jail and the prisoners therein. He must keep the jail himself or by his deputy or jailer, for whose acts he is responsible. Prisoners must be treated humanely and the sexes kept separately. If there is no jail in a county the committing magistrate may order the prisoner taken to the jail of the nearest county. The sheriff of every county is required to receive any prisoners charged with crime who may be committed to his custody by Federal authority, provided the Federal Government pays for their support.[1] On the same conditions cities of the second and third classes may deliver their prisoners to the sheriff to be confined in the county jail.[2]

Counties and cities of the first class were empowered by the legislature of 1915 to purchase not more than 160 acres of land and establish municipal farm homes where prisoners convicted of any offense of less grade than a felony may be compelled to work out the amount of fines and imprisonments adjudged against them. Counties and cities also may establish joint municipal homes, but in either case the proposition must first be approved by a majority of the electors.[3] No such home has been established in Shawnee County.

Prosecution. The statutes provide that "offenses committed against the laws of this State shall be punished in the county in which the offense is committed, except as may be otherwise provided by law." Where an offense is committed partly in one county and partly in another, or where stolen property is taken from one county to another, jurisdiction is in either county. An accessory before or after the fact may be punished either in the county where he committed the offense or in the county where the principal offense was committed. When death ensues in a county other than where a mortal wound or poison was administered, either county may prosecute.[4] Prosecutions for treason and murder may be commenced at any time after commission of the offense. Where the penalty cannot exceed a fine of $10 prosecution must be begun within 60 days. In all other cases prosecutions must be commenced within 2 years after the offense is committed.[5]

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1. Terr. L. 1855, ch. 89, secs. 2, 5, 14, 21; G.S. 1868, ch. 53, secs. 3, 16, 18; G.S. 1935, ch. 19, secs. 1903, 1916, 1918.
2. L. 1877, ch. 122, sec. 1; G.S. 1935, ch. 19, sec. 1920.
3. L. 1915, ch. 274, secs. 1, 3, 10; G.S. 1935, ch. 19, secs. 2001-2003, 2010.
4. Terr. L. 1858, ch. 12, art. 1, secs. 1, 4, 7-9; Terr. L. 1859, ch. 27, secs. 15, 18, 21-23; G.S. 1868, ch. 82, secs. 20, 23, 26, 28, 29; G.S. 1935, ch. 62, secs. 401, 404, 407, 409, 410.
5. Terr. L. 1855, ch. 129, art. 9, secs. 23-25; Terr. L. 1858, ch. 12, art. 2, secs. 1-3; Terr. L. 1859, ch. 27, secs. 24-26; G.S. 1868, ch. 82, secs. 30-32; G.S. 1935, ch. 62, secs. 501-503.

It is the duty of the county attorney to appear in the several courts of his county and prosecute on behalf of the county and State any persons accused of crime. When any magistrate in his county so requests he must appear in that magistrate's court and prosecute all complaints made in behalf of the State of which that magistrate has jurisdiction, and also conduct any criminal examinations the magistrate may order.[1]

Executions of Sentence. When a conviction is had the clerk of the court must deliver a certified copy of the sentence to the sheriff, whose duty it is to cause the convict to receive the punishment specified. In conveying a prisoner to the place of punishment the sheriff has the same power to call upon any citizen for assistance that he has in making an arrest.[2] The lynching of a prisoner in custody of the sheriff constitutes evidence of failure on the part of the officer to do his duty and his office immediately becomes vacant, whereupon the coroner must perform the duties of the office until another sheriff is appointed or the original incumbent is reinstated according to law.[3]

Until 1907 the penalty for first degree murder in Kansas was death by hanging. The assembly of 1859 required the sheriff to inflict the penalty, but the legislature of 1872 provided that executions should be carried out by the warden within the walls of the State penitentiary, the sheriff's only duty being to convey the prisoner to the penitentiary. Life imprisonment was substituted for the death penalty in 1907, but capital punishment was restored in 1935, since which time it has again been the sheriff's duty to convey the prisoner to the penitentiary for execution.[4]

Finance

Budgets. Since 1858 it has been the duty of the county commissioners to meet annually after the assessment of property has been completed and determine the amount of money necessary to be raised for county purposes.[5]

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1. Terr. L. 1860, ch. 28, secs. 57, 58; G.S. 1868, ch. 25, secs. 136, 137; G.S. 1935, ch. 19, secs. 702, 703.
2. Terr. L. 1855, ch. 129, art. 7, secs. 13, 14; Terr. L. 1858, ch. 12, art. 12, secs. 14, 16; Terr. L. 1859, ch. 27, secs. 239, 240; G.S. 1868, ch. 82, secs. 256, 257; G.S. 1935, ch. 62, secs. 1518, 1519.
3. L. 1903, ch. 221, sec. 5; G.S. 1935, ch. 21, sec. 1007.
4. Terr. L. 1859, ch. 27, secs. 241, 242; L. 1872, ch. 166, secs. 1, 4; L. 1907, ch. 188, sec. 1; L. 1935, ch. 155, sec. 12; G.S. 1935, ch. 62, sec. 2412.
5. Terr. L. 1858, ch. 66, sec. 44; Terr. L. 1860, ch. 114, sec. 27; L. 1866, ch. 118, sec. 57; G.S. 1868, ch. 107, sec. 72; L. 1876, ch. 34, sec. 83; G.S. 1935, ch. 79, sec. 1802.

The first Territorial assembly authorized county commissioners to levy for county purposes a tax not more than double the amount of the Territorial tax "on the same subject."[1] In many instances the legislature limited from time to time the amount of tax that could be levied for specific purposes, and this practice became increasingly common near the close of the last century and early years of the present century. But in 1909 a law was adopted fixing the maximum total levy which could be made by counties, townships, and cities as well as limiting the levy for specific purposes in many instances, but governing bodies which were of the opinion that the allowable levy would be insufficient were authorized to submit to the voters the question of an increased levy.[2] The legislature of 1933 went further and placed a limit on levies for each specific purpose as well as on the aggregate levy for all county, township, and city purposes, but the State Tax Commission was authorized, upon application from counties in which the maximum levy for the poor would be insufficient, to allow an additional amount for that purpose up to 1 mill on the dollar valuation.[3]

It was not until 1933, however, that the budget system as it exists today was imposed upon all taxing subdivisions of the State. The legislature of that year required all governing bodies to meet annually not later than August 1 and prepare a written budget, itemized and classified by funds on forms prepared by the State Tax Commission. The amounts spent for each purpose during the preceding and current years must be shown, together with the estimated requirements for the same items in the coming year. The budget must be published, together with a complete statement showing the true financial condition of the subdivision, after which a public hearing must be held on a specified date. The budget as thus adopted must be certified to the county clerk, after which no changes may be made, and the amount considered appropriated for each individual fund may be used for no other purpose. Creation of any indebtedness by a taxing district in excess of its budget in unlawful, except when authorized by popular vote or in case of casualties or emergencies, or where provision has been made for payment by issuance of bonds.[4]

Taxable Property. The first Territorial assembly levied a tax on all real estate and improvements, all leasehold interests in lands for a term of 10 years or more, household furnishings above $200 in value, slaves, carriages, livestock, watches and clocks, shares in banks and incorporated companies, bills of exchange, bonds, notes, money

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1. Terr. L. 1855, ch. 137, art. 4, sec. 1. Presumably meaning, for the same purpose.
2. L. 1909, ch. 245.
3. L. 1933, ch. 309, sec. 3; G.S. 1935, ch. 79, sec. 1947.
4. L. 1933, ch. 316, secs. 1-3; G.S. 1935, ch. 79, secs. 2925-2937.

loaned at interest, property owned by corporations above their capital stock, interests in steamboats, and all licenses taxable by law; and in addition thereto, a poll tax of $1 per year on all free male persons between 21 and 55 years of age.[1]

Under present State laws all property is subject to taxation except the following: Property of the Federal Government, the State of Kansas, or the corporate property of all political units; houses of public worship, the ground occupied by them, and their furnishings; parsonages and burying grounds; the personal property or benevolent, charitable, literary, and scientific corporations and real estate actually used by them, not exceeding 10 acres; public libraries; the moneys and credits of universities, colleges, and academies and of literary, scientific, benevolent, and religious institutions; personal property to the amount of $200 for each family; a personal library not exceeding $50 in value; the wearing apparel of an individual; and the reserve funds of fraternal benefit societies authorized to do business under Kansas laws.[2] The exemption of all property used exclusively for State, county, municipal, literary, educational, scientific, religious, benevolent, and charitable purposes, and personal property to the amount of $200 for each family, is provided by the State Constitution.[3]

Originally the Constitution required the legislature to provide for the taxing of notes and bills, moneys loaned, and all other property and dues of banks and bankers in order that all property employed in banking might bear a burden of taxation equal to that imposed upon individuals. It was required that the rate of taxation be "uniform and equal." To clear the way for a lower tax rate on intangible property, with the belief that it would bring out hidden wealth, the legislature submitted an amendment to the Constitution, which was adopted in 1924, so that the provision now reads: "The legislature shall provide for a uniform and equal rate of assessment and taxation, except that mineral products, money, mortgages, notes, and other evidence of debt may be classified and taxed uniformly as to class, as the legislature shall provide."[4]

By legislative enactment in 1907 bonds of the State, counties, school districts, and other evidences of indebtedness of municipal corporations of Kansas had been exempted from taxation.[5] However, this

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1. Terr. L. 1855, ch. 137, art. 1, sec. 1.
2. Terr. L. 1855, ch. 137, art. 1, sec. 2; Terr. L. 1860, ch. 114, sec. 5; L. 1862, ch. 198, sec. 2; L. 1863, ch. 60, sec. 19; L. 1866, ch. 118, sec. 3; G.S. 1868, ch. 107, sec. 3; L. 1876, ch. 34, sec. 3; L. 1889, ch. 249, sec. 1; L. 1907, ch. 408, sec. 2; R.S. 1923, ch. 79, sec. 201; L. 1929, ch. 283, sec. 1; G.S. 1935, ch. 79, sec. 201.
3. Const., art. 11, sec. 1.
4. Const., art. 11, sec. 1 as amended November 4, 1924.
5. L. 1907, ch. 408, sec. 15.

law in its application to bonds issued after March 1925 was repealed by the 1925 legislature. "Money," defined as gold and silver coin, United States treasury notes, bank notes, and other forms of currency in common use; and "credits," deemed to be notes, mortgages, foreign stocks, bonds, and annuities, theretofore classified as personal property and taxed at the ad valorem rate, were designated as intangible property and taxed at a rate of 25 cents per annum on each $100 "of the fair cash value thereof."[1] The same legislature provided for the registration of real estate mortgages at a rate of 25 cents per $100 and exempted both mortgages and notes secured by them from further taxation.[2] The legislature of 1927 defined bonds and debentures of any state, foreign government, or the political subdivisions thereof as secured debts and imposed on them a stamp tax not exceeding $2 per $100 valuation in lieu of other taxes.[3] But this act, together with the moneys and credits act of 1925 was repealed by the special session of 1930, which re-enacted the provisions of the law of 1907, thus exempting State, county, city, school district, and municipal bonds from taxation.[4] However, the legislature of 1931 again defined moneys and credits, including bonds and debentures, in terms similar to those used in the law of 1925 and provided that they should be listed by the county assessor and taxed at the rate of 5 mills on the dollar actual value.[5]

The legislature of 1909 provided for a tax on legacies and successions to be collected in the county in which is situated the probate court having jurisdiction of the estate.[6] Since 1913 the county has assessed an annual tax of $2 on each female dog and $1 on each male dog.[7] Oil and gas leases, oil and gas wells, and all equipment used in working them were designated by the 1917 legislature as personal property to be taxed accordingly.[8] A tax first was imposed by the State in 1925 on gasoline used for motor vehicle fuel.[9] The State imposed a graduated tax on incomes in 1933[10] and a 2 percent tax on retail sales in 1937.[11]

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1. L. 1925, ch. 277, secs. 1, 2, 12.
2. L. 1925, ch. 273, secs. 1-7; G.S. 1935, ch. 79, secs. 3101-3107.
3. L. 1927, ch. 327, secs. 1-3.
4. L. 1930, ch. 17, sec. 1 (Special Session); G.S. 1935, ch. 79, sec. 1407.
5. L. 1931, ch. 311, secs. 1-5; ch. 312, secs. 1-3; G.S. 1935, ch. 79, secs. 3108-3113.
6. L. 1909, ch. 248, sec. 1; L. 1915, ch. 357, sec. 1; L. 1919, ch. 305, sec. 1; G.S. 1935, ch. 79, sec. 1501.
7. L. 1913, ch. 331, sec. 3; G.S. 1935, ch. 79, sec. 1303.
8. L. 1917, ch. 323, sec. 1; G.S. 1935, ch. 79, sec. 329.
9. L. 1925, ch. 274, secs. 1-3; L. 1939, ch. 287, secs. 1-3; L. 1933, ch. 317, sec. 8; G.S. 1935, ch. 79, sec. 3408.
10. L. 1933, ch. 320, sec. 3; G.S. 1935, ch. 79, sec. 3203.
11. L. 1937, ch. 374, secs. 1-3; L. 1939, ch. 332, sec. 1.

Governmental Organization and Records System - Finance (First entry, p. 207)

Poll taxes were levied for road purposes until 1933. The first assembly made all free white male persons from 16 to 45 years old who had resided in the Territory for 60 days and in the road district for 1 month subject to call by the road overseer for work on the roads as often as any road division needed opening or repairing. Persons failing to respond were required to forfeit $1, or $2 if they responded and failed to work "with due dilligence."[1] Another provision of the first laws required the sheriff to collect $1 from each person qualified to vote and pay the money into the county treasury.[2] The assembly of 1859 empowered the annual township meetings to vote road taxes for which every male person from 18 to 50 years of age was liable, but could work out at $4 per day per man and $4 for a team and wagon.[3] The assembly of 1860 made all able bodied males 21 to 50 years old subject to 2 days work on the roads each year at $1.50 per day, or they could discharge the obligation by payment of $3. In addition, the county commissioners were authorized to levy a road tax of 2 to 5 mills on all taxable property, which could be worked out under the direction of the road overseer at $2 per day, but which was otherwise certified to the county clerk to be placed on the tax roll.[4] From 1868 until 1911 the age class liable to 2 days work at $1.50 per day was fixed at 21 to 45 years. The legislature of 1911 passed a new law requiring all persons 21 to 50 years old to pay $3 annually to the township trustee or proper officer of the city in which they lived, and which could be worked out at the rate of $1.50 per day for a man or $3 per day for a man and team. The poll tax law was repealed by the legislature of 1933.[5]

The legislature of 1862 authorized cities to impose a poll tax of $1 per year on each able bodied male citizen between 21 and 50 years of age.[6] This authority has been vested with second class cities since they were first defined in 1867,[7] and with third class cities since they were first defined in 1869.[8] As to first class cities the law continued unchanged until 1881, when each city was declared a separate road district and the street commissioner empowered to compel each able bodied male between 21 and 45 years old to labor on the streets

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1. Terr. L. 1855, ch. 139, secs. 41-47.
2. Ibid., ch. 138, secs. 1-3.
3. Terr. L. 1859, ch. 77, secs. 22, 25-29.
4. Terr. L. 1860, ch. 104, secs. 32, 33, 37, 48, 49, 52, 55.
5. G.S. 1868, ch. 89, secs. 18-30; L. 1870, ch. 101, secs. 1-5; L. 1874, ch. 108, secs. 18-27; L. 1911, ch. 248, sec. 36; L. 1917, ch. 267, secs. 1-3; L. 1933, ch. 237, sec. 1.
6. L. 1862, ch. 46, art. 2, sec. 1, paragraph 3.
7. L. 1867, ch. 68, art. 3, sec. 2, paragraph 3; G.S. 1868, ch. 19, sec. 30, paragraph 3; L. 1871, ch. 62, sec. 29; L. 1872, ch. 100, sec. 46; G.S. 1935, ch. 14, sec. 414.
8. L. 1869, ch. 26, sec. 29, paragraph 3; L. 1871, ch. 60, sec. 47; G.S. 1935, ch. 15, sec. 419.

2 days each year or pay $3. The legislature of 1893 repealed the law in so far as it affected cities of more than 20,000 population, but the Supreme Court held the repeal to be unconstitutional. The poll tax law as applying to all first class cities was repealed in 1903.[1]

Assessment of Property. There has been little fundamental change in the method of assessing property for taxation since the beginning of county government in Kansas. Personal property is assessed annually as of March 1. Real property was assessed annually until 1876, then every second year thereafter until 1918, since which time it has been assessed every fourth year. However, the deputy assessors at the time of making their annual assessment of personal property must also list all real estate in their respective districts which has become subject to taxation since the last regular assessment, and deduct all improvements which have been removed or destroyed.[2]

The county clerk makes up the real estate assessment rolls, containing descriptions of each tract and parcel of property in the respective assessment districts, and delivers it to the assessor not later than February 15. The deputy assessors are furnished with field books into which the property descriptions are copied. In these they enter the valuations and return them to the assessor, who transfers the valuations to the assessment rolls, which he returns to the county clerk not later than the last business day in May.[3]

The legislature of 1866 designated all stock, coaches, wagons, and other property belonging to stage, mail, or express companies as personal property and required the accounting officers of railroads to list with the county clerk all their property subject to taxation in each county.[4] This law was changed in 1876, however, to provide for the listing of all capital stock, tracks, rolling stock, and personal property and equipment of railroads with the State Auditor who, through the State Board of Railroad Examiners, certified to the several county clerks the valuation of railroad property within their respective

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1. G.S. 1868, ch. 18, sec. 15, paragraph 4; L. 1869, ch. 24, sec. 1, paragraph 4; L. 1870, ch. 47, sec. 1, paragraph 5; L. 1881, ch. 37, sec. 11, paragraph 34; L. 1893, ch. 64, sec. 1; 60 Kan. 101; L. 1903, ch. 122, sec. 201.

2. Terr. L. 1855, ch. 137, art. 2, secs. 6-8; Terr. L. 1860, ch. 114, sec. 12; L. 1866, ch. 118, sec. 52; G.S. 1868, ch. 107, sec. 31; L. 1876, ch. 34, sec. 43; L. 1911, ch. 316, sec. 2; L. 1915, ch. 356, sec. 1; G.S. 1935, ch. 79, sec. 402.

3. Terr. L. 1855, ch. 137, art. 2, secs. 6-8; Terr. L. 1860, ch. 114, secs. 20-22, 24; L. 1866, ch. 118, sec. 54; G.S. 1868, ch. 107, sec. 41; L. 1876, ch. 34, sec. 57; L. 1911, ch. 316, sec. 8; G.S. 1935, ch. 79, sec. 408.

4. L. 1866, ch. 118, secs. 6, 20.

counties.[1] Since 1907 railroad property has been listed with the State Tax Commission and by it certified to the several county clerks to be placed upon the tax rolls.[2] The same procedure is followed as regards the property of telephone, telegraph, pipe line, and electric power companies unless all the property of the company lies within the boundaries of one county, in which event it is listed by the county assessor.[3] Returns are made direct to the State Tax Commission also by car companies,[4] express companies,[5] and motor carriers.[6]

The presidents or managing officers of National and State banks and trust companies must furnish the assessors with a list of shareholders and the number of shares owned by each. The shares are assessed to the individual owners at their true value at the place where the company is located. The bank or company must pay the tax and has a lien against the shares.[7] The penalty for making a false return or evading payment of taxes is a fine of from $50 to $5,000.[8]

Equalization and Review. The duty of reviewing and adjusting the valuations placed upon taxable property by the assessors has always been incumbent upon the board of county commissioners. The assembly of 1860 designated boards of county commissioners as county boards of equalization for their respective counties, requiring that they meet annually and examine the assessment roll for the current year, equalizing the valuations so that "each tract or lot shall be entered on the tax roll at its true value in money," and also to hear and determine the appeals of property owners. After the county board has completed

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1. L. 1876, ch. 34, sec. 28.
2. L. 1907, ch. 408, secs. 3, 34; G.S. 1935, ch. 79, secs. 602, 605.
3. L. 1897, ch. 245, secs. 2, 3, 5; L. 1901, ch. 362, secs. 1, 2, 5; L. 1905, ch. 502, secs. 2-4, 10, 11; L. 1908, ch. 81, secs. 1-3 (Special Session); L. 1909, ch. 255, secs. 2-4, 10, 11; L. 1919, ch. 304, secs. 2-4, 10, 11; G.S. 1935, ch. 79, secs. 702-704, 710, 711.
4. L. 1905, ch. 500, sec. 1; L. 1909, ch. 252, sec. 1; L. 1911, ch. 318, sec. 1; L. 1913, ch. 320, sec. 1; G.S. 1935, ch. 79, sec. 901.
5. L. 1907, ch. 202, sec. 2; L. 1909, ch. 246, sec. 2; G.S. 1935, ch. 79, sec. 802.
6. L. 1929, ch. 288, sec. 2; L. 1931, ch. 303, sec. 1; L. 1935, ch. 300, sec. 1; G.S. 1935, ch. 79, sec. 6a02.
7. Terr. L. 1855, ch. 137, art. 2, secs. 19, 20; Terr. L. 1860, ch. 114, sec. 3; L. 1866, ch. 118, sec. 51; G.S. 1868, ch. 107, secs. 23, 24; L. 1876, ch. 34, sec. 22; L. 1919, ch. 306, sec. 1; R.S. 1923, ch. 79, sec. 1101; L. 1925, ch. 276, sec. 1; L. 1930, ch. 16, sec. 1 (Special Session); L. 1931, ch. 304, sec. 1; G.S. 1935, ch. 79, sec. 1101.
8. L. 1907, ch. 408, sec. 27; G.S. 1935, ch. 79, sec. 1420.

its work the county clerk must make an abstract of the assessment roll and forward it to the State Tax Commission.[1]

The legislature of 1861 created the State Board of Equalization, composed of the State Auditor, State Treasurer, and Secretary of State and provided that it should equalize the value of property in the various counties as returned by the county clerks.[2] The State Tax Commission, composed of three members appointed by the Governor, was created in 1907, taking over the powers and duties of the Board of Railroad Assessors and the State Board of Equalization and assuming general supervision of the system of taxation throughout the State. Under the laws of 1939 it is known as the State Commission of Revenue and Taxation.[3] Tax assessment district boards of review, composed of the deputy assessor and two taxpayers of opposite political faiths appointed in the district by the county assessor, were created in 1909 but abolished in 1913.[4]

Levies. The first Territorial assembly empowered the county commissioners to levy annually on all taxable property within the county such sum as might be necessary for county purposes, but not exceeding 100 percent more than the Territorial tax "on the same subject."[5] Incorporated towns also were authorized to levy taxes for their own purposes.[6] School districts were authorized from the first to levy taxes for their own purposes.[7] The legislature of 1858 required the county commissioners to determine the sum to be raised by the county for school purposes in addition to the local levies and apportion it to each township and city ward. They also were required to determine the sum to be raised by the county for all other purposes and apportion it among the various subdivisions, including city wards.[8] In 1859

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1. Terr. L. 1855, ch. 137, art. 2, secs. 30-37; art. 3, secs. 13, 14; Terr. L. 1860, ch. 114, secs. 25, 26; L. 1866, ch. 118, secs. 28-30; G.S. 1868, ch. 107, secs. 43-45; L. 1876, ch. 34, secs. 74-76; L. 1877, ch. 40, sec. 1; L. 1909, ch. 243, sec. 8; L. 1911, ch. 317, sec. 2; L. 1913, ch. 323, sec. 1; G.S. 1935, ch. 79, secs. 1602-1604.
2. L. 1861, ch. 35, secs. 1-4; G.S. 1868, ch. 107, sec. 47-49.
3. L. 1907, ch. 408, secs. 3-9; G.S. 1935, ch. 74, sec. 2401; ch. 79, sec. 1402; L. 1939, ch. 288
4. L. 1909, ch. 251, sec. 5; L. 1911, ch. 317, sec. 1; L. 1913, ch. 323, secs. 1-3.
5. Terr. L. 1855, ch. 137, art. 4, secs. 1, 2. Presumably meaning for the same purpose.
6. Ibid., ch. 155, art. 1, sec. 7.
7. Ibid., ch. 144, art.1, sec. 6; Terr. L. 1858, ch. 8, sec. 40; L. 1861, ch. 76, art. 3, sec. 1; G.S. 1868, ch. 92, sec. 19; L. 1876, ch. 122, art. 3, sec. 11; L. 1885, ch. 181, sec. 1; L. 1905, ch. 381, sec. 1; L. 1907, ch. 318, sec. 1; L. 1909, ch. 214, sec. 1; G.S. 1935, ch. 72, sec. 406.
8. Terr. L. 1858, ch. 66, secs. 41, 43.

townships were empowered to raise money for common schools, roads and bridges, support of the poor, prosecution and defense of suits, and all other proper charges against the township.[1] Since statehood the governing bodies of the various taxing subdivisions of the county are required to certify to the county clerk annually the amounts necessary to be raised for their own purposes. These levies the clerk places on the tax roll and they are collected the same as the county and State taxes and paid to the treasurers of the subdivisions by the county treasurer.[2]

Collection of Taxes. The first assembly designated the sheriff as ex officio collector of taxes and authorized him to appoint deputies for that purpose. After the assessments had been corrected and adjusted he received the tax book from the county board, with whom he settled at each regular meeting.[3] The assembly of 1858 changed this method by requiring the county clerk to certify the tax roll for each township to the township clerk and the county treasurer. The township clerk certified the amount to be collected to the township treasurer, who posted his bond with the county treasurer and thereupon received the tax roll from the township clerk for collection.[4] The assembly of 1860 designated the county treasurer as collector of taxes and set up the collection machinery practically as it exists today.[5]

When the county clerk has completed the tax roll he certifies it for collection to the county treasurer, whom he charges with the full amount. All taxes become due November 1 and constitute a lien on the real property of the taxpayer. The treasurer adds to the current taxes on the tax roll the amount of unpaid taxes and the dates of unredeemed sales, if any. He then must publish for 2 consecutive weeks the amount of taxes charged for each purpose for the year on each $100 valuation. Upon payment of any tax he must give the payor a receipt showing a full description of the property. He must accept warrants of the State, county, or any of its taxing subdivisions in payment of taxes but only for the funds on which the warrant is drawn.[6]

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1. Terr. L. 1859, ch. 130, sec. 2; Terr. L. 1860, ch. 128, sec. 4; G.S. 1868, ch. 110, sec. 22; G.S. 1935, ch. 80, sec. 301.
2. Terr. L. 1860, ch. 128, sec. 4; L. 1866, ch. 118, secs. 55, 56; G.S. 1868, ch. 107, secs. 69-71; L. 1876, ch. 34, sec. 82; G.S. 1935, ch. 79, sec. 1801.
3. Terr. L. 1855, ch. 137, art. 3, secs. 1, 10-13, 32.
4. Terr. L. 1858, ch. 66, secs. 44, 45, 48.
5. Terr. L. 1860, ch. 28, sec. 104; G.S. 1935, ch. 19, sec. 515.
6. Terr. L. 1860, ch. 114, secs. 32, 33; ch. 116, sec. 1; L. 1866, ch. 118, secs. 58-62; G.S. 1868, ch. 107, secs. 73, 74, 76-78; L. 1876, ch. 34, secs. 84, 85, 88-90; L. 1886, ch. 30, secs. 1, 2; L. 1909, ch. 244, sec. 1; G.S. 1935, ch. 79, secs. 1803, 1804, 2001-2003.

Persons charged with taxes may pay the full amount on or before December 20 and receive a 2 percent discount on one-half the amount, which is charged to the county general fund; or they pay postpone payment of one-half the amount until June 20 of the following year. If the first half is not paid by December 20 it draws interest at the rate of 10 percent per annum until June 20 of the next year; and all taxes of the preceding year which are unpaid by June 20 draw interest at 10 percent per annum until paid or until the property is sold according to the law. Interest collected on delinquent taxes is credited to the county general fund.[1]

Sale of Property for Taxes. When personal property taxes remain unpaid for 30 days after July 1 following the tax year the county treasurer must issue a warrant to the sheriff directing him to levy on the goods and chattels of the taxpayer, unless the latter files an affidavit to the effect that he is unable to pay by reason of proverty. The treasurer may issue an alias warrant to the sheriff of any county to which the property has been removed. When the sheriff returns a warrant unsatisfied and the treasurer believes the property owner has property which cannot be reached by the warrant, he must certify an abstract of the amount due to the clerk of the district court, who enters it upon his judgment docket to become a lien upon any real property owned by the taxpayer. The clerk then issues a tax warrant which has the effect of an execution and the property may be sold without appraisement.[2]

Real estate on which the taxes have not been paid by June 20 of the year following the assessment year is subject to sale by the county. After he has published a list of such land and notice of sale for 4 consecutive weeks, the county treasurer must begin the auction on the first Tuesday in September and continue it from day to day until each parcel of property, or as much thereof as may be necessary to pay the taxes and costs thereon, has been sold. The purchaser of any such property receives a tax sale certificate which is assignable and may be recorded with the register of deeds. Lands which cannot be sold must be bid in by the treasurer in the name of the county for the amount

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1. G.S. 1868, ch. 107, sec. 79; L. 1876, ch. 34, sec. 91; L. 1893, ch. 110, sec. 1; L. 1919, ch. 309, sec. 1; R.S. 1923, ch. 79, sec. 2004; L. 1933, ch. 310, sec. 1; L. 1933, ch. 119, sec. 1 (Special Session); G.S. 1935, ch. 79, sec. 2004; L. 1937, ch. 364, sec. 1.

2. Terr. L. 1855, ch. 137, art. 3, secs. 16-18; Terr. L. 1858, ch. 66, sec. 71; Terr. L. 1860, ch. 114, sec. 61; L. 1866, ch. 118, sec. 95; G.S. 1868, ch. 107, secs. 123, 126, 127; L. 1874, ch. 131, sec. 4; L. 1876, ch. 34, secs. 92-96; L. 1895, ch. 256, sec. 1; L. 1913, ch. 325, sec. 1; R.S. 1923, ch. 79, secs. 2101-2105; L. 1929, ch. 286, sec. 1; L. 1931, ch. 305, sec. 1; L. 1933, ch. 310, sec. 2; G.S. 1935, ch. 79, secs. 2101-2105.

of taxes and costs, and continue to be taxed the same as if they belonged to an individual, the taxes constituting a lien on the property. Anyone paying into the treasury the amount of this lien receives a tax certificate from the treasurer, which must be assigned by the county clerk.[1]

A law enacted in 1891 provides that in those counties adopting provisions of the act the county treasurer shall bid in for the county all real estate on which taxes are delinquent, and not receive bids from any other source. Originally it was required that the land so bid in be held for 3 years subject to redemption only by the owner, his heirs or assigns, or by the mortgagee, upon payment of the accrued taxes, penalties, and costs. Later the period of redemption was extended to 4 years. If not redeemed within that time the property is offered at public auction the same as in other counties.[2] An earlier law applicable to all counties provides that when lands bid in by the county for delinquent taxes remain unredeemed for 3 1/4 years, or any extension thereof which may be provided by law, the county commissioners may cause the county attorney to file suit in the district court against the owners or supposed owners for the amounts due. A judgment is thus obtained and an execution is issued to the sheriff, who sells the property to the highest bidder.[3]

When real estate which has been sold for taxes is not redeemed within 4 years the county clerk executes to the purchaser, in exchange for the tax sales certificate, a tax deed which vests in the grantee an absolute estate in fee simple and which may be recorded in the office of the register of deeds within 6 months. In case a sale is set aside for irregularities or a tax deed is adjudged invalid the county commissioners may order a refund to the purchaser of all money paid by him.[4]

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1. Terr. L. 1855, ch. 137, art. 5, secs. 1-11; Terr. L. 1858, ch. 66, sec. 83; Terr. L. 1860, ch. 114, secs. 35-48; L. 1866, ch. 118, secs. 65-79, 94; L. 1867, ch. 160, secs. 1, 2; G.S. 1868, ch. 107, secs. 80-88, 90-97, 99; L. 1869, ch. 120, sec. 1; L. 1874, ch. 131, secs. 2, 3, 6; L. 1876, ch. 34, secs. 105-109, 111-114, 116-123; L. 1877, ch. 38, sec. 1; L. 1911, ch. 327, sec. 1; G.S. 1935, ch. 79, secs. 2301-2304, 2306, 2308-2311, 2313-2320, 2322.

2. L. 1891, ch. 162, secs. 1-3; L. 1911, ch. 326, sec. 1; L. 1913, ch. 324, sec. 1; L. 1921, ch. 288, secs. 1-3; G.S. 1935, ch. 79, secs. 2324-2326.

3. L. 1877, ch. 39, sec. 1; L. 1901, ch. 392, secs. 1-4; L. 1931, ch. 306, sec. 1; L. 1933, ch. 312, sec. 11; G.S. 1935, ch. 79, secs. 2801, 2804.

4. Terr. L. 1860, ch. 114, secs. 56-60; L. 1862, ch. 198, secs. 10, 11; L. 1866, ch. 118, secs. 85, 89, 91; G.S. 1868, ch. 107, secs. 112, 118, 121; L. 1876, ch. 34, secs. 138, 143, 146; L. 1879, ch. 40, secs. 1, 3; L. 1886, ch. 31, secs. 1, 3; L. 1933, ch. 312, sec. 7; G.S. 1935, ch. 79, secs. 2501, 2507, 2510, 2512.

Redemption of Property. The owner of any land sold for delinquent taxes may redeem it at any time within 4 years, or at any time before a tax deed is issued, by paying to the county treasurer the amount for which it was sold, together with all subsequent taxes, penalties, and costs, and interest at the rate of 10 percent per annum on the entire amount. If the land has been bid in by the county and no sales certificate issued the owner may make partial redemption by paying the taxes for 1 year or more, beginning with the first year of delinquency, whereupon the time when a tax deed would be issued must be extended proportionately. Persons redeeming property that has been sold receive a redemption certificate from the county treasurer, who pays the redemption money to the purchaser in exchange for his tax sales certificate.[1] When no offer of redemption of lands bid in by the county has been made in 4 years, the county commissioners in their discretion may compromise the amount and accept less than that legally due, either from the owner as redemption or from another person as purchaser.[2]

Remittance to Fiscal Agents. At the time of collecting its own taxes the county also collects the taxes levied by the State, and by the cities, townships, city boards of education, school districts, and other taxing districts within its boundaries. Tax money paid to the county treasurer must be apportioned by him and paid to the treasurers of these taxing districts.[3] In each January and July the treasurer must send to the State Auditor and State Treasurer a statement showing the amount of taxes collected in his county and due the State. To these officers also the county clerk, immediately after the settlement of the county commissioners with the county treasurer in October, must send a statement showing the amount of State taxes collected, the amount remitted to the State Treasurer, and the balance remaining in the county treasury. The State Auditor may draw his draft on the county treasurer at any time for a proportionate amount of the State funds in the latter's possession. Each county is responsible to the State for the full amount of State taxes levied on property within its boundaries, except such sums as may be certified by the county commissioners and attested by the county clerk to be double and erroneous assessments, or the amount of warrants returned by the sheriff as not found or

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1. Terr. L. 1855, ch. 137, art. 5, sec. 7; Terr. L. 1860, ch. 114, secs. 50, 52, 53; L. 1862, ch. 198, secs. 7, 8; L. 1866, ch. 118, secs. 81, 86, 87; G.S. 1868, ch. 107, secs. 100, 102, 103; L. 1869, ch. 122, sec. 1; L. 1874, ch. 131, sec. 7; L. 1876, ch. 34, secs. 127, 129, 130; L. 1879, ch. 41, sec. 1; L. 1893, ch. 110, sec. 2; L. 1933, ch. 312, secs. 2-4; G.S. 1935, ch. 79, secs. 2401, 2403, 2404.

2. L. 1879, ch. 43, sec. 1; L. 1893, ch. 110, sec. 4; L. 1933, ch. 312, sec. 5; G.S. 1935, ch. 79, sec. 2411.

3. L. 1866, ch. 118, secs. 55, 56; G.S. 1868, ch. 107, secs. 69-71; L. 1876, ch. 34, sec. 82; G.S. 1935, ch. 79, sec. 1801.

having no property. The State Auditor and State Treasurer must credit the county with the amounts so certified. No county treasurer can be required to pay to the State more taxes than he has actually collected.[1]

When the county commissioners permit property bid in by the county to be assigned or redeemed for less than the amount legally due, the difference must be divided among and charged to the various State, county, city, and district funds according to the levies for the various years for which the tax was delinquent and uncollected. On or before November 1 each year the county commissioners and county clerk must certify to the State Auditor the amount of State taxes thus uncollected, for which the county is given credit by the State.[2] All inheritance taxes collected by the county treasurer must be paid to the State Treasurer quarterly for use of the State general fund.[3]

License Taxes and Fees. A part of the county's revenue comes from license taxes and fees imposed by law on certain businesses and the sale of certain commodities. The first assembly authorized the county commissioners to levy a tax of from $10 to $500 on grocers, dramshop keepers, and tavern keepers. This act was repealed when the legislature in 1881 prohibited sale of intoxicating liquor except for medicinal, scientific, and mechanical purposes. Permits to sell liquor for these purposes could be obtained by druggists from the probate judge, and blank purchase affidavits from the county clerk at 25 cents per series. When a series was filled out it had to be filed by the druggist with the probate judge, accompanied by a $1.50 fee. This law was repealed in 1909. When the earlier licensing law was repealed in 1881 no further provision was made for taxing grocers and tavern keepers.[4]

The first assembly required the county collector of revenue to grant licenses to peddlers but no similar provision appeared on the statute books thereafter until 1907, when the county clerk was required to collect a license fee of $50 per year from itinerant peddlers of medicines, drugs, and applicances. The legislature of 1915 required the county clerk to collect a license fee of $25 per year from anyone plying the vocation of peddling outside the limits of an incorporated

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1. Terr. L. 1860, ch. 114, secs. 63, 64; L. 1866, ch. 118, secs. 105, 106, 108, 110; G.S. 1868, ch. 107, secs. 129, 131, 132, 134; L. 1874, ch. 131, sec. 5; L. 1876, ch. 34, secs. 99, 101, 102, 104; L. 1891, ch. 41, sec. 1; L. 1905, ch. 471, sec. 1; L. 1923, ch. 224, sec. 1; G.S. 1935, ch. 79, secs. 2201-2204; L. 1937, ch. 359, secs. 3, 4.

2. L. 1901, ch. 122, secs. 1, 2; L. 1911, ch. 328, sec. 1; G.S. 1935, ch. 79, secs. 2413, 2414.

3. L. 1909, ch. 248, secs. 24-26; L. 1915, ch. 357, secs. 24-26; G.S. 1935, ch. 79, secs. 1525-1527.

4. Terr. L. 1855, ch. 64, secs. 1-8; Terr. L. 1859, ch. 91, secs. 1, 2, 5; G.S. 1868, ch. 35, secs. 1, 2, 5; L. 1881, ch. 128, secs. 1, 2; L. 1887, ch. 165, sec. 2; L. 1909, ch. 164.

city, or $50 if the licensee uses an automobile or sells by samples. Cities may impose similar fees.[1] The county commissioners have always had authority to license ferries.[2] The legislature of 1917 practically outlawed trading stamps in Kansas by imposing an annual license fee of from $4,000 to $7,000 depending upon population, payable to the county clerk by merchants or others dealing in or giving away such stamps unless they are redeemable at cash value or from the regular stock of the merchant.[3]

The legislature of 1937 legalized the sale of cereal malt beverages and required dealers to obtain licenses from the county commissioners, who may charge from $25 to $50, in their discretion. Incorporated cities were given similar licensing powers.[4] In counties with a population of more than 125,000 persons (Sedgwick and Wyandotte) an annual license fee of $10 is imposed on physicians and surgeons for maintenance of a county medical library.[5]

An act of the 1915 legislature requiring payment of a fee of 15 cents for each $100 of debt secured by mortgages, in addition to the regular recording fees but in lieu of the general property tax, was declared by the Supreme Court to be unconstitutional. In 1924 the Constitution was amended to permit classification and taxation of intangible property at less than the ad valorem rate, and in 1925 the legislature exempted mortgages from the ad valorem tax and imposed a fee of 25 cents for each $100 of debt secured, payable at the time of recording and credited by the county treasurer to the county general fund.[6]

A sales tax on motor vehicle fuels was first imposed by the legislature of 1925. The law provided for a refund by the county commissioners to the purchaser, upon the latter's sworn statement, of taxes paid on such fuel used for non-road purposes. Since 1933, however, a tax exemption system has been used, applications for permits to buy fuel tax exempt being made to the county clerk and forwarded to the State. The 25-cent fee charged for the application is divided, 15 cents

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1. Terr. L. 1855, ch. 123, sec. 6; L. 1907, ch. 246, secs. 1, 3; L. 1915, ch. 372, secs. 1, 2, 4; L. 1917, ch. 230, sec. 1; G.S. 1935, ch. 19, secs. 2201, 2203, 2205, 2206, 2208.

2. Terr. L. 1855, ch. 71, secs. 2, 4, 6; Terr. L. 1859, ch. 69, secs. 1-8; G.S. 1868, ch. 41, secs. 1-6; G.S. 1935, ch. 30, sec. 101.

3. L. 1917, ch. 331, secs. 1, 2; G.S. 1935, ch. 19, secs. 2210, 2211.

4. L. 1937, ch. 214, sec. 2.

5. L. 1925, ch. 204, secs. 1, 2; G.S. 1935, ch. 19, secs. 2226, 2227.

6. L. 1915, ch. 250, secs. 2, 3; 96 Kan. 50; Const., art. 11, sec. 1 as amended November 4, 1924; L. 1925, ch. 273, secs. 2, 4; G.S. 1935, ch. 79, sec. 3102.

going to the county general fund and 10 cents to the State.[1] The county treasurer credits the county general fund with 10 cents for each application for registration of a motor vehicle and remits the remainder of the fee to the State.[2]

The county receives 1 percent of the amount collected by the county treasurer from the sale of oleomargarine tax stamps.[3] Applications for licenses to retail cigarettes formerly were made to the county clerk and the $6 license fee credited to the county general fund but beginning in 1940 applications must be made to the State Director of Revenue.[4]

The tax collected on intangible personal property is credited one-sixth to the State general fund, one-sixth to the county general fund, one-third to the general fund of the city or township, and one-third to the general fund of the school district in which the property is assessed.[5]

The first Territorial assembly provided for the collection of fees for official services rendered by county officers, the money to be paid to the county board at its next regular meeting. The legislature of 1875 required that fee books should be kept by the county treasurer and county clerk and that the amount of fees collected and uncollected by them should be reported to the county commissioners quarterly. The legislature of 1897 made similar requirements of the county attorney, clerk of the district court, sheriff, probate judge, and register of deeds. The county attorney is permitted to keep for his own use fees allowed him for prosecutions under the prohibitory liquor law and the sheriff may retain those fees expressly given to him by statute. But all other fees charged by these and the other officers must be paid into the county treasury for the use of the county general fund.[6]

Miscellaneous Revenue. From the State each county receives its share of several State funds. From the State highway fund, composed of motor vehicle fuel tax collections and the motor vehicle registration

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1. L. 1925, ch. 274, sec. 11; L. 1933, ch. 317, sec. 18; L. 1935, ch. 311, sec. 1; G.S. 1935, ch. 79, sec. 3418.
2. L. 1929, ch. 81, sec. 23; L. 1933, ch. 73, sec. 2; G.S. 1935, ch. 8, sec. 145; L. 1937, ch. 72, sec. 8; L. 1938, ch. 12, sec. 2 (Special Session).
3. L. 1933, ch. 321, sec. 4; G.S. 1935, ch. 79, sec. 3503.
4. L. 1927, ch. 171, sec. 7 as amended by ch. 173, sec. 1; L. 1933, ch. 122, secs. 3, 4 (Special Session); G.S. 1935, ch. 79, secs. 3303, 3304; L. 1939, ch. 329, sec. 4.
5. L. 1925, ch. 277, sec. 7; L. 1927, ch. 326, sec. 7; L. 1931, ch. 311, sec. 7; G.S. 1935, ch. 79, sec. 3115.
6. Terr. L. 1855, ch. 119, secs. 1-13; ch. 123, secs. 1-5; L. 1875, ch. 93, secs. 2, 3; ch. 96, secs. 2, 3; L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1913, ch. 197, secs. 4, 6, 7, 12, 13, 15, 16; G.S. 1935, ch. 28, secs. 103, 105, 110, 113, 115, 117, 123.

fees remitted by the county treasurers, the State Treasurer apportions and distributes to the several counties $900,000 quarterly for use in the construction, improvement, and maintenance of county and township roads and bridges. Of this sum 40 percent is distributed equally among the counties and 60 percent in proportion to their assessed valuation. The State Treasurer also transfers from the highway fund the sum of $250,000 quarterly for the reimbursement of road benefit district taxpayers in the various counties.[1]

Each county receives 25 percent of the cigarette stamp tax revenue collected by the State within the county boundaries, which is apportioned two-fifths to the county poor fund, one-fifth to the county general fund, and two-fifths to the several cities of the county on the basis of population.[2]

The law of 1937 providing for a 2 percent sales tax on all personal tangible property sold in the State and upon certain services rendered, specified that not exceeding $2,400,000 of the sum so raised annually should be set aside for social welfare purposes; $2,500,000 for the State school aid fund; $200,000 for the State Crippled Children's Commission in lieu of the ad valorem tax; and $60,000 for the State general fund for appropriation to the State Employment Service. The law of 1938 added $350,000 for the emergency social welfare fund. Of the remainder 80 percent reverted to the several counties, half on the basis of population and half according to assessed valuation. Each county treasurer was required to divide the sum thus received among the county and its taxing subdivisions in proportion to their respective tangible property tax levies. The special session of 1938 amended this law to give the counties all the balance remaining in the retail sales tax fund after all appropriations provided for by law had been made.[3] The State social welfare fund, together with the Federal grants under the Federal social welfare act, is disbursed to the several counties by the State Board of Social Welfare.[4]

The State Superintendent of Public Instruction apportions the State school fund to the counties semiannually in proportion to the number of children more than 5 years old and under 21 years old resident in the county. The money thus received is apportioned by the county superintendents to the various school districts in the proportion which the

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1. L. 1927, ch. 255, secs. 7-9; L. 1929, ch. 225, sec. 17; L. 1933, ch. 241; G.S. 1935, ch. 68, sec. 416.
2. L. 1933, ch. 122, sec. 24 (Special Session); L. 1935, ch. 309, sec. 11; G.S. 1935, ch. 79, sec. 3327; L. 1939, ch. 329, sec. 23.
3. L. 1937, ch. 374, sec. 21; L. 1938, ch. 80, sec. 1 (Special Session).
4. L. 1937, ch. 327, sec. 9.

number of children of school age in each district bears to the total number in the county.[1] The Constitution provides that "all moneys which shall be paid by persons as the equivelant for exemption from military duty; the clear proceeds of estrays, ownership of which shall vest in the taker-up; and the proceeds of fines for any breach of the penal laws shall be exclusively applied in the several counties in which the money is paid or fines collected to the support of common schools."[2] The statutes specify that "all fines and penalties imposed and all forfeitures incurred in any county shall be paid into the treasury thereof to be applied to the support of the common schools."[3]

Expenditures. From the beginning of county government in Kansas the duty of auditing and settling all demands against the county has been vested in the board of county commissioners.[4] "The allowance of fees and claims, as well as the management and control of all the business and financial affairs of a county are confided to the board of county commissioners."[5] The statutes provide that "the boards of county commissioners of the several counties of this State shall have exclusive control of all expenditures accruing either in the publication of delinquent tax lists, treasurer's notices, county printing, or any other county expenditures."[6]

In counties having less than 45,000 inhabitants it is unlawful for the county commissioners to allow any claim until it has been passed upon by the county attorney.[7] In counties of greater population which includes Shawnee, all claims against the county must be audited and passed upon by the county auditor before being allowed or disallowed by the county board.[8] Persons feeling themselves aggrieved by a decision of the board in passing on a claim may appeal to the district court.[9]

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1. Terr. L. 1858, ch. 8, sec. 15; Const., art. 6, sec. 4; L. 1861, ch. 76, art. 2, sec. 3; L. 1866, ch. 110, sec. 1; G.S. 1868, ch. 92, art. 2, sec. 11; ch. 92, p. 934; L. 1876, ch. 122, art. 2, sec. 2; L. 1881, ch. 152, sec. 3; G.S. 1935, ch. 72, sec. 206.
2. Const., art. 6, sec. 6.
3. Terr. L. 1855, ch. 129, art. 2, sec. 19; ch. 144, art. 3, secs. 2, 3; Terr. L. 1859, ch. 27, sec. 322; G.S. 1935, ch. 62, sec. 1908.
4. Terr. L. 1855, ch. 44, sec. 35; Terr. L. 1860, ch. 28, sec. 15; G.S. 1868, ch. 25, sec. 16; G.S. 1935, ch. 19, sec. 212.
5. 71 Kan. 684; 81 Pac. 503.
6. L. 1865, ch. 29, sec. 1; G.S. 1868, ch. 25, sec. 36; L. 1872, ch. 108, sec. 1; G.S. 1935, ch. 19, sec. 229.
7. L. 1913, ch. 156, sec. 1; G.S. 1935, ch. 19, sec. 716.
8. L. 1872, ch. 67, secs. 1, 5; L. 1876, ch. 66, sec. 3; L. 1925, ch. 132, sec. 1; G.S. 1935, ch. 19, secs. 601, 605.
9. Terr. L. 1858, ch. 13, sec. 16; Terr. L. 1860, ch. 28, secs. 26, 27; G.S. 1868, ch. 25, secs. 30, 31; G.S. 1935, ch. 19, secs. 223, 224.

County warrants issued in payment of claims must be signed by the chairman of the county board and attested by the clerk, and must specify the nature of the claim.[1] The clerk must record in the warrant register the date, number, and amount of each warrant and to whom it is issued.[2] The warrant must be redeemed by the county treasurer immediately upon presentation to him. If there is insufficient money in the treasury to redeem it he must record the number, amount, and date of the warrant and the date presented, and when any money comes into his hands he must set aside an amount sufficient to pay such warrants in the order of their presentation.[3]

At their July session each year, or more often if they deem it necessary, the county commissioners must compare the redeemed warrants returned by the treasurer with the county clerk's record of warrants issued and cause the date each warrant was canceled to be entered therein. They also must cause a list of such warrants to be entered in their journal. At the close of each session the commissioners must publish a statement of all sums allowed and for what purposes, and their estimate of expenditures for the various purposes upon which the tax levy was based. Annually they must publish a statement of the receipts and expenditures of the county and a detail statement of the indebtedness at the end of the year.[4] The legislature of 1891 made the foregoing procedure relating to warrants apply to all taxing districts of the county and also required that every warrant be registered and countersigned by the treasurer of the taxing body before it is delivered.[5] Tax anticipation warrants may be issued by the governing body of any taxing district if in its judgment the rate of levy allowed by law will be insufficient to meet expenses for the current year; but this can be done only with the approval of the State Tax Commission after a public hearing. In such cases the amount of the emergency warrants must not exceed 25 percent of the amount that could be raised by the rate of levy allowed by law.[6] The legislature of 1933 enacted the "cash basis law" making it unlawful after May 1 that year for any political subdivision of the State to create any indebtedness, or issue

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1. Terr. L. 1860, ch. 28, secs. 24-27; G.S. 1868, ch. 25, secs. 28-31; G.S. 1935, ch. 19, secs. 221-224.
2. Terr. L. 1863, ch. 13, sec. 30; Terr. L. 1860, ch. 28, secs. 34, 35; G.S. 1868, ch. 25, secs. 45, 46; G.S. 1935, ch. 19, secs. 306, 307.
3. Terr. L. 1860, ch. 28, sec. 111; L. 1865, ch. 30, sec. 1; G.S. 1868, ch. 25, secs. 69, 70; L. 1875, ch. 76, sec. 1; G.S. 1935, ch. 19, secs. 509, 510.
4. Terr. L. 1858, ch. 13, secs. 21, 22; Terr. L. 1860, ch. 28, secs. 29, 30; L. 1865, ch. 28, sec. 1; G.S. 1868, ch. 25, secs. 33-35; G.S. 1935, ch. 19, secs. 226-228.
5. L. 1891, ch. 249, secs. 1-8; G.S. 1935, ch. 10, secs. 801-808.
6. L. 1919, ch. 310, secs. 1, 2; L. 1933, ch. 309, secs. 23, 24; G.S. 1935, ch. 79, secs. 1967, 1968.

any warrant or other evidence of indebtedness in excess of the funds actually on hand in the treasury at the time, and for the particular purpose.[1]

It is the duty of the county treasurer to receive all moneys belonging to the county, from whatever source derived, as well as all other moneys directed by law to be paid to him. He may pay out county moneys only upon order of the county commissioners, except where special provision for such payment is otherwise made by law. He must keep an accurate account of all receipts and disbursements and each October must settle with the county commissioners his accounts as treasurer. This includes settlement of his accounts with all cities, townships, school districts or other municipal organizations for which he acts as fiscal agent. The county clerk is required to keep an account with the treasurer, whom he charges with the amount of the tax roll and all other moneys collected and credits with all sums paid out by lawful authority.[2]

Every 2 months in counties with 45,000 to 70,000 population, and quarterly in counties with more than 70,000 inhabitants, the county auditor must examine the accounts of the county treasurer and make a detail report thereon to the county commissioners. In counties of lesser population the sheriffs and clerks of the district and criminal courts are required to file with the auditor quarterly a sworn statement of the fees, fines, and other moneys they have collected for the county. In counties with more than 70,000 inhabitants these reports must be made monthly, and also by the county clerk, county treasurer, register of deeds, and probate judge. In both cases it is the auditor's duty to examine the books of these officers and compare them with the sworn statements.[3] Whenever ordered by the county commissioners to do so, it is the duty of the probate judge, assisted by two other persons appointed by the county commissioners, to examine the books and accounts of the county treasurer and report to the commissioners. Should there be a deficiency in the county funds the commissioners may take such action as they deem necessary, including suspension of the treasurer and appointment of another person in his place.[4]

Bond Issues. The earliest Territorial laws are silent on the matter of bond issues by counties. The assembly of 1860 authorized

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1. L. 1933, ch. 319, sec. 12; G.S. 1935, ch. 10, sec. 1112.
2. Terr. L. 1860, ch. 28, secs. 109, 110; L. 1864, ch. 37, secs. 2, 3; G.S. 1868, ch. 25, secs. 50-52, 66-68; L. 1891, ch. 101, secs. 1, 2; G.S. 1935, ch. 19, secs. 311-313, 506-508.
3. L. 1874, ch. 56, secs. 3, 4; L. 1915, ch. 172, secs. 5, 6; G.S. 1935, ch. 19, secs. 616, 617, 624, 625.
4. L. 1874, ch. 8, secs. 3, 4 (Special Session); L. 1905, ch. 187, sec. 1; G.S. 1935, ch. 19, secs. 522, 523.

county commissioners to "borrow upon the credit of the county a sum sufficient for the erection of county buildings, or to meet the current expenses of the county in the case of a deficit in the county revenue," but only in event such loan was favored by the electors.[1]

The State legislature of 1862 empowered city councils to issue bonds to fund indebtedness of the city,[2] and that of 1864 authorized school districts to issue bonds for erection of buildings and for other purposes. The same legislature also authorized certain counties to issue bonds, upon majority vote of the electors, to purchase stock in railroads for the purpose of aiding in the construction of their lines through the county.[3] In that year and at practically every subsequent legislative session special acts have been passed authorizing certain counties to issue bonds for various purposes. The legislature of 1866 authorized counties and cities to issue bonds, upon majority vote of the electors, to finance internal improvements.[4] In 1870 townships were empowered to issue bonds for building bridges.[5] The legislature of 1872 consolidated in one law the authority of counties, cities, and townships to issue bonds for building bridges, aiding in railroad construction, and for other works of internal improvement. Such bonds must be presented by the holder to the State Auditor and registered in his office.[6]

The limitation of bonded indebtedness fixed by the legislature for the various taxing bodies has varied from time to time. The legislature of 1909 decreed that no county, township, city of the second or third class, board of education, nor school district should issue bonds which would cause the total indebtedness to exceed 1 percent of the assessed valuation in the case of a county or township, or 1 1/5 percent in the case of a city or school district.[7] In view of later and conflicting acts, however, this law has been held void except as to counties and townships.[8] Current laws fix the limits for cities of the second and third classes at 25 percent of the taxable property

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1. Terr. L. 1860, ch. 28, secs. 16-18; G.S. 1868, ch. 25, secs. 16-18; L. 1907, ch. 141, sec. 1; L. 1909, ch. 99, sec. 1; L. 1911, ch. 141, sec. 1; G.S. 1935, ch. 19, secs. 212, 213, 1503.
2. L. 1862, ch. 46, art. 5, sec. 10.
3. L. 1864, chs. 15, 19.
4. L. 1866, ch. 23, sec. 1.
5. L. 1870, ch. 33, sec. 1.
6. L. 1872, ch. 68, secs. 1-5, 12-15; L. 1874, ch. 39, secs. 1, 2, 5, 6; L. 1877, ch. 142, sec. 1; L. 1887, ch. 183, sec. 1; L. 1909, ch. 62, sec. 1; L. 1911, ch. 242, sec. 1; ch. 247, sec. 1; G.S. 1935, ch. 10, secs. 201, 202; ch. 66, secs. 1001, 1002.
7. L. 1879, ch. 50, sec. 3; L. 1891, ch. 163, sec. 2; L. 1895, ch. 113, sec. 1; L. 1909, ch. 62, sec. 2; G.S. 1935, ch. 10, sec. 301.
8. 116 Kan. 407, 410, 735; 226 Pac. 1009; 127 Kan. 651, 657; 274 Pac. 728.

valuation;[1] rural school districts at 5 percent;[2] cities of the first class with more than 50,000 population at 10 percent;[3] and boards of education in second class cities at 3 3/4 percent.[4] In most instances these limitations are modified to make exceptions in certain cases and emergencies.

Bonds issued by any taxing body must be signed by its presiding officer and attested by its clerk. Before being advertised for sale they must be offered to the State School Fund Commission, and if declined by that body they may be placed on sale for cash at not less than their par value. The clerk must register them in his office and forward to the State Auditor a transcript of proceedings leading up to the issue, together with a statement of the bonded indebtedness of the taxing body.[5] The State Treasurer is designated as the State fiscal agent and all bonds issued by the State or any of its taxing subdivisions are made payable at his office. The Governor, Secretary of State, and State Auditor also are authorized to maintain a subagency in New York to the extent that may be necessary to provide for prompt payment of all bonds, coupons, and other obligations made payable thereto.[6] The State Treasurer is required to register any bond of the State or its subdivisions when presented to him and to notify the issuing body that he has done so; thereafter the instrument is negotiable only by formal assignment before a notary public. To be valid, the assignment must be forwarded to the State Treasurer for endorsement in his records. Upon maturity of any bond it may be forwarded to the State Treasurer, who collects the amount from the issuing municipality and pays it to the last registered holder of the instrument.[7]

Elections

The Organic Act provided that the Governor should apportion the Territory into council and representative districts and designate the time, places, and manner of conducting the first election for members

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1. L. 1913, ch. 126, sec. 1; L. 1920, ch. 22, sec. 1 (Special Session); G.S. 1935, ch. 10, sec. 303.
2. L. 1920, ch. 53, sec. 1 (Special Session); G.S. 1935, ch. 72, sec. 2001.
3. L. 1903, ch. 126, sec. 1; L. 1909, ch. 62, sec. 6; L. 1919, ch. 128, sec. 1; L. 1929, ch. 91, sec. 1; G.S. 1935, ch. 10, sec. 302.
4. L. 1920, ch. 55, sec. 2 (Special Session); G.S. 1935, ch. 72, sec. 1820.
5. R.S. 1923, ch. 10, secs. 105-110; G.S. 1935, ch. 10, secs. 105-110.
6. L. 1874, ch. 75, sec. 8; L. 1908, ch. 58, secs. 1, 2; G.S. 1935, ch. 10, secs. 501, 503.
7. L. 1923, ch. 225, secs. 1-5; G.S. 1935, ch. 10, secs. 601-605.

of the legislative assembly. Thereafter these matters were to be fixed by law.[1]

The first legislative assembly decreed that elections for delegate to Congress and members of the legislative assembly should be held the first Monday in October of each year beginning in 1855, and annually thereafter and adopted regulations for holding elections.[2] Most of the county officers provided for were appointed by the assembly to hold office until the general election of 1857. The Free-State element gained control of the assembly in the October 1857 election and at the special session in December of that year provided for submission to the electors on the first Monday in January 1858 of the State constitution which had been framed at Lecompton, and adopted regulations for the election. Among other provisions was one requiring the Governor to appoint in each county three special commissioners who should designate the polling places and have general supervision of the election. With the 1855 invasion still fresh in mind, this assembly passed stringent laws for the punishment of election frauds.[3]

The regular session of the 1858 assembly decreed that the persons holding the offices of probate judge, sheriff, coroner, surveyor, and clerk of the board of county supervisors should continue in office until the regular election of 1859 in all counties excepting Atchison, Anderson, Butler, Calhoun, Coffey, Davis, Greenwood, Hunter, Johnson, Leavenworth, Marshall, Wise, and Woodson. In these counties, the assembly decreed, an entire new set of county officers should be elected in the general election to be held the fourth Monday in March 1858; and in all other counties, such officers as the law provided for but which were not mentioned in the foregoing list, were to be elected.[4] The assembly of 1859 repealed all former election laws and provided for holding elections for delegate to Congress, members of the legislative assembly, and all elective Territorial and county officers on the Tuesday succeeding the first Monday in November of each year. This date for the election has been retained to the present time, but in 1902 the Constitution was amended to make the general election a biennial affair in even-numbered years, rather than annual.[5]

Township elections first were fixed for the fourth Monday in March of each year. In 1868 the date was changed to the first Tuesday

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1. 10 Stat. 284.
2. Terr. L. 1855, ch. 66, secs. 1-3.
3. Terr. L. 1857, chs. 1, 2.
4. Terr. L. 1858, ch. 13, secs. 110, 111.
5. Terr. L. 1859, ch. 65, sec. 16; Const., art. 4, sec. 2; L. 1861, ch. 31, secs. 1-4; G.S. 1868, ch. 36, pp. 427, 428, secs. 1-5; L. 1901, ch. 176, secs. 1-4; Const., art. 4, sec. 2 as amended November 4, 1902; R.S. 1923, ch. 25, sec. 101; G.S. 1935, ch. 25, sec. 101.

in April, and in 1875 to the Tuesday succeeding the first Monday in November, which was the same date as the general election for State and county officers. In 1879 it was changed again to the first Tuesday in February, but the legislature of 1885 again fixed it on the Tuesday after the first Monday in November and there has been no subsequent change. The amendment to the Constitution adopted in 1902 changed the township election from an annual to a biennial affair, as in the case of the State and county election, and permanently fixed the date.[1]

Suffrage. In the Organic Act the Congress extended the right of suffrage in the first election to "every free white male inhabitant above the age of 21 years who shall be an actual resident of said Territory;" and who was a citizen of the United States or had declared his intention to become such; except that no soldier or seaman stationed in the Territory should be permitted to vote. Thereafter, the Organic Act decreed, the legislative assembly should prescribe the qualifications for voting and holding office, except that neither right should be conferred upon anyone not a citizen of the United States, or who had not taken an oath to uphold the Federal Constitution and the Organic Act.[2]

The first assembly extended the franchise to every free white male citizen of the United States and every free male Indian who had been made a citizen by treaty or otherwise, above 21 years old, and who was an inhabitant of the Territory and of the county and district in which he sought to vote, and who had paid a Territorial tax. Soldiers and sailors were barred. One clause of this law, however, practically disfranchised Free-State settlers. It provided that if challenged, the would-be voter must take an oath to uphold the Fugitive Slave Law as well as the Organic Act.[3]

The assembly of 1859 also extended the franchise to white male persons of foreign birth who had declared their intentions to become citizens, but prohibited voting by anyone who was under guardianship, non compos mentis, or insane; or who had made any wager on the outcome of the election; or who had not been a resident of the township, ward, or district for 10 days prior to the election.[4] These provisions were incorporated in the State Constitution, which also disqualified persons convicted of a felony or treason, unless restored to civil rights, and persons who had offered or given a bribe to procure their election.

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1. Terr. L. 1858, ch. 71, sec. 6; G.S. 1868, ch. 110, sec. 2; L. 1875, ch. 92, sec. 1; L. 1879, ch. 179, sec. 1; L. 1885, ch. 195, sec. 1; Const., art. 4, sec. 2 as amended November 4, 1902; L. 1903, ch. 235, sec. 1; G.S. 1935, ch. 25, sec. 1601.
2. 10 Stat. 285.
3. Terr. L. 1855, ch. 66, sec. 11.
4. Terr. L. 1859, ch. 65, secs. 1, 2.

Residence in the State for 6 months and in the township or city ward for 30 days preceding the election also was required.[1] In 1864 the Constitution was amended to empower the legislature to make provision for taking the votes of electors absent in the military or naval service of the United States, or while confined in prison or an almshouse, or while attending a seminary of learning, and providing that such persons should not loose their residence in the State by reason of such absence. Another amendment adopted in 1867 disfranchised all Kansans who had participated in the Rebellion against the United States, except persons who had served at least a year in the United States army and had been honorably discharged therefrom since April 1, 1861. Persons who had been dishonorably discharged from the service of the United States, unless reinstated, and persons who had been guilty of defrauding the Government also were disqualified by this amendment, but the legislature was empowered to remove such disabilities by a two-thirds vote of all the members of both houses. In 1912 the Constitution was amended to extend suffrage to women and in 1918 the phrase "every white male person" in prescribing qualifications to vote was changed to read "every citizen of the United States."[2] The word "white" already had become inoperative by force of the Fifthteenth amendment to the Federal Constitution in 1870. Numerous special acts were passed by the legislature in subsequent years to remove from former Confederate soldiers the disqualifications imposed by the amendment of 1867. The legislature of 1899 removed these disabilities from all such persons and granted them the right to vote if not otherwise disqualified.[3]

The legislature of 1859 required the assessors to make a register of qualified voters in their districts at the time of making the personal property assessment, and file it with the city or township clerk by August 15. The clerk posted or published the list, then attended at a designated time and place to register those whose names did not appear on the assessors' lists. Copies of the registers were delivered to the inspectors of elections and no one whose name did not appear on the register was permitted to vote. This system was dropped with the beginning of statehood. The Constitution provided that "the legislature shall pass such laws as may be necessary for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established." The first legislature prescribed the questions to be asked any voter in case of challenge as to his qualifications.[4] In 1869 the councilmen of each ward in cities of the first class were constituted a board of registry and required to register such qualified citizens as presented themselves the Tuesday preceding the election.

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1. Const., art. 5.
2. Const., art. 5 as amended November 8, 1864; November 5, 1867; November 5, 1912; November 8, 1918.
3. L. 1899, ch. 172, sec. 1; G.S. 1935, ch. 25, sec. 115.
4. Terr. L. 1859, ch. 65, secs. 3-5, 8-15; Const., art. 5, sec. 4; L. 1861, ch. 28, secs. 9-13.

The registry books were then delivered to the election judges and no one whose name did not appear thereon was permitted to vote. In 1877 the registry boards were abolished and their duties transferred to the city clerk. In 1879 this law was amended to make it applicable also to second class cities.[1] Since 1933 the same law has applied to voters in townships located in counties with more than 130,000 inhabitants and having less than $170,000,000 taxable tangible property valuation.[2]

The so-called "branding iron law" was enacted by the legislature of 1927. It provides that the ballot of the political party called for by an elector in the first primary election after 1927, or in the first primary in which he votes, shall constitute his declaration of political party affiliation and thereafter he may receive the ballot of no other political party at any succeeding primary unless he files a written declaration of change with the county clerk at least 30 days prior to the primary election. It also was provided that anyone voting at a general election who had not previously established a party affiliation in a primary election should declare an affiliation before receiving a ballot.[3] This feature of the law, however, was repealed in 1937.[4]

Qualified electors absent from their home counties on election day in the military service of the State or the United States have been privileged to vote since 1864. The Secretary of State forwards poll books to the commandants of regiments or other units and the elections are conducted under the same regulations as at home. Returns are made to the Secretary of State, who certifies the vote for county officers to the respective county clerks.[5] Under the law of 1901 persons absent from their township or ward, but within the State, may vote an "absent voter's ballot." Upon presenting himself at any polling place and making affidavit as to his qualifications and residence the voter may receive a blank official ballot which, after being marked, is sealed by the judges and delivered to the county clerk, who forwards it to the clerk of the voter's home county.[6] Persons who are going to be absent from the State on election day may make affidavit to the county clerk

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1. L. 1869, ch. 118, secs. 1-16; L. 1877, ch. 87, sec. 4; L. 1879, ch. 80, secs. 1-14; L. 1905, ch. 103, sec. 1; L. 1907, ch. 199, sec. 1; L. 1920, ch. 19, sec. 1 (Special Session); R.S. 1923, ch. 12, sec. 904; G.S. 1935, ch. 12, secs. 901-914.
2. L. 1933, ch. 126, secs. 1-12 (Special Session); G.S. 1935, ch. 80, secs. 1701-1712.
3. L. 1927, ch. 203, secs. 1-4; G.S. 1935, ch. 25, secs. 225-228.
4. L. 1937, ch. 225.
5. L. 1864, ch. 59, secs. 1-12; G.S. 1868, ch. 36, secs. 45-56; G.S. 1935, ch. 25, secs. 1201-1212.
6. L. 1901, ch. 180, secs. 1-7; L. 1911, ch. 181, secs. 1, 2; L. 1913, ch. 194, sec. 1; L. 1917, ch. 183, sec. 1; G.S. 1935, ch. 25, secs. 1001-1008.

of their home county, who forwards to the designated address a county ballot, and notifies the Secretary of State, who forwards a State ballot. The voter makes return to the county clerk and Secretary of State, respectively.[1]

Candidates. The Organic Act provided that until the qualifications should be prescribed by the legislative assembly any free white male person who was a citizen of the United States or who had declared his intention to become such, and who was an actual resident of the Territory and above 21 years old should be eligible to hold any office in the Territory.[2] The first assembly decreed that the candidate must have been a resident of the Territory for 30 days preceding the election and in addition to the regular oath must swear to uphold the Constitution of the United States, the Organic Act, and the Fugitive Slave Law.[3] Thereafter the qualifications, if any, were prescribed by the laws relating to the various offices.

No statutory provisions for the nomination of candidates or the regulation of political parties were made until 1891, when the legislature passed an act to regulate the holding of primary elections by voluntary political associations or parties in any district, county, township, or city. It was required that the notice of such primary must be given by the vote of the majority of the central or controlling committee of the party.[4] In 1893 the "Australian Ballot Law" was adopted. This law authorized any political party having a State or National organization to hold a delegate or mass convention, primary election, or caucus of qualified voters for the State or any subdivision thereof for the purpose of nominating one candidate for each office to be filled at the ensuing general election. These were known as "party nominations" and could be made only in the manner prescribed. Independent nominations of candidates could be made by means of nomination petitions bearing the signatures of a certain number of electors, depending upon the office, and filed with the county clerk in the case of a county or lesser office and with the Secretary of State in the case of a district, State, or National office. Certificates of party nominations were filed in the same manner.[5]

In 1908 the present primary law was adopted, providing for the holding of a primary election on the first Tuesday in August of each even numbered

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1. L. 1919, ch. 189, secs. 1-13; R.S. 1923, ch. 25, secs. 1101-1104; G.S. 1935, ch. 25, secs. 1101-1113.
2. 10 Stat. 285.
3. Terr. L. 1855, ch. 66, sec. 12.
4. L. 1891, ch. 115.
5. L. 1893, ch. 78, secs. 3-13; L. 1897, ch. 129, secs. 3-13; L. 1901, ch. 177, secs. 1-5; L. 1903, ch. 228, sec. 1; R.S. 1923, ch. 25, secs. 303, 304; L. 1925, ch. 164, sec. 1; L. 1927, ch. 202, sec. 1; G.S. 1935, ch. 25, secs. 301-311.

year for all candidates to be voted on in the next ensuing November election. Candidates may qualify for having their names printed on the primary party ballots either by filing nomination papers signed by a certain number of electors, or by filing a declaration of intention to become a candidate and paying a prescribed fee. The name of the person receiving the highest number of votes for an office in the primary is placed on the ballot as the candidate of his party for that office in the general election.[1]

Conduct of Elections. The principal supervisory functions in the conduct of elections for National, district, State, county, and township officers are exercised by the county clerks. Each township of the county and each ward of an incorporated city composes one election district and the election is held at such place or places as the trustee of the township or the governing body of the city may decide.[2] The county commissioners may establish election precincts in each township, as the convenience of the inhabitants may require.[3] Notice of the election originally was required to be given by the sheriff by posting at the polling places or publishing in some newspaper in the county, but since 1917 this duty has fallen to the county clerk.[4] The trustees of each township are required to furnish ballot boxes at township expense.[5]

Election boards are composed of three judges and two clerks. The mayors of cities of the first and second class and the trustees of the townships appoint an election board for each voting precinct. The mayors and clerks of the cities and the trustees of the townships are required to furnish suitable polling places in each precinct, together with suitable supplies and equipment.[6] Since 1915 the law has provided that in every precinct in the State in which 200 or more votes were

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1. L. 1908, ch. 54, secs. 2-8, 15 (Special Session); L. 1909, ch. 136, sec. 2; L. 1913, ch. 190, sec. 1; ch. 191, sec. 1; L. 1915, ch. 204, secs. 1-4; L. 1917, ch. 178, sec. 2; L. 1919, ch. 190, sec. 1; R.S. 1923, ch. 25, secs. 202, 208, 209; L. 1927, ch. 201, sec. 1; L. 1933, ch. 184, sec. 1; G.S. 1935, ch. 171, sec. 1; ch. 172, sec. 1; G.S. 1935, ch. 25, secs. 202-210, 219.
2. L. 1861, ch. 28, sec. 2; G.S. 1868, ch. 36, sec. 2; R.S. 1923, ch. 25, sec. 103; L. 1927, ch. 200, sec. 1; G.S. 1935, ch. 25, sec. 103; L. 1937, ch. 223, sec. 1.
3. Terr. L. 1860, ch. 28, sec. 15; G.S. 1868, ch. 25, sec. 16; G.S. 1935, ch. 19, sec. 212.
4. Terr. L. 1855, ch. 66, sec. 4; Terr. L. 1859, ch. 65, secs. 26-29; L. 1861, ch. 28, sec. 5; G.S. 1868, ch. 36, sec. 5; L. 1917, ch. 178, sec. 1; G.S. 1935, ch. 25, sec. 105.
5. Terr. L. 1859, ch. 65, sec. 42; L. 1861, ch. 28, sec. 4; G.S. 1868, ch. 36, sec. 4; G.S. 1935, ch. 25, sec. 104.
6. L. 1893, ch. 78, secs. 19, 20; L. 1897, ch. 129, secs. 19, 20; L. 1901, ch. 177, sec. 8; G.S. 1935, ch. 25, secs. 401, 402.

cast for Secretary of State at the last preceding general election there shall be two election boards, one to receive the ballots and the other to canvass them. Provisions of the act must be adopted by the county commissioners for precincts casting less than 200 votes when petitioned by 40 percent of the electors therein.[1]

No provision for the printing of ballots was made until 1893, when the duty of superintendent the printing of ballots was imposed upon the county clerks, and upon the city clerks in the case of city elections. They must deliver the ballots to the election judges in sealed packages and take a receipt for them. A separate ballot must be provided for any constitutional amendment or other proposition submitted to the electors.[2] The legislature of 1893 also prescribed that ballots cast in any general or special election in the State should be printed at public expense. It was made the duty of the county commissioners to apportion such expense among the townships and the cities of the first and second classes in proportion to the number of votes cast in the last preceding general election. Ballots used in city elections must be printed at city expense.[3] The ballots used in general elections must be printed in two divisions, the first containing the names of candidates on the National and State tickets, the second bearing the names of those for county and township offices.[4]

Blind and physically disabled persons may, under statutory regulations, receive assistance in marking their ballots and a memoranda of the circumstances must be made on the poll books opposite their names by the election clerks.[5] Boards of county commissioners and the governing bodies of cities and townships may upon majority vote of the electors purchase and install automatic voting machines in any or all of the voting precincts and use them in all elections. The machines

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1. L. 1915, ch. 205, secs. 2, 7; L. 1917, ch. 179, sec.1; L. 1921, ch. 181, sec. 1; R.S. 1923, ch. 25, sec. 507; G.S. 1935, ch. 25, secs. 502, 507.

2. L. 1893, ch. 78, secs. 15, 16; L. 1897, ch. 129, secs. 15, 16; L. 1901, ch. 177, sec. 7; L. 1903, ch. 229, sec. 1; L. 1909, ch. 134, secs. 1-8; L. 1921, ch. 183, sec. 1; G.S. 1935, ch. 25, secs. 604, 605.

3. L. 1893, ch. 78, secs. 1, 2; L. 1897, ch. 129, secs. 1, 2; L. 1908, ch. 54, sec. 19 (Special Session); L. 1909, ch. 133, sec. 1; G.S. 1935, ch. 25, secs. 109, 110, 223; L. 1939, ch. 187, sec. 1.

4. L. 1893, ch. 78, sec. 14; L. 1897, ch. 129, sec. 14; L. 1898, ch. 17, sec. 1 (Special Session); L. 1901, ch. 177, sec. 6; L. 1903, ch. 228, sec. 2; L. 1905, ch. 222, sec. 1; L. 1913, ch. 189, sec. 1; L. 1921, ch. 182, sec. 1; R.S. 1923, ch. 25, sec. 601; G.S. 1935, ch. 25, sec. 601.

5. L. 1893, ch. 78, sec. 22; L. 1897, ch. 129, sec. 22; L. 1901, ch. 177, sec. 10; L. 1903, ch. 228, sec. 3; L. 1905, ch. 222, sec. 2; L. 1913, ch. 189, secs. 2, 3; L. 1935, ch. 174, secs. 1, 2; G.S. 1935, ch. 25, secs. 416, 417.

must first be approved by the State Executive Council, which also promulgates regulations for their use. In all other respects the general election laws apply in precincts where machines are used.[1]

Except for treason, felony, and breach of the peace all election officials and voters are free from arrest while going to, attending on, or coming from any election.[2]

Canvass of Votes. As soon as the polls have closed, the election boards must begin counting the votes and continue without adjournment until the work is completed and the results recorded on the tally sheets, whereupon the judges announce the result. They must make three certificates of the votes cast for each candidate, returning one to the county clerk and one to the secretaries of the political parties which cast the highest and next highest number of votes in the last preceding election. The poll books, tally sheets, and ballots, including all spoiled, unused, and rejected ballots must be returned to the county clerk. The clerk must preserve them for 6 months, or longer if there is a contest, after which he must destroy them by burning in the presence of two electors of opposite political faith appointed by the county commissioners.[3]

On the Friday following the election the county clerk and county commissioners meet in the county clerk's office and canvass the vote. The person receiving the highest number of votes for an office is deemed to be elected, even though provisions of law in conducting the election have not been fully complied with, "so that the real will of the people may not be defeated by any informality of any officer." In case of a tie the commissioners decide by lot which candidate shall be declared elected. When the commissioners have determined which candidates are duly elected the county clerk makes an abstract of the votes cast for each candidate in each precinct and files it in his office for record, sending the Secretary of State a certified copy of the abstract of votes cast for National, State, and district officers. To each successful candidate he delivers a certificate of election. In the

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1. L. 1901, ch. 184, secs. 1, 2, 4-6; L. 1915, ch. 206, secs. 1-3; L. 1917, ch. 181, secs. 1, 2; ch. 184, sec. 3; G.S. 1935, ch. 25, secs. 1302-1306.

2. Const., art. 5, sec. 7; G.S. 1868, ch. 36, sec. 63; G.S. 1935, ch. 25, sec. 107.

3. Terr. L. 1855, ch. 66, sec. 14; Terr. L. 1859, ch. 65, secs. 47, 50-52; L. 1861, ch. 28, sec. 19; G.S. 1868, ch. 36, sec. 20; L. 1893, ch. 78, sec. 25; L. 1897, ch. 129, sec. 25; L. 1901, ch. 177, sec. 11; L. 1903, ch. 228, sec. 4; L. 1905, ch. 222, sec. 3; L. 1913, ch. 189, sec. 4; G.S. 1935, ch. 25, sec. 419.

event there are voters absent from the county in military service the canvass must be postponed until the third Monday in December.[1]

The county commissioners also constitute a board for the canvass of the vote for township officers, proceeding in the same manner as for National, district, State, and county officers. The county clerk issues the election certificates to the successful candidates.[2]

Contested Elections. The election of any person declared duly elected to any county office may be contested by any elector of the county for malconduct or fraud on the part of any member of any election board or the board of canvassers; when illegal votes have been received or legal votes rejected; and for any error in counting or declaring the result, provided such act would change the result of the election. A contest also may be made when the contestee was not eligible to the office; when he had been convicted of any infamous crime and the judgment had not been reversed or set aside, or a pardon granted prior to the election; or if he gave or offered any bribe for procuring his election. The court for the trial of contested county elections consists of the probate judge and two persons appointed by him, the county clerk acting as clerk unless it is his own election being contested, in which case the probate judge appoints someone else as clerk. The court has all the powers of the district court necessary to try and determine the case and may call witnesses and issue process the same as the district court. The clerk must keep a record of all proceedings. If the court finds that someone other than the contestee has been elected, that person is declared entitled to a certificate of election upon qualifying according to law, and if the contestee already has received a certificate the decision of the court annuls it. If the court finds that no one was duly elected, the election for that office must be set aside. Contested elections of township officers are tried before the board of county commissioners in the same manner those for county officers are tried before the probate judge, so far as practicable.[3]

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1. Terr. L. 1859, ch. 65, secs. 53-57; L. 1861, ch. 28, secs. 27-31; G.S. 1868, ch. 36, secs. 28-32; R.S. 1923, ch. 25, sec. 701; G.S. 1935, ch. 25, secs. 701-705.

2. Terr. L. 1859, ch. 65, secs. 53-56; L. 1861, ch. 32, secs. 4, 5, 7; L. 1864, ch. 58, sec. 1; G.S. 1868, ch. 81, sec. 194, ch. 110, secs. 9-11; L. 1875, ch. 92, sec. 2; L. 1879, ch. 179, sec. 2; L. 1885, ch. 195, sec. 2; R.S. 1923, ch. 25, sec. 1605; G.S. 1935, ch. 25, secs. 1603-1605.

3. Terr. L. 1855, ch. 66, secs. 29-33; Terr. L. 1859, ch. 66, secs. 5-20, 37; L. 1861, ch. 34, secs. 11-32; G.S. 1868, ch. 36, secs. 85-106; G.S. 1935, ch. 25, secs. 1411-1432.

Education

The Common School System. From the beginning of local government the common school district has been the basic unit of education in Kansas. The first Territorial assembly decreed that "there shall be established a common school or schools in each county, open and free to every class of white citizens" between the ages of 5 and 21 years. Older persons could be admitted in the discretion of the trustees. The county commissioners were required to form school districts on petition of the voters in the proposed area and the voters were authorized to elect three trustees and one inspector as district officers. Each board of trustees was designated as a body corporate and required to make an annual report to the Territorial Secretary.[1]

But though public schools thus were established on paper, the cause of education made but little progress in Kansas during the Territorial period. The boarder warfare and dispute over slavery, 1855-57, the financial crisis of 1857, the drought of 1860, and the Civil War beginning in 1861 occupied the minds of the settlers almost to the exclusion of schools. However, a few private or "select" schools were established, the first in Shawnee County being opened in the fall of 1855 at Topeka. In the summer of 1857 the Massachusetts Emigrant Aid Company erected a school building in Topeka at the corner of Fifth and Harrison Streets, and thenceforth schools were maintained with some regularity, but it was not until 1862 that public revenue entirely displaced private contributions to defray school expenses, and it was not until the close of the Civil War that the school system really began to flourish.[2]

The Free-State assembly of 1858 laid the basis of the common school system as it exists today. It decreed that the Governor should immediately appoint a Territorial superintendent of common schools and that a county superintendent should be elected in each county for a 1-year term, whose duty it should be to divide the county into school districts and regulate and alter them according to law; to receive and apportion the school moneys; to see that the annual reports of the district clerks were made correctly and on time; to establish new districts upon petition of the voters; to visit and inspect the schools periodically, and to make an annual report to the Territorial superintendent. Each school district was designated as a body corporate and authorized to elect as officers a director, a treasurer, and a clerk, the latter to report annually to the county superintendent concerning the affairs of his district.[3]

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1. Terr. L. 1855, ch. 144, art. 1, secs. 1-4.
2. Giles, op. cit., pp. 161, 162.
3. Terr. L. 1858, ch. 8, secs. 1, 13-18, 30, 31, 37, 45, 60.

Up to this time there is no record that any public school district had been actually organized in the Territory. By the end of 1859 there were 222 organized districts, in 136 of which school was being taught. Fourteen districts were reported organized in Shawnee County in this year,[1] but it is evident that school was taught in but few of them. In 1861 only three Shawnee County districts reported to the Territorial Superintendent, in two of which school was being taught. The school census was 90 and the pupils in attendance 32. There were two "select" schools, the Topeka high school and Mrs. Maybee's select school, the latter with an enrollment of 69 students; and also the Topeka Female Seminary with an attendance of 37 pupils.[2]

The State Constitution, effective January 29, 1861, provides that "the legislature shall encourage the promotion of intellectual, moral, scientific, and agricultural improvement by establishing a uniform system of common schools and schools of a higher grade embracing normal, preparatory, collegiate, and university departments." It also decreed that "the State Superintendent of Public Instruction shall have general supervision of the common school funds and educational interests of the State and perform such other duties as may be prescribed by law. A superintendent of public instruction shall be elected in each county."[3]

During the first half decade of statehood, however, the educational interests continued to struggle against the diversion of official interest occasioned by the Civil War and the troublous times in general. By the end of 1863 there were 705 organized school districts and the State with 16,603 pupils enrolled. There were 564 teachers employed who received $24,845 in wages, and the value of school houses was estimated at $32,970. In Shawnee County 21 organized districts reported with an enrollment of 593 students and 20 teachers.[4] In 1870 when there were 57 organized districts in Shawnee County with an enrollment of 3,000 pupils; the sum of $34,000 in district taxes was collected and bonds in the amount of $100,000 were issued for construction of new schoolhouses.[5] In 1900 there were 8,988 organized school districts in the State with an enrollment of 381,800; in Shawnee County, 103 districts with 11,674 pupils.[6] In 1920 the State had

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1. Annual Report of the Territorial Superintendent of Common Schools, 1859, pp. 4, 20.
2. Ibid., 1861, p. 11.
3. Const., art. 6, secs. 1, 2.
4. Report of the State Superintendent of Public Instruction, 1863, table No. 1, p. 6.
5. Tenth Annual Report of the State Superintendent of Public Instruction, 1870, pp. 43, 44, 104.
6. Twelfth Biennial Report of the State Superintendent of Public Instruction, 1899-1900, pp. 93, 95.

8,775 districts, 406,880 enrollment; Shawnee County, 98 districts, 12,677 enrollment.[1] In the year ending June 30, 1937 there were 8,662 school districts of all types in the State, of which 103 were in Shawnee County. The total State enrollment, exclusive of kindergarten and junior colleges, was 395,481, and that of Shawnee County 16,674. Of the 16,674 pupils enrolled in Shawnee County, 12,255 were in the Topeka city schools.[2]

Since 1861 there has been little fundamental change in the laws regulating the government of school districts. A district is deemed duly organized whenever the district officers have been elected, qualified, and signified their acceptance in writing. Each district is a body corporate.[3] School districts may be formed from Territory lying partly in two or more counties if the respective county superintendents deem it advisable and are properly petitioned by the voters. Persons feeling themselves aggrieved in the formation or alteration of a district by the county superintendent or by his refusal to form or alter a district, may appeal to the county commissioners, whose action is final.[4] Any single district may establish a graded school, or two or more districts may unite to establish a union graded school, for which a board of directors must be elected and which may levy taxes for necessary expenses the same as a single district.[5]

Numerous changes in the dates of the annual school district meetings have been made from time to time by the legislature in an attempt to fix a time when the largest number of residents could attend. The first State legislature fixed the last Saturday in September as the meeting day; at present it is the last Friday in May.[6] All persons who have resided in the district for 30 days prior to the meeting and who are otherwise qualified electors of the State may vote at the

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1. Twenty-second Biennial Report of State Superintendent of Public Instruction, 1919-20, p. 243.
2. Thirty-first Biennial Report State Superintendent of Public Instruction, 1937-38, pp. 55, 69, 83, 97, 112, 134, 153, 165, 177, 192.
3. L. 1861, ch. 76, art. 3, secs. 4, 6; G.S. 1868, ch. 92, secs. 22, 24; L. 1876, ch. 122, art. 3, secs. 1, 2; R.S. 1923, ch. 72, sec. 302; G.S. 1935, ch. 72, secs. 301, 302.
4. L. 1861, ch. 76, art. 5, secs. 2, 3; L. 1868, ch. 92, secs. 51, 52; L. 1869, ch. 86, sec. 9; L. 1872, ch. 185, sec. 2; L. 1874, ch. 122, sec. 7; L. 1876, ch. 122, art. 3, secs. 3, 5; L. 1879, ch. 158, sec. 1; L. 1915, ch. 303, sec. 1; G.S. 1935, ch. 72, secs. 303, 309.
5. L. 1861, ch. 76, art. 7, secs. 1, 2, 4, 9; G.S. 1868, ch. 92, secs. 63, 64, 66, 71; L. 1876, ch. 122, art. 7, secs. 1, 2, 4, 9; L. 1907, ch. 331, sec. 1; L. 1913, ch. 280, sec. 1; G.S. 1935, ch. 72, secs. 310-312, 316.
6. L. 1861, ch. 76, art. 3, sec. 7; G.S. 1868, ch. 92, p. 935, sec. 5; G.S. 1935, ch. 72, sec. 401.

annual meeting. The meeting has power to select the district officers; select, purchase, or dispose of a schoolhouse site; and to vote a sum not exceeding that allowed by law for general school purposes including the erection, equipment, and maintenance of a school building; the payment of teachers' wages; and the payment of any floating indebtedness. The meeting also may fix the length of the school term, but not at less than 7 months.[1]

The powers and duties of the county superintendent remain practically the same as fixed by the assembly of 1858, with some amplifications and additions.[2] The office had been in existence for more than 40 years before any statutory qualifications were required. It was not until 1899 that a law was enacted specifying that to be eligible to the office a candidate must hold a first or second grade certificate, or a State certificate, or be a graduate of an accredited college or normal school, and must have taught at least 18 months. The legislature of 1907 deleted reference to a second grade certificate.[3]

School in cities of the first and second classes are governed by their own boards of education, which are designated as bodies corporate and have power to appoint a superintendent of schools.[4]

When any two or more adjoining districts have less than five pupils each the county superintendent may combine the districts and provide for a school term divided among them, as he shall deem most convenient,

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1. L. 1861, ch. 76, art. 3, secs. 1, 2, 9; L. 1863, ch. 56, sec. 5; L. 1867, ch. 123, sec. 1; G.S. 1868, ch. 92, secs. 19, 20, 27; L. 1874, ch. 120, sec. 1; L. 1876, ch. 122, art. 3, secs. 9, 11, 12; L. 1885, ch. 181, sec. 1; L. 1889, ch. 223, sec. 1; L. 1903, ch. 436, sec. 1; L. 1905, ch. 381, sec. 1; L. 1907, ch. 318, sec. 1; L. 1909, ch. 214, sec. 1; R.S. 1923, ch. 72, secs. 404, 406, 407; G.S. 1935, ch. 72, secs. 404, 406, 407.

2. Terr. L. 1858, ch. 8, secs. 13-31; L. 1861, ch. 76, art. 2, sec. 4; G.S. 1868, ch. 92, sec. 12; L. 1869, ch. 86, sec. 3; L. 1875, ch. 95, sec. 3; L. 1876, ch. 122, art. 2, sec. 3; L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.

3. L. 1899, ch. 245, sec. 1; L. 1903, ch. 202, sec. 1; L. 1907, ch. 167, sec. 1; G.S. 1935, ch. 72, sec. 202.

4. L. 1862, ch. 46, art. 4, sec. 2; L. 1864, ch. 67, sec. 2; L. 1867, ch. 69, sec. 5; G.S. 1868, ch. 18, sec. 73; L. 1872, ch. 100, secs. 103, 113; L. 1876, ch. 122, art. 10, secs. 2, 5; art. 11, sec. 16; L. 1881, ch. 149, sec. 1; L. 1885, ch. 100, sec. 1; L. 1899, ch. 178, sec. 2; L. 1911, ch. 267, sec. 1; ch. 269, sec. 4; L. 1917, ch. 271, sec. 1; R.S. 1923, ch. 72, sec. 1601; L. 1925, ch. 227, sec. 1; G.S. 1935, ch. 72, secs. 1601, 1608.

and to each of which all the pupils must be admitted. The expense is prorated among the districts on the basis of the number of pupils in each.[1] Two or more school districts may consolidate on majority vote of the electors residing in each.[2] A school district lying adjacent to a consolidated or union district may consolidate therewith upon majority vote of the electors if a petition signed by 51 percent of such electors has been favorably acted upon by the board of directors of the consolidated or union district. In such case the indebtedness and property of the districts are merged.[3] The legislature of 1935 authorized any two or more districts to cooperate in the maintenance of schools for the instruction of their respective pupils and made it the county superintendent's duty to publish annually in the official county paper the possibilities for such cooperation among districts.[4] Cities of the first class with less than 120,000 inhabitants may attach for school purposes, territory lying without the city but adjacent thereto, upon application of a majority of the electors in such territory to the city board of education. Property in the territory so attached must bear its proportion of the cost of the city schools and the electors of the attached territory may vote on matters affecting the city schools.[5] A similar provision regarding second class cities has existed since 1872.[6]

The first State legislature required the teaching of orthography, reading, writing, English grammar, geography, and arithmetic in the public schools, and "such other branches of education as may be determined by the district board." Subsequent legislatures added the history of the United States and the State of Kansas to the curriculum and empowered the State Board of Education to prescribe other courses.[7] The legislature of 1919 required that all elementary schools in the State, whether public, private, or parochial, shall use the English

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1. L. 1899, ch. 177, sec. 11; L. 1901, ch. 307, sec. 11; G.S. 1935, ch. 72, sec. 901.
2. L. 1901, ch. 305, sec. 1; L. 1911, ch. 275, sec. 1; G.S. 1935, ch. 72, sec. 903.
3. L. 1921, ch. 230, secs. 1-5; G.S. 1935, ch. 72, secs. 906-910.
4. L. 1935, ch. 255, secs. 1-7; G.S. 1935, ch. 72, secs. 916-922.
5. L. 1908, ch. 31, sec. 1; L. 1911, ch. 93, sec. 1; L. 1921, ch. 231, sec. 1; L. 1925, ch. 228, sec. 1; G.S. 1935, ch. 72, sec. 1725.
6. L. 1872, ch. 100, sec. 99; L. 1876, ch. 122, art. 11, sec. 3; L. 1891, ch. 183, sec. 1; L. 1903, ch. 234, sec. 1; R.S. 1923, ch. 72, sec. 1803; L. 1925, ch. 222, sec. 1; L. 1927, ch. 261, sec. 1; G.S. 1935, ch. 72, sec. 1803a.
7. L. 1861, ch. 76, art. 4, sec. 7; L. 1867, ch. 124, sec. 1; G.S. 1868, ch. 92, sec. 48; L. 1874, ch. 122, sec. 5; L. 1876, ch. 122, art. 5, sec. 1; L. 1877, ch. 170, sec. 1; L. 1903, ch. 435, sec. 1; R.S. 1923, ch. 72, sec. 1101; G.S. 1935, ch. 72, sec. 1101.

language exclusively as the medium of instruction and shall give complete courses to all students in civil government and United States history, and in patriotism and citizenship. All high schools must also give a course of instruction concerning the government and institutions of the United States, particularly of the Constitution, and no student may be graduated who has not taken and satisfactorily passed such course.[1]

Any school district may establish a free kindergarten for the instruction of children 4 to 6 years of age, the cost to be paid from the district funds and the kindergarten to be governed in the same manner and by the same officers, so far as practicable, as the other schools.[2] Since 1921 similar schools may be established by city boards of education when petitioned by the parents of 25 or more children 5 and 6 years of age residing within a territory served by an elementary school of the city.[3]

Secondary Education. During the Territorial period and the first decade of statehood most students receiving secondary education obtained it from private or "select" schools and the early colleges and universities, of which 30 were incorporated from 1855 to 1860. The State educational institutions also maintained preparatory departments until a late date. The first public high school in the State was that organized in 1866 by the city of Leavenworth.[4]

In 1864 the legislature empowered cities to establish high schools, and after cities were divided into classes, beginning in 1867, this power continued to be vested in cities of the first and second classes. Numerous acts attempting to empower them to collect tuition fees from both resident and non-resident students ended in 1904 in a Supreme Court decision that under the terms of the State Constitution tuition in cities must be free to resident pupils.[5] From the enactment of 1861 authorizing "any single district" to establish graded schools,[6] cities

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1. L. 1919, ch. 257, secs. 1, 2; L. 1925, ch. 224, sec. 1; G.S. 1935, ch. 72, secs. 1102, 1103.
2. L. 1907, ch. 325, sec. 1; G.S. 1935, ch. 72, sec. 1201.
3. L. 1921, ch. 102, sec. 1; L. 1927, ch. 262, sec. 1; L. 1929, ch. 232, sec. 1; G.S. 1935, ch. 72, sec. 1202.
4. Historical Collections, XI, pp. 440, 441.
5. L. 1864, ch. 67, sec. 4; L. 1865, ch. 46, sec. 1; L. 1867, ch. 69, sec. 7; G.S. 1868, ch. 18, sec. 75; ch. 19, sec. 57; L. 1872, ch. 100, sec. 105; L. 1873, ch. 65, sec. 5; L. 1876, ch. 122, art. 11, sec. 9; L. 1879, ch. 81, sec. 1; L. 1889, ch. 224, sec. 1; 70 Kan. 434; L. 1905, ch. 414, sec. 1; G.S. 1935, ch. 72, secs. 1724, 1809.
6. L. 1861, ch. 76, art. 7, sec. 9; G.S. 1868, ch. 92, sec. 71; L. 1876, ch. 122, art. 7, secs. 1, 9; G.S. 1935, ch. 72, sec. 316.

of the third class, being parts of the school districts in which they are located and governed by the laws applying to district schools, derive their power to establish high schools.[1]

The first legislation to enable counties to participate in the administration and support of education beyond that afforded by the district schools was enacted in 1886. Boards of county commissioners in all counties with more than 6,000 inhabitants were authorized to establish, upon majority vote of the electors, free county high schools "for the purpose of affording better educational facilities to pupils more advanced than those attending the district schools and for persons who desire to fit themselves for the vocation of teaching." The county commissioners were required to appoint six persons as a board of trustees, after which two members were elected annually for 3-year terms. The county superintendent, by virtue of his office, was designated as president of the board. The trustees each received $2 per day for time actually employed and appointed two of their number as secretary and treasurer, respectively. This board estimated the amount of money needed for buildings, teachers' wages, and contingent expenses and certified it to the county commissioners, and the necessary tax was levied and collected the same as other taxes. The trustees selected a site at the place determined in the election and had power to lease a building for school purposes until one could be erected. The county commissioners filled vacancies occuring in the board of trustees. Tuition in the county high school was free to all pupils residing in the county. Three courses of study were required: A general course for those who did not propose to continue their studies beyond high school; a normal course for those wishing to enter the first year of professional work at the State Normal School; and a collegiate course to prepare students wishing to enter the freshman class of the State University, State Agricultural College, or other institution of higher learning in the State. Students in the last year of the normal course could be employed a portion of the time in teaching pupils in the first year of any course.[2]

In 1897 the legislature empowered counties of less than 2,500 population to aid in the support of secondary education. Subject to approval of the majority of the electors expressed in an election or by petition, the county commissioners could negotiate with the county seat school district for establishment of a county high school. The commissioners could employ and pay the salaries of such number of teachers as they deemed necessary in addition to those employed by the district. Tuition was free to all pupils residing in the county and the course of study was prescribed by the State Board of Education. A certificate

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1. L. 1872, ch. 103, sec. 1; L. 1876, ch. 122, art. 12; G.S. 1935, ch. 72, secs. 1901, 1902.
2. L. 1886, ch. 147.

from such schools admitted to any institution of higher learning in the State. In 1903 the legislature extended this law to apply to all counties of less than 6,000 inhabitants, and thus authority was granted every county in the State to participate in the support of secondary education.[1]

Between 1893 and 1905 the legislature enacted several special acts establishing high schools in various counties to operate under the laws of 1886. All the county high schools in the State were established under the law of 1886, the law of 1897, or one of these special acts. by 1904 there were 21 counties supporting county or county aid high schools.[2] The legislature of 1903 changed the terms of the members of the county high school boards of trustees to 4 years each, three members to be elected every 2 years.[3]

Counties operating high schools under the amended law of 1897 and not containing a city of the first class were authorized by the legislature of 1907 to issue bonds in a sum not exceeding $20,000, upon majority vote of the electors, for erecting, furnishing, and equipping a county high school building.[4] Beginning in 1909 county high school boards of trustees were required to certify their annual tax levies to the county clerk rather than to the county commissioners.[5]

The first provision for county support of high schools not maintained as county institutions was made in 1905 with enactment of the so-called Barnes Law. It provides that in every county in which one or more school districts or cities with less than 16,000 inhabitants have maintained a high school with courses of instruction admitting to the freshman class of the State University, the county commissioners, if provisions of the law are adopted by a majority of the county electors, shall levy a tax to create a county high school fund, which fund must be prorated among the districts maintaining such high schools on the basis of average daily attendance of resident pupils. Such schools are required to offer at least two courses preparing students for admittance to the freshman class of the college of liberal arts and sciences of the University of Kansas, and a general course for those not intending to continue their studies beyond high school. Tuition is free to resident students. Cities of more than 16,000 inhabitants and counties already maintaining county high schools were exempted from provisions of the act. Methods of apportioning and distributing the Barnes high school fund

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1. L. 1897, ch. 180; L. 1903, ch. 433, sec. 1; G.S. 1935, ch. 72, secs. 2801-2806.
2. Fourteenth Biennial Report of the State Superintendent of Public Instruction, 1903-4, p. 50.
3. L. 1903, ch. 432, sec. 2; G.S. 1935, ch. 72, sec. 2604.
4. L. 1907, ch. 332, secs. 1-3; G.S. 1935, ch. 72, secs. 2807-2810.
5. L. 1909, ch. 211, sec. 2; G.S. 1935, ch. 72, sec. 2607.

were revised by the legislatures of 1917, 1920, and 1925. Current statutes require the county commissioners to levy a tax equal to $1,200 multiplied by the total number of teachers employed in such schools during the preceding year. From this fund each high school receives $1,200, and any funds remaining are divided among the schools on the basis of actual total attendance.[1] The legislature of 1907 authorized the county superintendent, upon failure of the county commissioners to make the required levy under the Barnes Law, to make a suitable levy and certify it to the county clerk to be entered on the tax roll.[2]

An act passed in 1931 applying to counties between 75,000 and 110,000 population, which includes only Shawnee County, provides for a tax levy sufficient to produce $1,500 multiplied by the number of teachers in the high schools complying with provisions of the Barnes Law. The money is apportioned to the participating schools on the basis of the number of teachers in each. The county superintendent must certify to the county commissioners on or before July 25 each year the number of teachers necessary for the several high schools complying with provisions of the act.[3]

In 1911 an act applicable to counties of more than 10,000 population was passed authorizing the electors of any township in which there was no town or city to establish and maintain a high school, upon majority vote.[4] This law, however, was abolished by the legislature of 1915 which at the same time provided for establishment of rural high school districts by the electors residing in territory containing not less than 16 square miles and comprising one or more townships or parts thereof. Upon approval by a majority of the electors the county superintendent must call a special meeting in the district to elect a director, a clerk, and a treasurer whom thereafter serve terms of 3 years. Bonds may be voted for purchase of a site and construction of a school building. The board may levy a tax not exceeding 6 mills on the property in the district to meet current expenses or to purchase a site and erect a school building, and to retire indebtedness.[5] The legislature of 1917 decreed that the provisions of the Barnes Law of 1905 should apply to rural high schools, but that the rural high school board may also levy a tax to supplement the amount it may receive from the county high school fund.[6]

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1. L. 1905, ch. 397, secs. 1-10; L. 1917, ch. 281, secs. 1-5; L. 1920, ch. 52, sec. 10; ch. 54, sec. 1 (Special Session); L. 1925, ch. 235, secs. 1, 2; G.S. 1935, ch. 72, secs. 3001, 3005, 3006.
2. L. 1907, ch. 333, sec. 1; G.S. 1935, ch. 72, sec. 3005.
3. L. 1931, ch. 259, secs. 1-3; G.S. 1935, ch. 72, secs. 3011a-3011c.
4. L. 1911, ch. 262, secs. 1-6.
5. L. 1915, ch. 311; G.S. 1935, ch. 72, secs. 3501-3515; L. 1939, ch. 257, secs. 1, 2.
6. L. 1917, ch. 284, sec. 8; G.S. 1935, ch. 72, sec. 3511.

Shawnee County, under the provisions of the Barnes law, maintains seven rural high schools with enrollments in 1937 as follows: Auburn, 48; Berryton, 106; Dover, 63; Rossville, 104; Seaman, 335; Silver Lake, 121; Washburn, 147; total, 924. There is also a district high school in Highland Park, adjacent to Topeka, with an enrollment of 323. In 1937 the enrollment in Topeka High School was 2,233 in addition to which 1,275 were enrolled in private and parochial schools of the city.[1]

A second general act passed in 1911 authorized county commissioners of counties with less than 10,000 inhabitants to levy, if necessary, an annual tax to aid the high schools of the county whenever a majority of the electors presented to them a petition asking aid for a school district or districts, the money to be expended as the county superintendent deems necessary. Counties having a county high school or operating under the amended Barnes law are exempt from provisions of the act, and in counties with a population of 3,000 or less only the county seat high school may be aided.[2] The legislature of 1915 reduced from 6,000 to 2,000 the mimimum population limit of counties authorized to establish county high schools under the law of 1886,[3] thus vesting this power in all counties in the State with more than 2,000 inhabitants. Counties with less than 8,000 inhabitants or not containing a city of more than 1,000 population were authorized in 1917 to issue bonds, subject to approval of the voters, to purchase sites and erect buildings for high schools maintained under the amended general law of 1886. This authority was extended in 1919 to all counties maintaining county high schools.[4]

The legislature of 1919 provided that in every county having a county high school located at the county seat, the county seat being a second class city and having at least seven other high schools maintaining a university preparatory high school course approved by the State Board of Education, a general county tax for the support of all such high schools should be levied annually and apportioned among them on the basis of average daily attendance. The board of education of the city in which the county high school is located was given its management and required to appropriate to its support an amount equal to or greater than its proportion of the county high school fund.[5]

The legislature of 1921 in effect eliminated the double taxation for high schools by providing that in every county in which there was

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1. Thirty-first Biennial Report State Superintendent of Public Instruction, 1937-38, pp. 194, 237, 238, 241, 244, 251, 252, 255, 257, 268.
2. L. 1911, ch. 263; G.S. 1935, ch. 72, secs. 3101-3112.
3. L. 1915, ch. 316, sec. 1; G.S. 1935, ch. 72, sec. 2601.
4. L. 1917, ch. 282, secs. 1-6; L. 1919, ch. 268, secs. 1, 2; R.S. 1923, ch. 72, secs. 2621, 2622; G.S. 1935, ch. 72, secs. 2618-2623.
5. L. 1919, ch. 276, secs. 1-11; G.S. 1935, ch. 72, secs. 3201-3211.

a county high school and also one or more city or other high school districts maintaining, in addition to the county high school, a high school accredited by the State Board of Education, each such district should receive such proportion of the county high school fund as the taxable property within the district bore to the taxable property in the entire county. The remainder of the county high school fund was ear-marked for support of the county high school. Counties having a high school located in the county seat were exempted from provisions of the act.[1] The same legislature empowered counties of less than 6,000 population operating a county high school under the amended law of 1897 and also operating one to five other high schools to adopt the provisions of the Barnes Law upon majority vote of the electors, excepting those counties which had erected a permanent county high school building costing more than $10,000 as provided in the law of 1913. The property of any high school so dissolved or abandoned reverts to the original high school district.[2] Authority of counties under 6,000 population maintaining county high schools in county seat districts under the law of 1897 was extended in 1921 to make necessary expenditures for such schools in addition to employment of teachers.[3] In the same years counties with not less than 45,000 inhabitants and $60,000,000 property valuation and which were maintaining a county high school at the county seat were authorized to discontinue such school on majority vote of the electors, to dispose of its property and to pay the tuition of county pupils in the city's accredited high schools.[4]

All county high schools in Kansas, regardless of the acts under which they existed, were disorganized in 1923 by a legislative act which created in their stead community high schools, whose territory was designated to include all that not included in the territory of other accredited high schools. The property, money, and indebtedness as well as the powers and duties of the county high schools became those of the community high schools which succeeded them. Instruction is free to pupils residing in the district and the board of trustees may pay the tuition of any resident pupil in some high school situated outside the district, or accept the tuition of non-resident students.[5] There were 25 county high schools in the State at the time this act became effective.[6]

Each community high school succeeding a county high school organized under the law of 1886 is under the supervision of a board of trustees

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1. L. 1921, ch. 247, sec. 1.
2. L. 1921, ch. 246, secs. 1-4; G.S. 1935, ch. 72, secs. 2811-2814.
3. L. 1921, ch. 238, sec. 1; G.S. 1935, ch. 72, sec. 2804.
4. L. 1921, ch. 245, sec. 1; G.S. 1935, ch. 72, sec. 2701.
5. L. 1923, ch. 187, secs. 1, 2, 5; G.S. 1935, ch. 72, secs. 2501, 2502, 2505.
6. Twenty-fourth Biennial Report of the State Superintendent of Public Instruction, 1923-24, p. 120.

consisting of six members elected by the voters of the community high school district for terms of 4 years each. Trustees of community high schools succeeding county high schools not existing under the law of 1886 are chosen in the same manner as were those of the county high schools they succeeded. Not more than two members of the same community high school board may be elected from the same township. Board members are authorized to fill vacancies in their number by appointment, the appointee to hold office until his successor is elected and qualified. By virtue of his office the county superintendent is ex officio chairman of the community high school board with power to cast the deciding vote in case of a tie.[1] In community high school districts comprising an entire county not more than two trustees may be from the same county commissioner district, the electors casting their votes only for candidates from their own districts. There are no political party designations and the two candidates receiving the highest number of votes in each district in the primary election are candidates in the general election, at which time the one receiving the most votes is deemed elected trustee from that district. Thus three trustees are elected every 2 years to serve 4-year terms.[2]

Since 1925 community high school districts have had authority to issue bonds, subject to approval of the electors, for the purpose of purchasing, erecting, equipping, or furnishing any community high school building, in an amount not exceeding 5 percent of the taxable property valuation of the district.[3]

The legislature of 1915 enacted a law providing that in every county in which provision is not otherwise made for free high school tuition for resident students, any student residing in a district not maintaining a high school with a 4-year accredited course shall be admitted to any accredited high school in the county; or if he so desires, shall be admitted to the high school nearest his residence either in his own or an adjoining county, whether it be accredited or not. The county superintendent must certify annually to the county commissioners the number of qualified pupils and the amount necessary to pay their tuition, and the commissioners levy a tax on all taxable property in the county, excluding that of any city or district maintaining a 4-year accredited high school or 4-year rural high school, sufficient to raise the necessary sum.[4]

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1. L. 1923, ch. 187, secs. 1-5; L. 1925, ch. 231, sec. 1; L. 1929, ch. 235, sec. 1; L. 1931, ch. 257, sec. 1; L. 1933, ch. 258, sec. 1; G.S. 1935, ch. 72, secs. 2501-2503.
2. L. 1935, ch. 258, sec. 1; G.S. 1935, ch. 72, sec. 2503b.
3. L. 1925, ch. 233, sec. 1; G.S. 1935, ch. 72, sec. 2507.
4. L. 1915, ch. 314, secs. 1, 3; L. 1921, ch. 242, sec. 1; L. 1923, ch. 192, sec. 1; L. 1925, ch. 238, sec. 1; ch. 239, sec. 1; L. 1929, ch. 238, sec. 1; L. 1933, ch. 102, sec. 1 (Special Session); G.S. 1935, ch. 72, secs. 3801, 3802; L. 1938, ch. 63, sec. 1 (Special Session).

Thus all counties in the State with the exception of Sumner and Stevens, which are governed by special laws, are operating under one of three statutes --- the Barnes Law of 1905, the community high school law of 1923, or the tuition law of 1915 and the amendments and acts supplemental thereto. In the year ending June 1, 1937 there were 40 counties operating under the Barnes Law, 40 under the tuition law, and 23 under the community high school law.[1] The increase in high school enrollment in Kansas during the last 30 years has been without parallel. In 1900 there were 11,508 pupils enrolled in 132 public high schools. In 1910 there were 29,492 pupils attending 470 high schools. By 1920 there had been 663 high schools established and the enrollment was 64,327. In 1938 there were 101,172 pupils enrolled in 675 approved and accredited public high schools and 6,608 in 52 approved and accredited private high schools. There also were 101 junior high schools in the State in 1938.[2]

Teacher Training Standards. The first Territorial assembly provided for election in each school district of an inspector, in addition to other district officers. It was the inspector's duty to "examine all applicants proposing to teach a common school in the county, who shall produce satisfactory evidence that they sustain a good moral character." Over the issuance and revocation of certificates the inspector had unlimited power, and teachers holding a certificate from any inspector could teach in any school in the county.[3] When the office of county superintendent was created in 1858 that of district inspector was abolished. The new law required the county superintendent to examine prospective teachers and to issue and revoke certificates.[4] The first State legislature merely repeated the 1858 statute, making no requirements as to standards, nor time of holding the examination.[5] The law of 1864 specified that the county superintendent should designate the time and place in the spring and autumn of each year for a general examination of teachers, those failing to present themselves at that time being privileged to take a private examination later on payment of a $1 fee.[6] However, private examinations were abolished in 1867 and the time for holding the public examination fixed as the first Saturday in January and every 3 months thereafter, and at such other times as might be necessary to fill vacancies.[7]

In 1869 a board of county examiners was created, consisting of "the county superintendent and two competent persons to be appointed by

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1. Thirty-first Biennial Report of the State Superintendent of Public Instruction, 1937-38, p. 257.
2. Ibid., p. 17.
3. Terr. L. 1855, ch. 144, art. 1.
4. Terr. L. 1858, ch. 8, secs. 26-29.
5. L. 1861, ch. 76, art. 2, sec. 6.
6. L. 1864, ch. 100, sec. 3.
7. L. 1867, ch. 123, sec. 5.

the board of county commissioners." It was required that this board, after giving 10 days notice of the time and place, should publicly examine candidates proposing to teach in the county, incorporated towns and cities excepted, as to their ability to teach in the common schools. If satisfied of the ability and character of the applicant the board was required to issue a certificate. The county superintendent was required to keep a record of the certificate and character of the applicant. The certificate was good only in the county where the examination was held and could be revoked by the board "for immorality or any other cause which would have justified the withholding thereof when the same was granted."[1] The legislature of 1876 provided for three grades of certificates to be issued by the county board, valid only in the county where issued. They were: Grade A, to persons found qualified to teach orthography, reading, writing, English grammar, geography, arithmetic, United States history, bookkeeping, industrial drawing, entomology, botany, and geology; and first grade and second grade, to persons qualified to teach orthography, reading, writing, English Grammar, geography, arithmetic, and United States history.[2]

The laws of 1881 made the county superintendent ex officio chairman of the board of county examiners.[3]

The county superintendent was authorized by the laws of 1885 to endorse unexpired first grade certificates issued in other counties, which made them valid in the county where endorsed for their unexpired term. He also was authorized to grant, in case of necessity and upon request of the district board, a temporary certificate good only in a designated district until the next regular examination. Proficiency in the teaching of physiology, hygiene, and natural philosophy were added to the requirements for first grade certificates. Certificates now were rated as first, second, and third grade, respectively.[4] A step toward uniformity in the examinations was taken by the same legislature in providing that the State Board of Education should prepare the examination questions and forward them to the various county superintendents.[5]

This system continued with little change until 1937 when absolute control was vested in the State by the legislature, which repealed all existing laws and provided that after July 1 that year the State Board of Education should have exclusive control to issue teachers', supervisors', and administrative officers' certificates valid in the State. No certificate may be issued or examination taken unless the applicant

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1. L. 1869, ch. 86, sec. 4.
2. L. 1876, ch. 122, art. 6, sec. 6.
3. L. 1881, ch. 151, sec. 1.
4. L. 1885, ch. 175, secs. 4, 6, 7.
5. L. 1885, ch. 180, secs. 1, 2.

is certified by the State Board to have completed a regular 4-year high school course and an accredited normal training course. The State Board provides for the holding of examinations annually in each county. They are conducted by an examining committee of three members, of whom the county superintendent is one, but the other two are appointed by the State Board rather than by the county commissioners, and the State Board issues the certificates.[1]

Teachers' institutes have been held since early statehood. The first institutes were private affairs. The first on record was held at Emporia in 1863, and was followed by meetings in several other towns in the same year.[2] The legislature of 1864 required that the State Superintendent and the county superintendents should organize and hold an institute annually in each senatorial district, provided, "that board shall be furnished free of charge to all teachers and members of the institute during its session, by the citizens of the place where the institute is held."[3] The legislature of 1869 cut the number of institutes in half by providing that they should be held in each judicial district rather than each senatorial district, and required the county superintendents in the district to attend and take such parts on the program as might be assigned to them. In addition to the district institutes the superintendent of each county maintaining 15 schools during the year was required to hold an institute of from 2 to 5 days. Two or more counties could unite in holding such institutes.[4] These institutes were short-term affairs but the value of this method of fitting teachers for their work received increasing recognition and the legislature of 1877 provided that they should be held for "a term of not less than 4 weeks."[5] The legislature of 1915 changed it to the present term of "not less than 5 days nor more than 20 days." The county superintendent, with the advise and consent of the State Superintendent, selects the conductor and instructors. Exponses are defrayed by fees charged for examinations and for registrations or renewals of certificates, in addition to which the county commissioners may appropriate not exceeding $100 per year. When registration at an institute amounts to 25 persons the State aids in the sum of $50. The county treasurer is custodian of the institute fund, which can be disbursed only upon orders of the county superintendent.[6]

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1. L. 1937, ch. 296, secs. 2, 3, 7, 11.
2. Report of the State Superintendent of Public Instruction, 1863, p. 26.
3. L. 1864, ch. 101, sec. 2.
4. L. 1869, ch. 86, secs. 19-22.
5. L. 1877, ch. 136, secs. 1-7; L. 1901, ch. 267, secs. 1, 2; L. 1911, ch. 270, sec. 1.
6. L. 1877, ch. 136, secs. 1-7; L. 1901, ch. 267, secs. 1, 2; L. 1911, ch. 270, sec. 1; L. 1915, ch. 304, secs. 1, 2; G.S. 1935, ch. 72, secs. 1401-1408; L. 1939, ch. 253, secs. 1, 2.

Transportation of Pupils. When the number of children in a school district is not sufficient to warrant maintenance of a school, the district board, with the approval of the county superintendent, may make provision for sending the children to the school of some other district. In such case the board is required to pay their tuition and furnish transportation in "a safe, comfortable, and enclosed conveyance or conveyances, properly heated . . ." for those living 2 miles or more from the school they are to attend; or in lieu thereof, the board may pay the parents or guardians a sum not in excess of what the transportation cost would amount to. Or if there are children living in a district for whom it would be more convenient to attend the school of another district, by reason of distance from their homes, the annual school meeting may make such order and pay their tuition, not exceeding $4 per month.[1] In any district where pupils live 2 miles or more from the schoolhouse the district board may arrange for their transportation, or allow to their parents or guardians compensation in a sum not exceeding 25 cents per day. The district board is authorized to make such regulations as may be necessary for carrying out the provisions of the law.[2] The district boards of consolidated school districts are required to furnish such transportation for pupils living 2 miles or more from the schoolhouse.[3]

School Funds. The Organic Act for the Territory provided that "when the lands in the said Territory shall be surveyed under the direction of the Government of the United States preparatory to bringing the same into market, sections numbered 16 and 36 in each township of said Territory shall be and the same are hereby reserved for the purpose of being appropriated to schools . . ."[4] The State Constitution made the same provision, including Indian reservations and trust lands; and specified that in case either of the sections or any part thereof had been disposed of, other lands as nearly contiguous thereto as possible should be substituted.[5] The Act of Admission made the same provision, and also proposed that 5 percent of all sales of all public lands lying within the State which should be sold by Congress after admission of Kansas to the Union, less expenses incident to the sale, should be

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1. L. 1895, ch. 217, secs. 1, 2; L. 1901, ch. 306, secs. 1, 2; L. 1905, ch. 386, secs. 1, 2; L. 1907, ch. 321, sec. 1; L. 1917, ch. 277, sec. 2; L. 1933, ch. 253, sec. 1; G.S. 1935, ch. 72, secs. 701, 702.

2. L. 1899, ch. 177, sec. 12; L. 1901, ch. 307, sec. 12; L. 1907, ch. 327, sec. 1; L. 1911, ch. 273, sec. 1; L. 1917, ch. 277, sec. 1; L. 1933, ch. 252, sec. 1; G.S. 1935, ch. 72, sec. 601.

3. L. 1901, ch. 305, sec. 2; L. 1911, ch. 275, sec. 3; L. 1917, ch. 276, sec. 1; G.S. 1935, ch. 72, sec. 602.

4. 10 Stat. 289.

5. Const., ordinance, sec. 1.

paid to the State for such purposes as the legislature might direct.[1] To these propositions the State legislature assented on January 20, 1862.[2]

The Constitution provided for a permanent school fund to compose the following: The proceeds of all lands granted by the United States to the State for the support of public schools; the share Kansas should receive of the proceeds of the 500,000 acres of land granted by Congress to the new States by the act of 1841; the 5 percent granted by Congress on the sale of lands within this State; and the estates of all persons dying without will or heir. This fund, the Constitution decreed, "shall not be diminished, but the interest . . . . together with all the rents of the lands and such other means as the legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools." The State Superintendent of Public Instruction, the Secretary of State, and the Attorney General were designated as a board of commissioners for the management and investment of the permanent school fund, the income from which must be disbursed annually on order of the State Superintendent to the various county treasurers, and by them to the treasurers of the various school districts as apportioned by the county superintendents on the basis of school population. It was provided that the school lands should not be sold unless such sale was authorized by the people at a general election but that, subject to revaluation every 5 years, they could be leased for not more than 25 years at a rate established by law.[3]

The legislature of 1861 passed an act empowering the Governor to select the lands granted in lieu of the sections numbered 16 and 36 which had already been disposed of.[4] In 1864 the legislature provided for submitting to a vote of the people at the next general election the proposition of selling the school lands; provided for their appraisal by committees and established a minimum price of $3 per acre; specified that purchasers could pay one-tenth down and the remainder in ten equal installments at 10 percent interest; and required that the proceeds be invested in interest-bearing securities of the State or the United States at current market prices. The proposition carried at the election that fall and the land was immediately placed upon the market.[5] It was provided that upon petition of 20 householders in any township where such lands were located, the county superintendent, with the approval of the county commissioners, should appoint appraisers whose report was filed with the county clerk, who kept the record of all sales

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1. 12 Stat. 127.
2. L. 1862, ch. 6.
3. Const., art. 6.
4. L. 1861, ch. 40.
5. L. 1864, ch. 102; Fourth Annual Report of the Superintendent of Public Instruction, 1864, p. 27.

and the amount of principal and interest paid and unpaid. Purchasers made their payments to the county treasurer. Persons who had settled upon and improved school lands were given first choice when the lands were brought into market, by filing a petition with the probate judge and proving their claim. The county clerk was required to transmit semi-annually to the State Auditor an abstract of the lands upon which he had issued certificates, and the county treasurer remitted the sums collected by him on sales to the State Treasurer. The Governor issued the patent to the purchaser when all money due had been paid.[1]

All lands belonging to the State for school purposes have long since been sold and patents issued for them. However, foreclosure suits have been started from time to time on some lands which were delinquent in principal and interest. State auditor's reports show that since 1865 patents have been issued on 2,867,849 acres of land for an average price of approximately $3.16 per acre, making an aggregate of $9,058,547 received in principal. On June 30, 1938 there remained 200 uncompleted land sales involving 31,872 acres on which $87,008 in principal was due the State.[2]

The first State legislature levied a tax of 1 mill on the dollar valuation of all taxable property in the State for school purposes, and provided that the annual school fund should consist of the annual income derived from the interest and rents of the permanent school fund and the revenue derived from the 1 mill State tax. However, the State tax was abolished by the legislature of 1879.[3] The Constitution provided that in addition to the annual school fund for distribution that there should be paid to the county treasurer for the use of the common schools in the counties where collected "all moneys which shall be paid by persons as an equivalent for exemption from military duty; the clear proceeds of estrays, ownership of which shall vest in the taker-up; and the proceeds of fines for any breach of the penal laws."[4] The State Treasurer is required to report semiannually to the State Superintendent the amount of money in the permanent school fund subject to investment and the amount in the annual school fund subject to distribution. On order of the State Superintendent he must pay over to each county treasurer, on application, the amount due the county. The county

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1. L. 1864, ch. 102; L. 1866, ch. 112; G.S. 1868, ch. 94; L. 1871, ch. 139, secs. 1, 2; L. 1876, ch. 122, art. 14; ch. 126, secs. 1, 2; ch. 127, secs. 1, 2; L. 1879, ch. 162, sec. 1; L. 1883, ch. 140, sec. 1; L. 1903, ch. 477, sec. 1; L. 1923, ch. 195, sec. 1; G.S. 1935, ch. 72, secs. 2101-2126.

2. Thirty-first Biennial Report of the Auditor of State and Register Land Office, 1938, pp. 195, 198, 199.

3. L. 1861, ch. 76, art. 8, sec. 5; G.S. 1868, ch. 92, sec. 76; L. 1876, ch. 122, art. 16, sec. 1; L. 1879, ch. 149, sec. 4; G.S. 1935, ch. 72, sec. 2301.

4. Const., art. 6, sec. 6.

treasurer pays to the school districts, on application of the district treasurers, the amount of the State and county school funds due each district as apportioned by the county superintendent.[1]

Since 1911 there had been a law providing for State aid to school districts with funds insufficient to maintain an 8-months term.[2] The legislature of 1937, in enacting the retail sales tax law, provided that $2,500,000 of the sales tax revenue should be set aside annually to the credit of the State school aid fund.[3] The State school aid fund was created by the same body, which specified that no ad valorem tax should be levied to maintain it, and provided for its distribution. Each one-teacher school district in the State with 12 or more pupils in average daily attendance is guaranteed $675 on a 3-mill district tax levy. If the average daily attendance is less than 12, the amount received from the State aid fund is proportionately less. Districts with 2 or more teachers are guaranteed $675 on a 3-mill levy for 25 or fewer elementary school pupils in average daily attendance, and $27 per pupil for all in excess of 25. This fund is apportioned and distributed in the same manner as the annual school fund.[4]

The permanent school fund in 1938 amounted to $10,822,502. For the school year ending June 30, 1937 the distribution of the annual school fund amounted to $458,728, of which Shawnee County received $21,637, and that of the State aid school fund was $2,113,993, of which Shawnee County received $21,264. Local tax levies for school purposes in Kansas in 1938 totaled $28,723,576. In Shawnee County the levies for all school purposes totaled $1,610,357, of which $111,519 was for the Barnes high school fund.[5]

Vocational Education. The first State provision for industrial and vocational training in the public schools was made in 1903, when the legislature enacted a law authorizing rural school districts and city boards of education to levy an additional tax of 1 mill for the purpose of providing a separate school, or a separate department in an existing school, and to hire teachers and purchase equipment for this purpose. Upon certification by the school district clerk to the State

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1. L. 1861, ch. 76, art. 2, sec. 3; art. 8, secs. 3, 7, 8; L. 1866, ch. 110, sec. 1; G.S. 1868, ch. 92, secs. 11, 74, 78, 79; p. 934, sec. 1; L. 1869, ch. 86, sec. 10; L. 1876, ch. 122, art. 2, sec. 2; art. 16, secs. 3, 4, 7; L. 1881, ch. 152, sec. 3; G.S. 1935, ch. 72, secs. 206, 2303, 2304, 2307.
2. L. 1911, ch. 268, sec. 2; L. 1923, ch. 181, sec. 2; G.S. 1935, ch. 72, sec. 5002.
3. L. 1937, ch. 374, sec. 21.
4. L. 1937, ch. 306, secs. 1-5; L. 1939, ch. 260, secs. 1, 2.
5. Thirty-first Biennial Report of State Superintendent of Public Instruction, 1937-38, pp. 298, 301-303, 305.

Superintendent that such school had been maintained for at least 6 months in the preceding year, the State allowed the district a sum equal to that contributed by the district for that purpose, but not exceeding $250, nor could the total of State aid exceed $10,000 per year. The State Board of Education was authorized to grant special certificates to persons qualified to teach industrial arts.[1]

In 1917 the Congress approved the so-called Smith-Hughes act, which provided for cooperation with the State in the promotion of education in agriculture and the trades and industries, and making an appropriation to aid the States financially.[2] The Kansas legislature assented to the provision of this act in the same year and designated the State Board of Education to administer it. The State board, which now also became the State Board for Vocational Education, was authorized to cooperate with local communities in establishing and maintaining public vocational schools and classes and to provide for the preparation of teachers. The State board was authorized to inspect, as a basis for approval, any public schools or classes providing training in agriculture, household arts, and industrial arts as well as various commerical subjects. It also was required to apportion all moneys for this purpose appropriated by the legislature and moneys allotted to the State by the Federal Government.[3] The law authorizing school districts and boards of education to levy a tax for industrial training purposes was repealed by the legislature of 1933.[4]

Many Kansas high schools offered a course in agriculture under the law of 1903 but because the studies were confined to a text book and a few laboratory demonstrations farmers generally did not become enthusiastic, and the course was discontinued in many schools. But with Federal aid available in 1917 a higher standard in vocational education was set. It was required that teachers be graduates of a 4-year agricultural course in a standard agricultural college, that they must have had practical farm experience and specific training fitting them for the job. The course included, beside teaching in a 3-hour period, the equivalent of 6 hours per week in the farm shop developing proficiency in farm carpentry, blacksmithing, sheet metal work; rope, belt, and cement work, and repair of farm machinery, gas engines, and automobiles. In 1917 the State board approved 6 schools with a total enrollment of 180 pupils.[5]

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1. L. 1903, ch. 20, secs. 1-6; G.S. 1935, ch. 72, secs. 4204, 4205.
2. 39 Stat. 929.
3. L. 1917, ch. 280, secs. 1-7; G.S. 1935, ch. 72, secs. 4301-4307.
4. L. 1933, ch. 309, sec. 27.
5. Lester B. Pollom, "Vocational Agriculture in Kansas." in Twenty-ninth Biennial Report on the Kansas State Board of Agriculture, Topeka, 1935, XXXIV, pp. 37-40.

Steps to provide for the vocational rehabilitation of physically disabled persons were taken by the legislature of 1937. A division for this purpose, and the placement in remunerative employment of persons whose capacity to earn a living has been destroyed or impaired, was created under the supervision and control of the State Board for Vocational Education. By the terms of the act the State accepts the provisions of the act of Congress approved June 2, 1920 and its amendments to provide for promotion of vocational rehabilitation. The State Board is required to cooperate with the Federal officials in carrying out the provisions of the National act, and to cooperate with the State Commission of Labor and Industry and the State Free Employment Bureau in the formulation of plans which become effective upon approval by the Governor. The State Board is authorized to disburse all Federal funds received for this purpose as well as those made available from public and private sources, to appoint and fix the compensation of the personnel necessary to administer the act, and to make such rules and regulations as may be necessary for the purpose. To be eligible for rehabilitation a person must be vocationally handicaped and must be susceptible to rehabilitation.[1]

On October 1, 1938 enrollment in day schools in agricultural courses was 5,198, which was 78 percent of the farm boys in 149 schools. Half time departments are located in those schools where the total number taking the course does not justify employment of a full time teacher. In addition to agricultural courses there were in 1938 a total of 7,460 persons enrolled in trade and industrial service classes. Home economics courses were offered in 280 high schools. There also were 881 persons enrolled in evening classes in distributive occupations. For the fiscal year ending June 30, 1939 the State appropriated $90,000 for vocational education and received $362,281 from the Federal Government, making a total of $452,281, of which $337,080 was expended.[2]

Night Schools. The legislature of 1913 empowered school districts and cities to establish and maintain night schools for the instruction of persons 14 years of age and over, the cost to be borne by the district or city from the regular school fund. Establishment of such schools becomes mandatory upon petition of the parents or guardians of ten persons eligible to attend. Sessions must be held at least three nights a week for a term of not less than 5 months, and during the terms of the day schools.[3]

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1. L. 1937, ch. 305, secs. 1-7.
2. Annual Descriptive Report of the State Board for Vocational Education, 1939, sec. 1, p. 1; sec. II, p. 63; sec. III, p. 27; sec. IV, p. 1.
3. L. 1913, ch. 267, secs. 1-4; L. 1919, ch. 271, sec. 1; G.S. 1935, ch. 72, secs. 4501-4504.

The county commissioners of any county may establish and maintain a county free public library, subject to approval of a majority of the voters outside cities and townships already maintaining free public libraries of their own. No tax may be levied upon property in such cities and townships for the county library except with the consent of a majority of the property owners therein. The commissioners appoint a county library board of three members, which is empowered to purchase or lease a site and to erect, lease, or occupy appropriate buildings for the use of the library.[1]

Public Health

The first general statutes of Kansas, adopted in 1868, empowered cities to make regulations to secure the general health of their inhabitants and prevent introduction of contagious diseases, and to enact and enforce quarantine laws,[2] but no action to give counties similar powers was taken until 1885, when the legislature created the Kansas State Board of Health and designated boards of county commissioners as county boards of health for their respective counties. The State Board consists of ten members appointed by the Governor with the approval of the senate, nine of whom must be physicians "distinguished for their devotion to the study of medicine and allied sciences." The members elect a secretary, who is the executive officer but not a member of the board.[3]

The State Board has "general supervision of the health of the citizens of the State" and possesses broad powers to adopt and enforce such regulations as it deems necessary or advisable to prevent and control the spread of diseases. It also supervises the registration of marriages, births, and deaths.[4] Each board of county commissioners, as a county board of health, is required to appoint a physician as county health officer to hold office at their pleasure, and who is ex officio a member of the board. With the approval of the local board he may employ a skilled professional nurse when he deems such assistance necessary, and the board also is empowered to employ additional personnel when necessary. The State Board possesses broad powers over the acts of local boards and health officers. For failure to perform

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1. L. 1921, ch. 152, secs. 1-3, 7; G.S. 1935, ch. 19, secs. 1701, 1703, 1707.
2. G.S. 1868, ch. 18, art. 2, sec. 15 paragraphs 7-9; G.S. 1935, ch. 13, sec. 415.
3. L. 1885, ch. 129, sec. 1; L. 1903, ch. 357, sec. 1; G.S. 1935, ch. 74, sec. 901.
4. L. 1885, ch. 129, secs. 4, 5; L. 1907, ch. 379, sec. 1; G.S. 1935, ch. 65, secs. 101, 102.

any act required of him the local health officer may be removed by the State Board and also may be fined from $10 to $100 for each offense. The county health officer, however, possesses much discretionary power in the prevention and control of contagious diseases in his county.[1]

The first county health officer of Shawnee County was appointed July 8, 1885.[2] A full time health nurse was first appointed in Shawnee County on June 28, 1928.[3]

Upon being petitioned by the required number of freeholders, county commissioners of counties with less than 40,000 inhabitants may establish county hospitals and levy not exceeding 2 mills on the dollar property valuation to purchase sites and erect buildings.[4] Other laws permit establishment of community hospitals coming within designated population and assessed valuation classes.

Public Welfare

"Poor persons," the first legislative assembly of the Territory decreed, "shall be relieved, maintained, and supported by the county of which they are inhabitants." Aged, lame, blind, and sick persons unable to support themselves were deemed poor and the county commissioners were required to provide for their relief at county expense, as they deemed necessary. The commissioners also were authorized to purchase not more than 320 acres of land, erect a poorhouse thereon, make a tax levy to defray its cost and maintenance, and to hire a superintendent.[5]

The State Constitution, effective January 29, 1861, specified that "the respective counties of the State shall provide as may be prescribed by law for those inhabitants who, by reason of age, infirmity, or other misfortune may have claims upon the sympathy and aid of society."[6]

The State legislature of 1862 designated the trustees of townships and the mayors and councils of cities as overseers of the poor within their respective jurisdictions and required that every county should

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1. L. 1885, ch. 129, secs. 7, 8; L. 1909, ch. 102, sec. 1; L. 1925, ch. 202, sec. 1; L. 1927, ch. 240, sec. 1; G.S. 1935, ch. 65, secs. 201, 202.
2. Commissioners' Journal, vol. G, p. 411, see entry 2.
3. Ibid., vol. R. p. 117.
4. L. 1913, ch. 202, sec. 1; L. 1919, ch. 158, sec. 1; G.S. 1935, ch. 19, sec. 1801.
5. Terr. L. 1855, ch. 126, secs. 1-9.
6. Const., art. 7, sec. 4.

relieve and support all indigent persons lawfully settled therein. The overseers were required to make return to the county clerk of the amounts needed for the purpose and the money was paid from the county treasury upon order of the county commissioners. The county board also was authorized to purchase land, erect a poorhouse and employ a superintendent, and to appoint a physician to care for the poorhouse inmates.[1]

In 1872 the legislature enacted a law relieving the local overseers of these duties in counties of more than 30,000 inhabitants and requiring the county commissioners to appoint for a 2-year term a commissioner of the poor who should have general supervision and care of the poor persons of the county under authority of the county board.[2] At that time the act was applicable only to Leavenworth County but in 1882 Shawnee County came under provisions of the law by reason of population, and the first mention of a poor commissioner occurs in the Commissioners' Journal under date of June 19 of that year.[3] In 1891 the office was restricted to counties with a population in excess of 45,000, which included Shawnee County only,[4] but thereafter was gradually extended to counties of lesser population until in 1933 provisions of the act were made to apply to all counties in the State.[5]

In 1936 the State Constitution was amended to permit the State to participate financially in a program of aid to the poor, and to supervise and control its administration.[6] In order to comply with conditions provided for obtaining Federal grants for welfare work as set forth in House Resolution 7260, Seventy-fourth Congress, and the rules and regulations of the Federal Social Security Board, the legislature in 1937 created the State Board of Social Welfare consisting of five members appointed by the Governor and designated as a body corporate. The Board was given authority to develop State plans and cooperate with the Federal Government in its program of assisting the States in furnishing public assistance to needy aged and blind persons and dependent children. The board of county commissioners in each county was designated as the county social welfare board and required to appoint as its administrative and executive officer a county director, to hold office at the board's pleasure. The State Board was empowered to make rules and regulations for the granting of public assistance and supervise the work of the county boards. A State social welfare fund was created, in which each county is entitled to participate.

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1. L. 1862, ch. 163, secs. 1, 4, 19, 25, 27.
2. L. 1872, ch. 161, sec. 1.
3. Commissioners' Journal, vol. F, p. 471, see entry 2.
4. L. 1891, ch. 155, sec. 1.
5. L. 1901, ch. 133, sec. 1; L. 1913, ch. 162, sec. 1; L. 1931, ch. 199, sec. 1; L. 1933, ch. 196, sec. 6; G.S. 1935, ch. 39, sec. 517.
6. Const., art. 7, sec. 4 as amended November 3, 1936.

The county home, or poor farm, is under supervision of the county director.[1] The same legislature, in imposing a 2 percent tax on retail sales, provided for $2,400,000 of this revenue to be set aside annually for the social welfare fund.[2] The legislature of 1939 increased the sum of $3,000,000 per year.[3] Counties also are authorized to levy 1 mill on the dollar of assessed valuation for maintenance and support of the poor, and if the sum is insufficient for the current year they may, with the approval of the State Tax Commission, levy an additional mill.[4]

The legislature of 1939 abolished the State Board of Social Welfare as first organized and created a State Department of Social Welfare consisting of a State Board of three members appointed by the Governor "and such agents and employees as may be authorized and designated as such by the State Board." This board was empowered "to determine the general policies relating to all forms of social welfare which are administered or supervised by or under the State Department, and to make the rules and regulations therefor." In addition to the powers, duties, and jurisdiction possessed by its predecessor the new department also was vested with the powers and duties hitherto conferred by law upon the State Board of Administration with respect to the State hospitals for the insane and feeble-minded, the State sanatorium for tuberculosis, the State hospital for epileptics, the girls' and boys' industrial schools, and other State benevolent institutions.[5]

The State legislature of 1911 required that any physician attending the child of any indigent person in the State shall, if the child is afflicted with any deformity or malady curable by surgical operation or hospitalization, report the fact in writing to the county board of health, whose duty it is to furnish transportation for the child and an attendant to the hospital maintained in connection with the State university. Superintendents of reform schools and other State institutions of which children so afflicted are inmates must provide transportation for them. Upon application of inmates of city or county poorhouses, or other indigents in need of hospitalization, county commissioners are authorized to pay their transportation to the university hospital. The transportation and hospital expenses originally are paid by the State Board of Social Welfare, which must be reimbursed by the city or county from which the patient is sent.[6]

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1. L. 1937, ch. 327, secs. 3, 8-11, 12a.
2. L. 1937, ch. 374, sec. 21.
3. L. 1939, ch. 334, sec. 1.
4. L. 1933, ch. 309, sec. 3; G.S. 1935, ch. 79, sec. 1947.
5. L. 1939, ch. 202, secs. 1, 2, 4, 7, 8.
6. L. 1911, ch. 292, secs. 1-7; ch. 293, secs. 1-6; G.S. 1935, ch. 39, secs. 401-413.

So far as children are concerned this law has been superseded in practice by the enactment in 1931 or legislation creating the Crippled Children's Commission to coordinate the efforts of all persons and agencies interested in the discovery, care, and education of the crippled children of the State. The probate judge of the county holds hearings and takes action relative to applications for hospitalization of crippled children in his county. Until 1937 the costs were paid by the county from a fund raised by tax levy for this purpose,[1] but the legislature of 1937 in setting up the retail sales tax law provided that $200,000 of the sales tax revenue should be set aside annually for the use of the Crippled Children's Commission in lieu of the ad valorem tax.[2]

A few minor relief laws remain on the statute books, but probably are repealed by implication by the social welfare law of 1937. One permitted county commissioners to cause the burial of deceased former soldiers, sailors, and marines or their wives or widows at county expense,[3] and another authorized them to grant pensions to indigent residents of the county who were disabled from performing any manual labor.[4] A third permitted payment of a monthly pension of $25 per month to indigent mothers with children under 16 years old.[5]

Public Works

Roads and Bridges. From the beginning of county government in Kansas, county engineering and public works activities have been conducted under the authority and control of the board of county commissioners. All applications for laying out, altering, viewing, reviewing and vacating of county roads are by law required to be made to the county commissioners on petition of a minimum number of freeholders of the county.[6]

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1. L. 1931, ch. 283, secs. 1, 7-12; G.S. 1935, ch. 65, secs. 5a02-5a07; ch. 74, secs. 3401, 3406.
2. L. 1937, ch. 374, sec. 21.
3. L. 1885, ch. 184, secs. 1-3; L. 1907, ch. 375, secs. 1, 2; ch. 376, sec. 1; L. 1927, ch. 284, secs. 1, 2; G.S. 1935, ch. 73, secs. 301-305.
4. L. 1911, ch. 146, secs. 1, 2; L. 1913, ch. 149, sec. 1; L. 1915, ch. 263, sec. 1; G.S. 1935, ch. 19, secs. 244, 245.
5. L. 1915, ch. 261, sec. 1; L. 1917, ch. 138, secs. 1, 2; L. 1921, ch. 153, sec. 1; G.S. 1935, ch. 39, secs. 601, 602.
6. Terr. L. 1855, ch. 139, secs. 6, 12; Terr. L. 1860, ch. 104, sec. 17; L. 1864, ch. 112, sec. 1; G.S. 1868, ch. 89, sec. 1; L. 1874, ch. 108, sec. 1; L. 1911, ch. 248, sec. 2; L. 1931, ch. 243, sec. 1; G.S. 1935, ch. 68, sec. 102.

 (First entry, p. 207)

The first assembly empowered the county commissioners to make and enforce all orders necessary for opening, establishing, altering, or vacating county roads. They were required to appoint, as often as necessary, one or more justices of the peace in each township to lay out the roads therein into convenient road districts, for each of which the county board appointed a road overseer for the term of 1 year. All able bodied male citizens who had resided in the Territory for 60 days and in the road district for 1 month were subject to work on the roads. The overseer could notify the hands allotted to him whenever any road division needed opening or repairing, and those failing to respond were required to forfeit $1; or in event they attended but failed to work "with due diligence," the forfeit was $2.[1] Territorial roads were designated as public highways. Surveyors' returns and plats were required to be filed with the respective county clerks and each county had to bear its proportionate share of the cost of the survey.[2]

The assembly of 1859 provided that the supervisors of townships, by virtue of their offices, should be commissioners of highways for their respective districts and have the care and supervision of highways and bridges therein. They were empowered to survey, lay out, and discontinue roads, to divide their townships into convenient road districts, and direct the repair of roads and bridges. The annual township meeting could vote a sum for roads, to be levied and collected the same as other taxes. Every white male citizen between 18 and 50 years old in the road district was subject to a road tax of $4, which could either be paid direct to the road overseer or worked out under his supervision.[3]

The assembly of 1860 restored complete control of road matters to the county board, decreeing that the township trustees should have no power to locate, change, or vacate any highway and that proceedings then pending before the township boards be transferred to the board of county commissioners, in whom such authority was henceforth vested.[4] This assembly provided that the opening, vacating, and altering of Territorial and township roads as well as county roads should be by petition to the county commissioners. All male persons between 21 and 50 years of age were declared liable for 2 days work a year on the roads, under penalty of forfeiting $2 for failing to report when called. The county commissioners were required to levy a road tax of from 2 to 5 mills on all taxable lands, which could be worked out at the rate of $2 per day, and otherwise certified to the county clerk, who placed the amount on the regular tax roll.[5]

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1. Terr. L. 1855, ch. 139, secs. 2, 28, 32, 41-47.
2. Ibid., ch. 140
3. Terr. L. 1859, ch. 77, secs. 1, 2, 4, 22, 25-29.
4. Terr. L. 1860, ch. 128, sec. 14; G.S. 1868, ch. 89, sec. 1.
5. Terr. L. 1860, ch. 104, secs. 1, 17, 30, 32, 33, 48; G.S. 1868, ch. 89, secs. 1, 18-23.

The laws thus established continued with little change until 1885, when the legislature again designated the township trustees, clerks, and treasurers as boards of highway commissioners for their respective townships, to have charge of the roads and bridges therein, to keep them in repair, and make such improvements as possible. Whenever available means permitted they were required to construct permanent roads, beginning where they were most needed.[1]

With the beginning of the present century, which ushered in the first automobiles, the agitation for better highways became Statewide. In 1901 the legislature passed the first "good roads" act. Each county in the State with a population of more than 8,000 inhabitants was declared a road district, and the county commissioners authorized to submit to the voters the proposition of levying a road tax not exceeding 2 mills on the dollar valuation of all taxable property, for not more than 5 years. If the majority of the voters favored the proposition, the county was deemed to have come under the "good roads" law. The county commissioners were given "full and exclusive control of the construction and improvement of all public roads and highways built or improved under the provisions of this act, and they are hereby authorized to purchase all machinery, tools, and materials and employ all labor, superintendence, and engineering necessary . . ." It was in this law that the "benefit district" road plan first appeared. Upon petition of a majority of the resident owners of property abutting upon any road or proposed road, the county commissioners, if they deemed it advisable, could improve the road and apportion 15 percent of the cost to the abutting property situated within 1/2 mile of the road.[2]

The legislature of 1909 repealed this law and enacted another on similar lines providing for the improving and building of roads other than dirt roads. This act reduced the county levy under the good roads law to 1 mill on the dollar valuation, and declared that improvements contemplated "shall include and extend to the location, grading and drainage of such highways and the surfacing of the same with stone, gravel, shale, clay, sand, oil, or other proper materials, and the construction of such bridges and culverts as may be necessary." The county commissioners were required, before submitting the question to the electors, to formulate a definite program of highway improvement, have plans and specifications made, estimate the expense, and publish the facts in the official county paper at least 60 days before the election. The law authorized an assessment against abutting property for 20 percent of the cost of the improvement, which could be paid by the landowner in five installments, the county being empowered to issue its 5-year internal improvement bonds for the purpose.[3]

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1. L. 1885, ch. 168, secs. 1, 5; L. 1917, ch. 264, sec. 30; G.S. 1935, ch. 68, sec. 523.
2. L. 1901, ch. 363.
3. L. 1909, ch. 200.

The same legislature passed another act providing that the county commissioners, upon petition of 60 percent of the landowners owning 50 percent of the property along any regularly laid out road within a radius prescribed in the petition, could improve the road providing the cost was not less than $500 per mile, and apportion the cost 75 percent to the abutting property and 25 percent to the township.[1] The same legislature required that the county commissioners of all counties with more than 20,000 population should appoint a county engineer of roads and bridges, to have general supervision and authority over all highway and bridge work in the county under authority of the county commissioners. Counties with less population could adopt the act by resolution of their county boards. The engineer was required to classify all roads in the county according to their importance as county, township, and local roads and see that they were properly maintained. The acts of the township boards of highway commissioners were made subject to approval of the county engineer.[2]

The era of State control in highway construction, improvement, and maintenance began in 1917. However, the State had long since established its authority to designate and order the opening of State highways and cast the expense upon the counties. The legislature of 1864 established 64 such highways, naming three commissioners to locate each road from beginning to end, requiring the boards of commissioners of the counties through which they passed to open and maintain them and also pay damage claims and the cost of the surveys, the State not to be responsible for any of the expense.[3] Numerous other and similar acts were passed from time to time. When in 1885 the State ordered opening of a road from Lawrence to Topeka, the expenses and claims for damages to be paid by Shawnee and Douglas Counties,[4] the case was taken to the State Supreme Court. This tribunal ruled that the legislature has full authority to establish a State road and cast the expense thereof upon the counties in which the road lies, without submitting the question in any form for approval of the county commissioners or any other county officers, or the people of the county; and to this end may appoint the commissioners to locate the road, prescribe their fees, empower them to adjust the land damages, and require the county officers to issue warrants therefor without any revision or control of their proceedings.[5]

The 1917 legislature created the State Highway Commission, to have general supervision over all road and bridge laws and the construction and maintenance of all roads, bridges, and culverts throughout the State, except township roads not receiving Federal aid. Assent of

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1. L. 1909, ch. 201, secs. 1, 2, 6, 11.
2. Ibid., ch. 198, secs. 1, 2, 4, 6.
3. L. 1864, ch. 110.
4. L. 1885, ch. 167.
5. 28 Kan. 431.

the legislature was given to Federal aid, and the Highway Commission was empowered to enter into the necessary contracts with the Secretary of Agriculture. The county commissioners of each county were required to appoint within 6 months a county engineer, with the approval of the State Highway Commission, for a 2-year term, who was to act for the county in all matters relating to the supervision of the construction, repair, surfacing, and maintenance of roads, bridges, and culverts where the county paid any part of the cost, and to prepare plans and specifications for all such improvements. The county commissioners and county engineer were required to designate the county and township roads and forward a map to the State Highway Engineer, who was to examine it with a view to determining correct lines to be followed by county roads, having due regard for volume of traffic, continuity, and cost of construction and maintenance. In case of his disapproval the map was returned to the county commissioners with recommendations for changes and it was the duty of the county engineer to change the routes to conform to the State Engineer's recommendations. In case of failure on the part of the county commissioners and county engineer to do so the State Highway Commission was empowered to make the proper designations in any county, and its ruling was final. Neither could any road be withdrawn from the county system without State approval. The county commissioners were authorized to levy from 1/4 to 1 1/2 mills for road purposes. The township highway commissioners were left in full charge of township roads, bridges, and culverts, but subject to the control of the county engineer. County commissioners were authorized to enter into such contracts and agreements with the State Highway Commission as might be required in order to obtain Federal aid.[1]

But while the demand for higher type and costlier roads was increasing, the means of financing their construction and maintenance still was confined chiefly to general property taxes. The legislature of 1913 first required payment of registration fees on motor vehicles, specifying that the county treasurers should deposit $4.25 of each $5 motor vehicle registration fee and $1.50 of each $2 motorcycle registration fee in the "county road fund," the remainder being remitted to the State Treasurer to defray the cost of license plates and administration.[2] The legislature of 1917 created the "motor vehicle license fund" in each county, requiring that all motor vehicle registration fees collected by the county treasurer, except that portion remitted to the State Treasurer, should be placed in this fund for use only in dragging county and township roads.[3]

Up to this time the State, although it had authority to order the opening and control the routing of highways, was not authorized by the

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1. L. 1917, ch. 264, secs. 1-4, 7-9, 15, 19-21, 26, 33.
2. L. 1913, ch. 65, secs. 2, 3.
3. L. 1917, ch. 74, sec. 2.

Constitution to furnish financial aid to the counties. The legislature of 1919, therefor, submitted to the electors a proposition, which was adopted at the general election of 1920, providing that the State might "aid in the construction of roads and highways and the reimbursement for the cost of permanent improvements of roads and highways constructed after March 1, 1919," but not exceeding 25 percent of the cost, nor more than $10,000 per mile.[1]

Pursuant to this amendment the legislature of 1921 increased the registration fee on pleasure cars to $8 and in addition thereto 50 cents for each 100 pounds gross weight in excess of 2,000 pounds; on motorcycles to $5 per year, and imposed on trucks a fee of from $15 to $100, depending on carrying capacity.[2] At the same time a "State-aid road fund" was created in each county, to consist of all motor vehicle fees collected by the county treasurer, except $4.50 for each registration which went to a "special road drag fund" for use only in dragging county and township roads and mail routes, and 50 cents remitted to the State Treasurer. The county commissioners were required to designate the roads on which the State-aid fund would be used and notify the State Highway Department. The money also could be used in reimbursing benefit district taxpayers in accordance with the terms of the Constitutional amendment.[3] The legislature of 1923 authorized county commissioners, when the State-aid road fund had accumulated in an amount more than sufficient to pay for any road under improvement, or for which petitions had been filed, to use the money on other roads.[4]

The legislature of 1925 imposed a sales tax of 2 cents per gallon on motor vehicle fuel, the object of which was "to create a fund for the construction and maintenance of roads and ways," the money thus raised to be returned to the counties where it was collected.[5] The same legislature decreed that the State Highway Commission, in conjunction with the various boards of county commissioners, should designate in every county certain highways, the total not to exceed 8,690 miles, as the State highway system, which was to include all roads heretofore approved by the State and Federal governments under the Federal aid act and which were to be constructed, reconstructed, improved, and maintained by the county commissioners subject to the supervision of the State Highway Commission. To provide a fund for this purpose the legislature decreed that the county treasurers should remit monthly to the State Treasurer 75 percent of the motor vehicle fees collected by them, less the 50-cent fee for license plates and administration, which together with the revenue derived from themotor vehicle fuel tax should be placed

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1. Const., art. 11, sec. 8, as amended November 2, 1920.
2. L. 1921, ch. 69, sec. 3.
3. Ibid., ch. 217, secs. 1-4, 8.
4. L. 1923, ch. 175, sec. 1.
5. L. 1925, ch. 274, secs. 2, 10.

in the "State highway fund." Of this fund $300,000 quarterly was placed in the State Treasury to the credit of the State-aid road fund and expended upon the State highway system in the various counties, under direction of the highway commission acting in conjunction with the boards of county commissioners, but not exceeding 25 percent of the total cost of any project, nor more than $10,000 per mile. The remainder of the revenue, less not more than $75,000 a year for support of the Highway Department, was distributed, 40 percent equally among the 105 counties, and 60 percent in proportion to their assessed valuation. The fund thus created in the various counties was to be known as the "county and State road fund," and expended only on the construction and maintenance of State roads in the counties, except that the county commissioners might use 20 percent of the amount on county or township roads and bridges, in their discretion. The 25 percent of the registration fees not remitted to the State by the county treasurer was required to be placed in the township road fund and divided among the townships in proportion to the amount paid in by each.[1]

The legislature of 1927 amended this law by creating, in addition to the funds provided by the 1925 legislature, a "county road fund," composed of all the money remaining after the $300,000 quarterly had been set aside for the State-aid road fund and $150,000 annually for support of the Highway Commission. From the county road fund, it was provided, $100,000 quarterly should be paid into a "county free fund," an emergency fund to be used in completing gaps in the State highway mileage in those counties where funds for the purpose were not otherwise available. The remainder of the county highway fund composed the county and State road fund and was distributed among the counties as provided by the 1925 legislature, except that county commissioners were required to apportion $250 a mile for State highways within the limits of incorporated cities.[2]

But the Constitution, providing that "The State shall never be a party in carrying on any works of internal improvement," still stood in the way of the State taking absolute control of its own highway system. The special legislative session of 1928, therefore, submitted two amendments to the electors, both of which were adopted in the general election of that year. One provided that "The State shall never be a party in carrying on any works of internal improvement, except that it may adopt, construct, reconstruct, and maintain a State system of highways, but no general property tax shall ever be laid nor bonds issued by the State for such highways." The other amendment provided that "The State shall have power to levy special taxes for road and highway purposes on motor vehicles and on motor fuels."[3]

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1. L. 1925, ch. 214, secs. 2-4.
2. L. 1927, ch. 255, sec. 7.
3. Const., art. 11, secs. 8-10, as amended November 6, 1928.

Thus was the last obstacle to State control removed from the Constitution. The legislature of 1929 increased the motor vehicle fuel tax to 3 cents a gallon.[1] The State Highway Commission was reorganized and expanded, and authorized to "perform all work, or enter into, perform and require the performance of all contracts incident to the construction, improvement, reconstruction, and maintenance of the State highway system . . ." All moneys received from the fuel tax and registration laws are remitted to the highway fund, which is apportioned as follows: The sum of $500,000 annually for support of the State Highway Commission; the sum of $900,000 quarterly to the county and township road fund for distribution to the 105 counties, 40 percent equally and 60 percent on the basis of assessed valuation, to be used on county and township roads and bridges at the option of the county commissioners; the sum of $700,000 quarterly to the 105 counties in the same proportion as the preceding, to be used by the State Highway Commission in each county for reimbursement of benefit district taxpayers where the State road system was complete, and for maintenance of the State system. All the remainder of the highway fund is to be used in the construction, improvement, and maintenance of the State highway system. Boards of county commissioners were required to deliver to the Highway Commission by April 1, 1929 all the machinery, equipment, and road materials they had purchased from the county and State road fund, the State assuming liability for all unpaid contracts.[2]

Thus was jurisdiction over State highways within their boundaries completely removed from the counties. Since 1917 counties have been authorized to adopt, upon majority vote of the electors, the "county unit system" of road construction and maintenance. Under this plan all roads, bridges, and culverts in the county, other than State roads, are constructed and maintained according to their relative importance by the county as a whole, at county expense, and under direction of the county engineer.[3] There were 25 Kansas counties operating under this system in 1939, but it never has been adopted by Shawnee County.[4]

Public Buildings. The first assembly required the board of county commissioners to "provide ways and means for the erection of all public buildings necessary for the transacting of county business," and to "cause to be erected, or otherwise procure for the several counties, suitable courthouses, jails, clerk's offices, and other public buildings

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1. L. 1929, ch. 287, sec. 2; L. 1931, ch. 308, sec. 1; L. 1933, ch. 317, sec. 8; G.S. 1935, ch. 79, sec. 3408.
2. L. 1929, ch. 225, secs. 1-17, 19; L. 1933, ch. 241, sec. 1; G.S. 1935, ch. 68, secs. 407, 416, 418.
3. L. 1917, ch. 264, sec. 25; L. 1919, ch. 245, sec. 7; L. 1929, ch. 224, sec. 1; G.S. 1935, ch. 68, sec. 516.
4. Kansas Government Journal, XXV, No. 2 (February 1939), p. 13.

deemed necessary."[1] The assembly of 1860 authorized the county board to borrow money for the erection of public buildings, but only upon approval of the electors of the county, and this provision has remained in the statutes to the present day. The legislature of 1868 specifically forbid the county board to erect any public building or to levy a tax or issue bonds therefor until the proposition had first been submitted to a vote of the electors.[2]

Beginning in 1864 the commissioners were required to award at a public letting, to the lowest responsible bidder, the contract for erection of any public building. Present laws require such procedure in case of a courthouse, jail, or other public building, or a bridge, costing more than $1,000. The contractor is required to post a bond in double the amount of the contract to assure its faithful performance. Before letting the contract, the commissioners must cause plans and specifications of the proposed improvement to be prepared and kept open for inspection in the county clerk's office for at least 30 days, and publish notice of the time and place of the letting.[3] Before any public building involving a bond issue or tax levy may be created the voters must decide, first, whether the building shall be erected; second, in what manner the funds shall be raised, whether by tax levy or bond issue. If the decision is in favor of the tax, the county commissioners are empowered to make a levy of not less than one-fifth the cost of the improvement in any one year, nor more than 5 mills on the dollar valuation. They are authorized to anticipate the tax revenue by issuance of warrants bearing not more than 6 percent interest, payable when the money has accumulated. However, it is not mandatory on the commissioners to let any contract for the building until half the money has been collected.[4] In counties with a population of 16,000 or less the commissioners may erect a courthouse costing not more than $150,000 or a jail costing not more than $15,000, upon petition of 51 percent of the qualified voters, without submitting the question to an election.[5] Numerous special acts have been passed by the legislature from time to time authorizing the county commissioners of certain counties to erect various public buildings with or without a vote of the people, and to levy taxes or issue bonds to defray the cost.

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1. Terr. L. 1855, ch. 44, sec. 32.
2. Terr. L. 1860, ch. 28, secs. 15, 16; G.S. 1868, ch. 25, secs. 16-18; L. 1907, ch. 141, sec. 1; L. 1909, ch. 99, sec. 1; L. 1911, ch. 141, sec. 1; R.S. 1923, ch. 19, secs. 213, 1503; G.S. 1935, ch. 19, secs. 213, 1503.
3. L. 1864, ch. 38, secs. 1-3; G.S. 1868, ch. 25, secs. 21-23; G.S. 1935, ch. 19, secs. 214-216.
4. G.S. 1868, ch. 25, secs. 19, 20; L. 1907, ch. 141, secs. 2, 3; R.S. 1923, ch. 19, secs. 1504, 1505; G.S. 1935, ch. 19, secs. 1504, 1505.
5. L. 1917, ch. 139, secs. 1-3; L. 1923, ch. 119, sec. 1; L. 1927, ch. 157, sec. 1; L. 1930, ch. 8, sec. 1 (Special Session); G.S. 1935, ch. 19, secs. 1506-1508.

The legislature of 1889 empowered boards of county commissioners to condemn property, according to the law of eminent domain, when it cannot be purchased at a reasonable figure for county purposes.[1]

Drainage. The first law relating to drainage of swamp, bog, or bottom lands was enacted by the legislature of 1868. It provided that any owner of such lands desiring to construct a ditch through lands belonging to another person in order to drain his own, when the owner of the adjoining land refused to consent to such drain through his own property, should apply to any justice of the peace in the township, who was required to summon six disinterested freeholders to whom the case should be submitted. This jury could alter, approve, or disapprove the plans of the applicant. If approved, the jury fixed the damages or benefits which should accrue to the owner of the adjoining property, and upon payment of such damages, if any, the owner of the swamp land was empowered to enter upon the property of his neighbor and construct and maintain the necessary drainage ditch.[2]

The legislature of 1870 authorized any number of persons, not less than three, to form an association for the construction of levees, drains, or breakwaters. Residents of the territory affected elected officers for a 1-year term. When it was found necessary to protect or reclaim wet lands the association applied to the county commissioners, who appointed three appraisers to assess the amount of benefits or injuries likely to accrue to any property affected. After the filing of their findings with the register of deeds such benefit assessments became a lien against the affected property, enforceable by civil action to be instituted by the drainage association. On the other hand, the association was required to pay any damages such property might sustain.[3]

The legislature of 1876 repealed both former laws and conferred upon the township trustees the powers and duties relative to drainage. This law provides that upon petition of any property owner along the line of a proposed ditch, drain, or watercourse the trustee shall hold a hearing on the question of its construction, and if he finds the improvement to be necessary and desirable, shall proceed to lay out the route and determine the damages and benefits to accrue to the affected property. Costs are apportioned among the benefitting property owners. Appeals from the rulings of the township trustee may be taken to the probate court and there decided by a jury of six freeholders.[4]

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1. L. 1889, ch. 110, sec. 1; R.S. 1923, ch. 19, sec. 1501; G.S. 1935, ch. 19, sec. 1501.
2. G.S. 1868, ch. 34, secs. 1-8.
3. L. 1870, ch. 67, secs. 1-5. 8. 11-18.
4. L. 1879, ch. 100, secs. 1-14; G.S. 1935, ch. 24, secs. 201-214.

The legislature of 1886 conferred upon county commissioners, for making such improvements for the county as a whole, the same powers possessed by the trustees in the case of townships. The proceedings for the establishment and construction of the drainage course, and the apportionments and assessments to defray its costs, are the same as in the case of townships. However, the county commissioners are authorized to levy a tax upon all the taxable property in the county for the purpose of maintenance and repairs, under an amendment adopted in 1920.[1]

Since 1905 boards of county commissioners have been empowered to form drainage districts upon proper petition of the inhabitants of the proposed area, which may include land within any incorporated city. Upon filing of the petition and giving due notice, the commissioners must hold a public hearing. If they find from the testimony and upon investigation that the petition should be granted, they declare the territory described in the petition to be a public corporation, with a corporate name, and fix the time and place for the first election.[2] The powers of such drainage districts are exercised by a board of directors consisting of three freeholders of the district, elected for terms of 3 years. Only residents of the districts who are taxpayers therein, and qualified electors under the Constitution, are permitted to vote. The directors are required to meet on the first Monday of each month, and may employ engineers and prescribe their duties.[3]

The directors have power to determine what improvements are necessary and whether the cost should be defrayed by issuance of bonds of the district or assessment against benefit district property. If the share of cost to be assessed against a parcel of property does not exceed 10 percent of its value the directors may proceed with the work; otherwise the proposition must be left to a majority vote of the property owners affected. Bonds cannot be issued without a majority vote of the electors of the district. Tax levies are certified to the county clerk and collected as other taxes.[4]

The drainage district has rather broad powers in carrying out the purposes for which it is organized. As a body corporate it may purchase, hold, and convey any real or personal property deemed necessary

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1. L. 1886, ch. 161, secs. 1-14; L. 1920, ch. 42, sec. 1; G.S. 1935, ch. 24, secs. 301-314.

2. L. 1905, ch. 215, secs. 1-6; L. 1909, ch. 132, secs. 1, 2; G.S. 1935, ch. 24, secs. 401-406.

3. L. 1905, ch. 215, secs. 8-10, 12, 13, 15, 16; L. 1911, ch. 169, sec. 1; L. 1913, ch. 184, secs. 1, 3, 5, 7; L. 1927, ch. 197, sec. 1; L. 1935, ch. 169, sec. 1; ch. 170, sec. 1; G.S. 1935, ch. 24, secs. 409-417.

4. L. 1905, ch. 215, secs. 17-24; L. 1917, ch. 174, sec. 1; L. 1920, ch. 40, sec. 2 (Special Session); R.S. 1923, ch. 24, sec. 418; G.S. 1935, ch. 24, secs. 418-425.

to carrying out its purposes. It is empowered "to take charge of and exercise exclusive control over all natural watercourses within its territorial limits, and to widen, deepen, establish, regulate, and maintain the channels thereof;" to construct levees and drains, install and operate pumps; change or abandon the channel of any natural watercourse; condemn private property when deemed necessary; remove obstructions; fix the height, length, width, and location of piers of bridges in the district; fix and change the grade and elevations of highways, railroads, and street railroads within the district; maintain suits to enforce its orders; levy and collect a general tax not exceeding 5 mills on the dollar valuation of taxable property in the district, levy special taxes, and issue bonds with approval of the voters; make contracts, and perform other acts necessary to the exercise of its corporate powers.[1]

Provision was made in 1911 for creation of drainage districts composed of property lying within the valley of any natural watercourse flowing through more than one county. This law provides that petitions of at least two-fifths of the property owners must be made to the county commissioners of the county in which the land is situated, and the commissioners, if they find the petition to be true, notify the Secretary of State. When a majority of the counties included within the area of the proposed district have reported in favor of its organization the Governor proclaims the district organized and sets the time of the first election. A drainage district organized under this law is governed by a board of directors consisting of one member from each county, or three members if the district is confined to one county. In addition to the usual corporate powers the district has power to clear the channel of the stream from obstructions; to construct cutoffs, spillways, and auxiliary channels across private property, railways, or highways and compel their adequate bridging; to condemn land for the purpose of such construction; to levy an annual tax not exceeding 2 mills on the dollar, and to issue bonds and provide for their payment. The board of directors is required to appoint a competent engineer to study conditions along the watercourse and make plans and specifications, and an estimate of the cost for improvements, which must be submitted to the school of engineering of the State University or State Agricultural College for correction and approval. The board also must appoint a benefits and damages commission of three members to appraise the amount of damages and assess the costs of improvements in accordance with the benefits derived. Benefits are of two classes --- those accruing to the district as a whole, and special benefits, of special value to lands in the immediate vicinity of the improvement.[2]

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1. L. 1905, ch. 215, sec. 7; L. 1920, ch. 40, sec. 1 (Special Session); R.S. 1923, ch. 24, sec. 407; L. 1929, ch. 174, sec. 1; G.S. 1935, ch. 24, sec. 407.

2. L. 1911, ch. 170, secs. 1-6, 12-15, 19, 20; L. 1919, ch. 187, sec. 1; L. 1921, ch. 179, secs. 1, 2; G.S. 1935, ch. 24, secs. 501-506, 512-515, 519, 520.

The legislature of 1911 also provided for the formation of drainage districts by the owners of not less than 160 acres of contiguous swamp or overflow lands through articles of association signed by the landowners and filed with the clerk of the district court of the county in which most of the land is situated. The clerk issues a summons to each landowner who did not sign the articles of association, and the judge holds a hearing at which they may make their objections to formation of the district. If the objections are overruled the judge declares the district a public corporation but may exclude the lands of any owners which he is satisfied will not be benefitted. Within 30 days the clerk of the court must call a meeting of the landowners of the district for the purpose of electing a board of supervisors composed of five landowners within the district for terms of 3 years each. The powers of the board of supervisors are similar to those of the governing bodies of drainage districts organized under other laws.[1]

Under terms of a law enacted in 1907 property owners whose land cannot be drained without affecting the lands of others may petition the district court to make findings and orders for their relief. The same action may be taken by a township board desiring to provide for the drainage of a public road, or a school district board wishing to provide for drainage of school grounds, or the mayors and councils of cities, whenever they find that successful drainage of their own territory must affect the property of others. In this case the district court appoints three commissioners to make a survey and investigation, and if the court finds the project to be necessary and advisable the commissioners proceed with the work under the court's direction. Assessments are made and damages awarded as in other cases and the right of remonstrance is unrestricted.[2]

Boards of county commissioners also are authorized to order the construction of levees, upon petition of property owners, if the viewers appointed by them find such improvement necessary and practical. Costs and damages are apportioned and awarded on the basis of damages and benefits as in the case of drainage districts.[3]

Irrigation and Water Conservation. The legislature of 1868 authorized formation of canal and irrigation companies and corporations, and empowered them to condemn land for this purpose by application to the county commissioners or the district court, in the same manner as

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1. L. 1911, ch. 168, secs. 1-6; L. 1931, ch. 186, secs. 1, 2; G.S. 1935, ch. 24, secs. 601-606.

2. L. 1907, ch. 197, secs. 1-5; L. 1909, ch. 128, secs. 1, 2; ch. 129, secs. 1-4; L. 1911, ch. 171, sec. 1; G.S. 1935, ch. 25, secs. 701-707.

3. L. 1893, ch. 104, secs. 1-10; L. 1901, ch. 248, sec. 1; L. 1905, ch. 216, secs. 1, 2; G.S. 1935, ch. 24, secs. 801-810.

railroad corporations.[1] In 1889 provision was made for such companies appropriating water by eminent domain, through petition to the district court, and the payment of any accruing damages to others.[2]

The legislature of 1891 authorized the board of county commissioners of any county in the State to create, upon petition of three-fourths of the resident property owners in the proposed area, an irrigation district, to be administered by a board of irrigation commissioners consisting of a president, secretary, and treasurer to be elected annually by the residents of the district. Such districts are designated as bodies corporate and have authority to build or purchase irrigation works, and issue bonds and levy taxes to pay the costs. Their powers and duties in most ropsects are akin to those of drainage districts.[3]

Boards of county commissioners were authorized by the legislature of 1909 to drill artesian wells, upon petition of a majority of the voters of the county, and pay the costs from the general revenue fund, providing a tract of not less than 10 acres is donated for the purpose. Such wells are property of the county and under management of the county commissioners.[4] The legislature of 1911 enacted regulations for the drilling and operation of artesian wells by individuals or companies, and provided that when ten such wells shall have been drilled in the county, the county commissioners must call a convention of the owners, who are required to elect three commissioners known as the county artesian well board. This board arbitrates all disputes between the county artesian well supervisor, who is appointed by the county commissioners, and the owners of the wells or land. A license fee may be levied against each well to pay the costs of administration and supervision. A permit to construct or repair artesian wells must be obtained from the county supervisor. The law fixes the maximum amount of water that may be used per acre, and prohibits waste.[5] County commissioners in counties with less than 15,000 population may appropriate not more than $2,500 from the general fund to purchase not less than 40 acres of land and pay the cost of drilling test wells to determine the water supply obtainable.[6]

The legislature of 1913 authorized the county commissioners of counties with not more than 50,000 inhabitants to appropriate $3,500 from the general fund to purchase deep well drilling machinery, to be

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1. G.S. 1868, ch. 23, sec. 89; G.S. 1935, ch. 42, sec. 120.
2. L. 1889, ch. 165, secs. 1-10; G.S. 1935, ch. 42, secs. 109-118.
3. L. 1891, ch. 133, art. 7, secs. 1-3, 7-9; L. 1901, ch. 71, sec. 1; L. 1929, ch. 204, secs. 1-3; G.S. 1935, ch. 42, secs. 357-359, 363-365
4. L. 1909, ch. 97, secs. 1, 2; G.S. 1935, ch. 42, secs. 505, 506.
5. L. 1911, ch. 210, secs. 1-30; G.S. 1935, ch. 42, secs. 401-429.
6. L. 1915, ch. 238, secs. 1-3; G.S. 1935, ch. 42, secs. 501-503.

used in ascertaining the substrata and its formation, and obtaining other geological information, when petitioned by 51 percent of the resident taxpayers of the county. The machinery may be operated only under the management of a competent person selected by the commissioners. The machinery may be furnished to residents of the county free of charge except for payment of the per diem of the manager, which may not exceed $5 per day.[1]

The legislature of 1929 enacted the "conservancy act of Kansas," providing for incorporation by the district court upon petition of at least 500 freeholders or three-fifths of the property owners of the proposed area, of conservancy districts for the purpose of preventing floods, regulating steam channels, reclaiming overflowed lands, providing for irrigation, and for the building and maintenance of levees, canals, reservoirs, embankments, bridges, or dams. The governing body consisted of a board of three directors appointed by the court for 3-year terms and was required to make an annual report to the court which appointed it. Drainage districts then existing under any law of the State could reincorporate as conservancy districts. The powers and methods of procedure prescribed for the boards of directors were similar to those granted the governing bodies of drainage districts, though in many respects broader. The board could borrow money, issue bonds, and levy taxes to make needed improvements. All existing laws were decreed to be inoperative in so far as they conflicted with the provisions of the conservancy act or hindered achievement of purposes of the conservancy districts. The act provided that "being necessary for securing the public health, safety, convenience, or welfare and being necessary for the prvention of great loss of life and for the security of public and private property from floods and other uncontrolled waters, it shall be liberally construed, to effect the control and conservation and drainage of the waters of this State."[2]

However, after only a few years of operation this act was held unconstitutional by the State Supreme Court[3] and the legislature of 1937 repealed the entire act excepting one section[4] which prohibits any drainage of levee district, or any person or firm, from constructing such improvements along or near any stream subject to floods or overflow except with the consent of the chief engineer of the division of water resources of the State Board of Agriculture.[5]

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1. L. 1913, ch. 153, secs. 1-3; G.S. 1935, ch. 19, secs. 2501-2503.
2. L. 1929, ch. 176, secs. 1-71; G.S. 1935, ch. 24, secs. 1001-1071.
3. 131 Kan. 214.
4. L. 1937, ch. 222, sec. 1.
5. L. 1929, ch. 176; sec. 71; G.S. 1935, ch. 24, sec. 1071.

Miscellaneous Improvements. The legislature of 1927 first empowered boards of county commissioners to create storm and sanitary sewer districts in counties having a population of more than 21,000 and less than 100,000 inhabitants, which includes 21 counties of the State, including Shawnee. Upon presentation of a petition signed by the owners of 51 percent of the acreage in the proposed district the commissioners may provide one or more taxing districts for the purpose, employ engineers, and build a storm and sanitary sewer system; or purchase one already constructed and pay the costs thereof by either bond issue or tax levies assessed against the benefiting property. They also may contract with municipal corporations for the use of sewers already built, and have authority to construct and maintain sewage disposal works and levy the cost against property in the sewer districts. They also may make an annual levy on property in the district for a maintenance fund for both the sewers and disposal plant.[1]

The same legislature also authorized county commissioners of any county to create taxing districts composed of the area of unincorporated towns or villages, for the purpose of providing fire protection and street lighting. The area to be included in the district must have been platted, and no tract comprising more than 5 acres may be included except upon written request of the owner. Before such order is made, the commissioners must receive a petition signed by owners of at least 51 percent of the land. The amount of money required for the purpose must be certified to the county clerk by the township board, which also administers the fund.[2]

A law enacted in 1931 gives county commissioners power to contract with incorporated cities for the lighting of streets and highways lying outside such cities, provided they deem it necessary to promote public convenience, welfare, and safety. The term of the contract may not exceed 20 years, and it cannot be made until the commissioners have been petitioned by owners of a majority of the front feet of land abutting on such highways, and after a public hearing. Funds for this purpose are raised by special tax levies upon the benefiting property.[3]

In 1929 all counties were authorized to establish public parks and recreation grounds, upon a majority vote of the electors, at a cost not exceeding $15,000 exclusive of gifts and donations. The county commissioners may submit such a proposal to the voters at any general election, and are required to do so if petitioned by 20 percent of the

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1. L. 1927, ch. 165, secs. 1, 3, 5-10; L. 1931, ch. 165, secs. 1, 2, 5; L. 1935, ch. 139, secs. 1-3; G.S. 1935, ch. 19, secs. 2704-2714; L. 1938, ch. 42, secs. 1-3 (Special Session).
2. L. 1927, ch. 170, secs. 1-3; G.S. 1935, ch. 19, secs. 2716-2718; L. 1938, ch. 43, secs. 1-3 (Special Session).
3. L. 1931, ch. 158, secs. 1-9; G.S. 1935, ch. 19, secs. 2721-2729.

electors. A tax levy not exceeding 1/10 mill on the dollar may be levied for a maintenance fund.[1] Four additional exactments by the legislature of 1935 make varying provisions for such improvements in counties with certain populations and taxable property valuations. A feature of these laws is the authority conferred upon the counties specified to enter into contracts with the State Forestry, Fish, and Game Commission to provide for building reservoirs, dams, and lakes in county recreational areas.[2]

One of these acts authorizes boards of county commissioners of counties of 80,000 to 100,000 inhabitants to purchase or acquire title to necessary lands by devise, bequest, or condemnation proceedings for the purpose of establishing a park and recreational grounds in such county.[3] The board is empowered to adopt a plan for the park, including a lake or lakes, recreational grounds, reforestation, roads, "and such other improvements as may be conducive to the recreation, convenience, and comfort of the public." The county is vested with the right of eminent domain if necessary in acquiring land or water rights. The county commissioners are authorized to issue county bonds for the purpose in a sum not exceeding 1/10 of 1 percent of the total assessed valuation of the county for the preceding year. No election is required unless a petition signed by not less than 20 percent of the qualified electors of the county is filed with the county clerk within 30 days after the commissioners have adopted a resolution declaring their intention to acquire title to land for park purposes.[4]

Under this law the county commissioners of Shawnee County acquired title by condemnation to 968 acres of land, mostly in township 12, range 16, at a cost of $96,449.55. The site on Deer Creek was selected by the commissioners May 6, 1935 and on May 13 the commissioners issued $100,000 in county bonds to pay for the condemned land. Specifications for the lake were approved by the State Board of Agriculture on December 13, 1935.[5] The county commissioners assumed control over the completed project, designated as Lake Shawnee Park, on August 6, 1937.[6]

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1. L. 1929, ch. 158, secs. 1-3; G.S. 1935, ch. 19, secs. 2801-2803.
2. L. 1935, chs. 140-145; G.S. 1935, ch. 19, secs. 2804-2823.
3. L. 1935, ch. 142, sec. 1; G.S. 1935, ch. 19, sec. 2814; L. 1937, ch. 191, sec. 1. The original act applied to counties of 80,000 to 90,000 population.
4. L. 1935, ch. 142, secs. 2-5; G.S. 1935, ch. 19, secs. 2815-2818.
5. Commissioners' Journal, vol. T, pp. 156, 160, 387, 498, 499, see entry 2.
6. Ibid., vol. U, p. 357.

Miscellaneous Functions

Agriculture. Kansas being primarily a farming State, the encouragement and promotion of agriculture always has been a matter of legislative concern. The Constitution decreed that the legislature should encourage, among other things, "the promotion of . . . agricultural improvement."[1]

The Kansas State Agricultural Society was created and constituted a body corporate by the legislature of 1862, which provided that any citizen of the State might become a member upon payment of an annual fee of $1. The Society was empowered to make by-laws and regulations, and acquire, hold, and dispose of property.[2] The same legislature authorized any ten or more persons to associate themselves as a county, city, town, or village agricultural society, as a body corporate and politic, which society could hold fairs and exhibitions, distribute premiums, and own property. There could be no more than one county society in each county.[3] In 1868 county commissioners were authorized to appropriate, when petitioned by a majority of the electors, a sum not exceeding what would be raised by levy of a 1/4 mill tax on all taxable property in the county for the purchase and improvement of a tract of ground for use of the county agricultural society in holding fairs. These annual appropriations may be used to pay annual installments on the purchase price of the ground. In 1870 the allowable levy was raised to 1 3/4 mill.[4]

Under this law and pursuant to the approval of the voters expressed at a special election held April 5, 1870[5] the county commissioners of Shawnee County on August 11, 1870 purchased 44 acres of land in the west 1/2 of the southwest 1/4 of section 6, township 12, range 16 for $6,600.[6] An additional 4 acres was purchased July 3, 1870[7] and 8 acres more was bought on May 15, 1871.[8] Subsequently 20 acres of ground more was added so that the tract now comprises the entire west 1/2 of the southwest 1/4 of section 6, township 12, range 16 excepting 4 acres in the northwest corner.[9] With approval of the electors expressed at a special election held May 1, 1871 the commissioners issued the county's 10-year bonds in the sum of $15,000 for making improvements on the

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1. Const., art. 6, sec. 2.
2. L. 1862, ch. 185, secs. 1-3.
3. Ibid., ch. 186, secs. 1-5.
4. G.S. 1868, ch. 2, secs. 1-3; L. 1870, ch. 17, sec. 1.
5. Commissioners' Journal, vol. BC, p. 205, see entry 2.
6. Deed and Mortgage Record, vol. 24, p. 395, see entry 164.
7. Ibid., vol. 25, p. 84.
8. Ibid., vol. 28, p. 15.
9. Commissioners' Journal, vol. N, p. 350, see entry 2.

fairgrounds.[1] By authority of legislative enactment[2] the county commissioners contracted on April 10, 1923 for construction of a $200,000 steel and concrete grandstand and on May 4 issued bonds of the county in that sum to defray the cost. The structure was accepted as completed on October 22, 1923. Complying with terms of the law authorizing its construction, the county commissioners require that 40 percent of the gross revenue accruing from the use of the grandstand during any fair shall be paid into the county treasury.[3]

The legislature of 1872 provided that the State agricultural society should be constituted the Kansas State Board of Agriculture, to consist of a president, vice president, secretary, treasurer, and five members. Each county and district agricultural society which had held a fair and awarded premiums the previous year was entitled to send a delegate to the annual meeting of the State society, who could vote for the State officers. When a county or district society entitled to representation on the State Board had raised at least $50 the county commissioners were required to appropriate a like sum, not exceeding $200, for the society to use in paying premium at the next fair. In 1917 the State Board was increased to 16 members, and farmers' institutes, farm bureaus, farmers' unions, county granges, and breeders' associations were authorized to send delegates to the annual meeting.[4]

The legislature of 1929 authorized the formation of county fair associations with a paid up capital stock of not less than $5,000, which are entitled to receive from the county a sum equal to the cost of premiums awarded at the current annual fair but not exceeding $2,000 in 1 year; except that counties with more than 70,000 population may pay $2,500. County free fairs may be created and maintained by county commissioners on petition of 60 percent of the land owners and a levy of from 1/2 to 1 mill made to defray the cost. As a governing body for such fairs the commissioners appoint a board of directors representing each township.[5]

In 1903 farmers' institute associations were recognized by the legislature, which made it the duty of the county commissioners to appropriate not more than $50 to any such duly organized county

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1. Commissioners' Journal, vol. BC, p. 383, see entry 2.
2. L. 1923, ch. 143, secs. 1-3; L. 1927, ch. 10, sec. 1; G.S. 1935, ch. 2, sec. 124.
3. Commissioners' Journal, vol. Q, pp. 100, 107, 113, 114, 149, see entry 2.
4. L. 1872, ch. 37, secs. 1-3, 8; L. 1873, ch. 9, sec. 1; L. 1917, ch. 310, secs. 1-3; R.S. 1923, ch. 74, sec. 501; L. 1931, ch. 280, secs. 1, 2; G.S. 1935, ch. 74, secs. 501-504.
5. L. 1929, ch. 1, secs. 1-5, 8, 9; L. 1935, ch. 2, sec. 3; G.S. 1935, ch. 2, secs. 125-129, 132, 133.

association to defray the expense of 2 days institute annually. If the county association does not fulfill requirements the superintendent of farmers' institutes of the Kansas State College may designate some other local association to receive the money, or may direct the county commissioners to pay not more than $15 a year to another local association also to defray the cost of a 1 day institute.[1]

In August 1912 the first local farm bureau in Kansas was organized in Leavenworth County and in March 1913 the second of the kind was formed in Montgomery County. In that year also farm bureaus were organized in Allen, Cowley, and Harvey Counties, and in the following year in Jewell, Linn, Lyon, and Miami Counties. When farm bureau work first started in the State the movement was financed largely by groups of bankers, commercial men, and farmers. The first five bureaus also obtained $1,000 each from the so-called Sears-Roebuck fund on the promise that an agricultural agent would be appointed for the county to continue the work for at least 2 years. They also received from the Federal Government sums ranging from $500 to $1,000 per year each toward the salaries of the agents employed. The remainder of the salaries, as well as the expenses of the farm bureaus, amounting to from $1,500 to $2,000 per year, was raised by the bureaus themselves through membership fees and voluntary subscriptions.[2] The Federal money was allocated from an appropriation made by the Congress in 1912 for farmers' cooperative demonstrations and the study of the cotton boll weevil, to be supervised by the Bureau of Plant Industry of the Department of Agriculture.[3]

For the purpose of encouraging agriculture and home economics through colleges receiving grants under the act of July 2, 1862 and the act of August 30, 1890 the Congress in 1914 passed an act commonly known as the Smith-Lever bill, which permanently appropriated the sum of $480,000 for each year, $10,000 of which was to be paid annually to each State assenting to the provisions of the act. It also appropriated an additional sum of $600,000 for the fiscal year; and for each of the seven years thereafter a sum exceeding by $500,000 the appropriation for each preceding year. For each year following the end of the 7-year period, the sum of $4,100,000 was appropriated in addition to the $480,000 originally provided. The act specified that the additional sum should be allotted annually to each State "in the proportion which the rural population of each State bears to the total rural population of all the States, as determined by the next preceding Federal census."

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1. L. 1903, ch. 238, sec. 1; L. 1909, ch. 103, secs. 1, 2; L. 1911, ch. 1, secs. 1, 2; G.S. 1935, ch. 2, secs. 116, 117.
2. Nineteenth Biennial Report of the Kansas State Board of Agriculture, 1914, p. 253.
3. 37 Stat. 247.

No payment may be made out of the additional appropriation "until an equal sum has been appropriated for that year by the legislature of such State, or provided by State, county, college, local authority, or individual contributions from within the State."[1]

The Kansas legislature assented to provisions of the Smith-Lever bill March 1, 1915 and authorized the Kansas State College of Agriculture and Applied Science to receive the Federal grants, and to organize and conduct agricultural extension work.[2] For the purpose of duplicating the Federal grants the legislature appropriated $14,566 for the fiscal year 1916 and $26,696 for the fiscal year 1917.[3] Since 1915 the legislature has made biennial appropriations for this purpose, that for 1940-41 amounting to $160,000.[4] Under this provision any county may obtain State and Federal aid for a farm bureau, in so far as funds permit, providing the bureau obtains a membership of not less than 25 percent of all the farmers in the county, and not less than 250 farmers, at fees of from $1 to $5 a year. The legislature of 1915 required the Kansas State College of Agriculture and Applied Science, upon application of counties so qualifying, to contribute not less than $800 nor more than $1,600 a year toward the salary of the county agent whenever the farm bureau should present to the county commissioners a copy of its constitution and by-laws bearing approval of the college, and proof of a bank deposit of at least $800 with which to buy equipment, or a statement from the college extension director that such equipment had been provided. The county commissioners were required to appropriate an equal amount when convinced that the requirements had been complied with. In 1919 the minimum State College contribution was placed at $1,200 and the county annual appropriation also fixed at $1,200. The farm bureau is required to submit a budget each year and the county commissioners to make an annual farm bureau levy.[5]

The Shawnee County Farm Bureau was organized July 1, 1917.[6]

The county commissioners are authorized to devise methods to stop the drifting of soil in their respective counties and may call upon experts of the State College for assistance. They may require lands subject to soil drifting to be cultivated, ditched, furrowed, or planted and are empowered to enter upon any such lands for this purpose if the owner fails to comply with their orders, and assess the costs against the property, or pay the cost from a "soil-drifting fund"

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1. 38 Stat. 372.
2. L. 1915, ch. 377.
3. Ibid., ch. 47.
4. L. 1939, ch. 41.
5. L. 1915, ch. 166, secs. 1, 2; L. 1919, ch. 157, secs. 1, 2; G.S. 1935, ch. 2, secs. 601-603.
6. Shawnee County Farm Bureau, Annual Report, 1939, p. 7.

they are authorized to create by general tax levy.[1] In case the owners of the property fail to do so when ordered, the county commissioners may cause the removal of signs and billboards, and cause hedge fences to be cut within 50 yards of any railroad grade crossing, abrupt turn in the highway, or entrance to driveway off the public highway and assess the cost against the property.[2] The county board, when petitioned by voters, is required to purchase and distribute a mixture for the control of grasshoppers in the county, which mixture must conform to a formula prescribed by the State College.[3]

The legislature of 1871 first authorized county commissioners to pay bounty on gopher scalps. From time to time this authority was enlarged to include bounties on several other kinds of predatory and destructive animals and birds. The commissioners may call upon the State College experts for counsel and assistance and may purchase poisons and employ persons to exterminate such pests. The amount of bounty and the amount of tax to be levied for payment thereof has varied from time to time. At present the commissioners may levy 1/8 mill for this purpose.[4]

The legislature of 1868 required the county commissioners to pay an annual bounty of $2 peracre for trees planted by landowners and meeting certain specifications, and $2 for each 1/2 milb planted along highways. This bounty could be drawn for a period of 25 years, but only if the trees were kept alive. This law was repealed in 1874.[5] In 1889 another law was passed authorizing county commissioners to pay a bounty of $10 for each acre of trees planted and properly cultivated for 5 years. This law was repealed by the revision of the statutes in 1923.[6] This legislation was designed particularly to encourage planting of trees in the sparsely timbered western third of the State.

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1. L. 1913, ch. 150, sec. 1; L. 1933, ch. 60, sec. 1 (Special Session); L. 1935, ch. 138, sec. 1; G.S. 1935, ch. 19, sec. 2611; L. 1937, ch. 189.

2. L. 1915, ch. 288, sec. 1; L. 1921, ch. 221, sec. 1; L. 1927, ch. 159, sec. 1; G.S. 1935, ch. 19, sec. 2612.

3. L. 1877, ch. 119, sec. 1; L. 1917, ch. 147, sec. 1; L. 1919, ch. 314, sec. 1; L. 1925, ch. 136, sec. 1; G.S. 1935, ch. 19, secs. 2401, 2403.

4. L. 1871, ch. 87, secs. 1, 2; L. 1877, ch. 76, secs. 1-4; L. 1885, ch. 73, secs. 1-3; L. 1889, ch. 90, secs. 1-5; L. 1899, ch. 59, secs. 1-3; L. 1905, ch. 73, sec. 1; ch. 74, secs. 1, 2; ch. 319, secs. 1-4; L. 1907, ch. 67, sec. 2; L. 1913, ch. 146, sec. 1; L. 1927, ch. 334, sec. 1; L. 1929, ch. 147, secs. 1-6; L. 1933, ch. 167, sec. 1; G.S. 1935, ch. 19, secs. 2311-2315; L. 1939, ch. 161, sec. 1.

5. G.S. 1868, ch. 112, secs. 1-3; L. 1872, ch. 204, secs. 1-2; L. 1874, ch. 76, sec. 1.

6. L. 1889, ch. 254, secs. 1-4; Report of Commission to Revise the General Statutes, Topeka, 1922, p. 207.

(First entry, p. 207)

Inspections. The spread of field bindweed in Kansas caused the legislature of 1937 to authorize the county commissioners of any county, or the governing body of any city to employ for a stated time each year a competent person as weed supervisor to superintend and control eradication of the weed within his jurisdiction.[1] A bindweed inspector was first employed by the Shawnee County commissioners January 17, 1938.[2] A law enacted in 1883 required boards of county commissioners, upon being informed that sheep with scab or other malignant or contagious disease existed in the county, to appoint a sheep inspector for a 2-year term, whose duty it was to make a monthly inspection of all flocks known to be diseased and require their treatment by approved methods. This law was repealed in 1911.[3] Under a law enacted in 1901 the county commissioners of any county, upon being petitioned by a majority of the electors, were authorized to appoint as many persons as they deemed necessary to inspect the marks and brands of any livestock about to be driven from, to, or through any point in the State, and make a permanent record thereof. It was made illegal for any transportation company to accept such livestock for shipment without a certificate from an inspector. This law was repealed in 1939 and all matters pertaining to livestock brands placed under the jurisdiction of a newly created State Brand Board.[4]

In 1905 the appointment of a county inspector of bees was authorized whenever 25 beekeepers of the county should petition the county commissioners. This law was repealed in 1911 and the duties conferred upon an inspector of apiaries appointed by the State Entomological Commission.[5] Another office created in 1905 and still authorized by statute is that of county gas inspector, appointive for a term of 2 years. It is the duty of the gas inspector to see that all laws pertaining to drilling for gas, regulating gas wells, and the piping and consumption of natural gas are observed in his county.[6] Beginning in 1913 the commissioners of any county having oil and gas wells were authorized to appoint some suitable experienced person to supervise and direct the plugging of such wells. This office was eliminated in 1935.[7]

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1. L. 1937, ch. 1, sec. 3.
2. Commissioners' Journal, vol. U, p. 435, see entry 2.
3. L. 1883, ch. 144; L. 1911, ch. 312.
4. L. 1901, ch. 87; L. 1939, chs. 222, 223.
5. L. 1905, ch. 71; L. 1911, ch. 66; L. 1931, ch. 1; G.S. 1935, ch. 2, art. 4.
6. L. 1905, ch. 313; G.S. 1935, ch. 55, secs. 301, 307, 308.
7. L. 1913, ch. 201; L. 1935, ch. 208.

Records System

The records system of Shawnee County differs little in general from those of the other counties of the State. Kansas statutes prescribe the duties of the county officers and in a general way provide that they shall keep records of their transactions, but only in a few instances do they designate the titles of the records or the precise manner in which they shall be kept. No uniform records system for counties is prescribed by law, and none exists except in cases where a State board or office has authority to designate the forms to be used. This is frequently done in the exercise of functions by the county as the agent or arm of the State.

In the matter of taxation the first general statutes of the State, adopted in 1868, provided that "the Auditor and the Attorney General shall, from time to time, prepare and transmit to the county clerk of each county such general forms and instructions, in conformity with the laws in force, as in their opinion may be necessary to secure uniformity in assessing, charging, collecting, and accounting for taxes; and the county commissioners, county clerks, assessors, and treasurers shall pursue and observe such forms." When the State Tax Commission was created in 1907 the act provided that the commission "shall provide a uniform method of keeping the tax rolls and books relating to taxation in each county of the State . . . They shall formulate and send to the proper officer in each county all necessary forms not herein provided for to be used in listing assessments, return of property, and collection of taxes,"[1] Budget forms for all taxing subdivisions were prescribed by the legislature of 1933.[2]

The State Superintendent of Public Instruction, by legislative enactment, prescribes and causes to be prepared all forms and blanks necessary in the common school system, to secure uniform procedure throughout the State, and forwards them to the county superintendents to be distributed among the school district officers.[3] Originally the Secretary of State, later the State Motor Vehicle Commissioner, and since 1939 the State Highway Department, prescribed the forms to be used by the county treasurers in the registration, licensing, and transfer of ownership of motor vehicles, and the licensing of motor vehicle operators and chauffeurs.[4]

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1. G.S. 1868, ch. 107, sec. 142; L. 1907, ch. 408, sec. 8; G.S. 1935, ch. 79, sec. 1401.
2. L. 1933, ch. 316, sec. 2; L. 1933, ch. 121, secs. 1-3 (Special Session); G.S. 1935, ch. 79, sec. 2926.
3. L. 1879, ch. 166, sec. 84; G.S. 1935, ch. 75, sec. 808.
4. L. 1921, ch. 69, sec. 2; L. 1929, ch. 81, sec. 3; G.S. 1935, ch. 75, sec. 20a02; L. 1939, ch. 299, sec. 1.

Governmental Organization and Records System - Records System (First entry, p. 207)

The legislature of 1935 created the office of State Accountant in the State Budget Department and decreed a standardized system of fiscal procedure, accounting, and reporting for all municipalities and subdivisions of the State, which must be installed and in use by January 1, 1942.[1]

Kansas statutes permit the register of deeds to destroy paid chattel mortgages when the owners thereof have not been found within 2 years, and chattel mortgages which have expired by reason of having been on file for 5 years or more without being renewed.[2] The legislature of 1937 authorized county clerks to destroy, after they had been on file for 15 years, no-property personal tax statements, non-taxable personal property tangible and intangible tax statements, original and duplicate county warrants canceled by the board of county commissioners, claims presented to and allowed by the board, the county treasurer's daily statements to the county clerk of the cash transactions of his office, the appointments of judges and clerks of elections, and the annual reports of township trustees and clerks.[3]

State and county officials are authorized to turn over to the Kansas State Historical Society for permanent preservation any records or documents not required by law to be kept in their offices as a part of the public records.[4] In event the official records of any county are lost, stolen, or destroyed, the county commissioners are authorized to obtain from the Historical Society certified transcripts of any such records of which it may have copies.[5]

Since 1860 the statutes have provided that "the board of commissioners of their respective counties shall, at the expense of the county, furnish annually and in due season, to the assessor of the county, suitable blank assessment rolls for the several townships, prepared in accordance with the provisions of law, and shall also provide suitable books and stationary for the use of each of the county officers of their county, together with appropriate cases and other furniture for the safe and convenient keeping of all the books, documents, and papers belonging to each of said officers, and also official seals for each of said officers where the same are required by law."[6]

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1. L. 1935, ch. 275, secs. 1, 10-13; G.S. 1935, ch. 75, secs. 1111, 1120-1123.
2. L. 1895, ch. 170, secs. 2, 3; G.S. 1935, ch. 58, secs. 320, 321.
3. L. 1937, ch. 203.
4. L. 1905, ch. 358, sec. 1; G.S. 1935, ch. 75, sec. 2706.
5. L. 1907, ch. 168, sec. 1; G.S. 1935, ch. 64, sec. 106.
6. Terr. L. 1860, ch. 28, sec. 28; G.S. 1868, ch. 25, sec. 32; G.S. 1935, ch. 19, sec. 225.

Governmental Organization and Records System - Record System

(First entry, p. 207)

The legislature of 1915 provided that whenever the statutes require court records, deeds, charters, and other instruments to be recorded by any city, county, or State officer, the making of photographic copies of such instruments shall be deemed recording.[1] This is now extensively used by registers of deeds in the more populous counties. It has been used in Shawnee County since 1927 for the deed and mortgage records, and subsequently for official bonds and articles of incorporation.

The laws governing the various county offices provide that the retiring officer shall turn over his records to his successor. In most cases authenticated copies of public records are admissable as evidence in court trials. All records required to be kept by county officers "shall be open for the examination of any person."[2]

Although the forms of some of the permanent records are prescribed by law, the statutes are silent on the matter of filing original documents. Generally in most counties steel or cardboard filing boxes and file drawers are used for this purpose and the documents seldom are indexed. In the offices of the clerks of courts the various instruments pertaining to each case usually are enclosed in a jacket labeled with the case number and title of the cause, and filed numerically by case numbers. In the county clerk's office, where there are so many different types of original documents, filing usually is not so well systematized. In Shawnee County the clerk succeeds in keeping the papers reasonably well grouped by type, and filed chronologically. However, as in most counties when the file drawers become crowded it is necessary to retire them and substitute new ones. This accounts for the fact that the same type of record often is found in two or more locations in an office or courthouse.

The records in the office of the register of deeds are well indexed and well arranged, as are those of the clerk of the district court. The probate court records also are well arranged, and since 1859 have been well indexed in general index books.

In Shawnee as in most counties in recent years loose-leaf volumes are taking the places of many of the permanent bound volumes, especially for indexes. These furnish better facilities for keeping records in their proper sequence and also are more economical, as the binders can be used repeatedly.

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1. L. 1915, ch. 286, sec. 1; G.S. 1935, ch. 67, sec. 224.
2. G.S. 1868, ch. 25, sec. 172; G.S. 1935, ch. 19, sec. 2601.

(First entry, p. 207)

3. HOUSING, CARE, AND ACCESSIBILITY OF RECORDS

The present Shawnee County courthouse was erected in 1894. Issuance of $150,000 in county bonds for the purpose was favored by the county voters 2,945 to 1,898 in an election held November 7, 1893[1] and the county commissioners on May 11, 1894 let the contract to F. L. Stevenson for $127,675.[2] The county commissioners had purchased on November 26, 1884 from Charles N. and Lucy B. Rix lots numbered 133, 135, 137, 139, 141, and 143 on Van Buren Street[3] as a site for a new courthouse. It now was desirable that more land be obtained and on May 22, 1894 the commissioners made a bid of $16,500 for lots 127, 129, and 131 adjoining the former purchase on the north. The offer was rejected by the owner and the commissioners instituted condemnation proceedings. The appraisers decided the property owners should be awarded $9,000.[4] The county acquired the lots and thus the courthouse was centrally located on 9 lots forming the southwest quarter of the block bordered on the south by Fifth Street and on the east by Van Buren Street.[5]

The cornerstone of the new structure was laid September 22, 1894 and formal opening of the completed building was held early in 1896.[6] When a third division of the Shawnee County district court was created by the legislature of 1925[7] the county commissioners on June 26 of that year authorized alterations in the building at an estimated cost of $20,000 to provide quarters for it.[8]

The courthouse grounds have a frontage of 140 feet on the south and 225 feet on the east. The lawn is terraced and supported by a 2-foot wall of native limestone contiguous with the outer sidewalks. The building is of Gothic colonial type and is constructed of Colorado granite, with a roof of brick tiling. It is 84 x 140 feet, and 74 feet high and consists of four stories including a semibasement, and an attic. The building itself is not considered fireproof, although many of the offices have adjoining fireproof vaults in which their records are kept.

There are two main entrances to the building, on the east and south, respectively, and both are reached by stone steps leading from the walk to the first floor. On the south is an entrance to the basement reached

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1. Election Returns, vol. P, p. 61, see entry 115.
2. Commissioners' Journal, vol. J, p. 21, see entry 2.
3. Deed Record, vol. 110, p. 65, see entry 157.
4. Commissioners' Journal, vol. J, pp. 25, 32, 42, see entry 2.
5. Tax Roll, Topeka City, 1894, p. 117, see entry 411.
6. Commissioners' Journal, vol. J, pp. 65, 318, see entry 2.
7. L. 1925, ch. 149, sec. 2.
8. Commissioners' Journal, vol. Q, pp. 262, 268, see entry 2.

by stone steps beneath those leading to the first floor. The floors of all offices and corridors are of marble tile except the basement floor, which is cement. Floors are connected by two inside stairways on the east side, north and south of a central elevator shaft. Those connecting the basement and first floor are of steel, with wooden wainscoting 40 inches high; those from the first to the second floor are of marble, with 40-inch marble wainscoting; and those from the second to the third floor are of marble with wooden wainscoting. Steel stairways lead from the third floor to the attic. Corridors in the basement and on the first floor are 30 feet wide, 120 feet long; those on the second and third floors are 25 x 80 feet. All have 16-foot ceilings, and all have 40-inch wooden wainscoting except that on the first floor, which is of marble. Each corridor is equipped with four wooden benches 3 x 2 x 10 feet.

All county offices are located in the courthouse with the exception of the county farm bureau, and county weed supervisor which are in the Federal building at Kansas Avenue and Fifth Street; the office of the social welfare director, on the second floor of the building at 1135 Kansas Avenue; the office of the county auditor, in suite 611-614 of the Central Building at Kansas Avenue and Seventh Street; and the office of the coroner, which is on the second floor of the building at 825 Kansas Avenue. Offices in the courthouse are in good condition and since adequate provision has been made for the storage of overflow records in the attic there is ample room for handling and care of current records.

In the basement are the offices of the sheriff, health officer, engineer and surveyor, rooms of the juvenile court, the court room of the Court of Topeka, and the offices of the clerk and the marshal of the court. The heating system is located in a room 30 x 30 feet with a 20-foot ceiling in the northwest corner, and on the east side of the basement is a storeroom for office supplies and a room in which confiscated liquor is kept.

On the first floor are the offices of the county clerk, treasurer, assessor, and register of deeds; the meeting room of the county commissioners, and the offices and courtroom of the probate judge. On the second floor are the offices of the county attorney and the clerk of the district court; the rooms of the court stenographer, and the chambers and court rooms of the first and second divisions of the district court. On the third floor are the offices of the county superintendent of public instruction, the chambers and court room of the third division of the district court, and the room of the court stenographer. The attic is used as a storage room for overflow records from all offices in the courthouse. All offices are well-lighted and ventilated, with adequate artificial light. Elevator service is furnished between the basement and third floor.

Housing, Care, and Accessibility of Records (First entry, p. 207)

Unless otherwise specified, the ceilings of all rooms are 16 feet high, and the dimensions of doors and windows are 3 x 7 feet and 4 x 8 feet, respectively.

Board of County Commissioners. The room used by the county commissioners is at the north end of the corridor on the first floor of the courthouse. It is 18 x 16 feet, has two windows on the north a door on the south leading from the hall and another on the west leading to the private office of county assessor. The room is divided by a north and south railing 3 feet high and 14 feet long; the commissioners and their stenographer sit for hearings on the west side, the east being used by the public. All records of the county commissioners are kept in the fireproof vault of the county clerk. Unbound records, amounting to 40 percent of the total, are contained in 125 steel file drawers 10 x 5 x 14 inches and three steel file drawers 14 x 16 x 20 inches; and the bound records, which constitute the remaining 60 percent, are filed on 10 feet of 20-inch wooden shelving.

County Clerk. The office of the county clerk is on the west side of the main corridor, and occupies approximately one-third of the length of the building. It is 28 x 20 feet, with two windows on the west side. Two doors lead from the corridor, two more give access to the office of the county treasurer on the south, and one door opens into the vault at the north end of the clerk's office. A counter 3 x 2 x 24 feet runs from north to south and divides the office into public space and work room. Unbound records are filed in 20 steel file drawers in the counter and in two steel filing cabinets 4 x 2 x 2 feet, containing 10 drawers 14 x 16 x 20 inches, in the southwest corner of the room. Bound records in the office are contained in 10 feet of steel roller shelving 20 inches deep under the counter.

Adjoining the office on the north is a fireproof vault 10 x 20 feet. It has one window on the west, and two steel doors on the north and south leading respectively from the offices of the county assessor and the county clerk. Within the vault are 380 steel file drawers 10 x 5 x 14 inches, 159 containing records of the clerk, 125 holding records of the county commissioners and 96 containing records of the county auditor. There also are eight file drawers 14 x 16 x 20 inches, three containing records of the commissioners and five containing records of the auditor; and nine cardboard boxes 9 x 8 x 20 inches containing records of the county clerk. All these are unbound documents. Volumes are kept on 270 linear feet of wood shelving and 155 feet of steel shelving. Records of the clerk occupy 240 feet of the wooden shelving and 130 feet of the steel shelves; those of the commissioners 30 feet of wooden shelving; those of the auditor 5 feet, and those of the county assessor 20 feet of steel shelving.

The vault contains 100 percent of the commissioners' records, 30 percent of the clerk's, 15 percent of the assessor's, and approximately

60 percent of the auditor's records. Ten percent of the clerk's records are in the office and the remaining 60 percent, totaling 340 feet of wooden shelving and 44 cardboard boxes 9 x 8 x 20 inches, are in the attic and attic vault.

Register of Deeds. The office of the register of deeds is in the northeast corner on the first floor and includes a main office 24 x 20 feet, a double-deck fireproof vault 24 x 12 feet, and a small inner office 12 x 14 feet. The main office has two windows on the north and two on the east, a door opening into the corridor on the west, and another door leading into the vault on the south. A wooden counter 3 x 3 x 20 feet runs across the office from east to west. In the office are two steel file cabinets 5 x 3 x 2 feet with 12 drawers 14 x 16 x 20 inches in which unbound records are kept.

Adjoining the office on the south is the vault, which has one window on the east and steel doors on the north and south leading respectively to the main office and the south office. The vault is equipped with two steel tables 3 x 5 x 3 feet for the use of workers. Unbound records are contained in 139 steel file boxes 10 x 5 x 14 inches, and in three cardboard boxes 8 x 12 x 20 inches. Volumes are filed on 725 linear feet of 20-inch steel roller shelving.

A small office on the south of the vault has two windows on the east and a door on the west opening on the hallway, in addition to the steel door on the north which leads into the vault. There are 69 steel file drawers 10 x 5 x 14 inches against the west wall containing unbound records.

Five percent of the records are kept in the main office, 89 percent in the vault, 5 percent in the south office, and the remaining 1 percent in the attic. The latter consist of volumes stored on 20 feet of steel roller shelving in the main attic and six cardboard boxes 16 x 14 x 20 inches holding unbound records in the attic vault.

District Court. The office of the clerk of the district court is on the second floor of the courthouse in the west central section. The suite consists of three rooms and a fireproof vault. The main office, in the center of the building on the west side, is 30 x 20 feet, with two windows, a door on the south leading to the south office, another on the north leading to the vault, and two doors opening from the corridor on the east. A counter 3 x 3 x 16 feet divides the public space from the part of the office used by employees. On the west side of the room is a steel file cabinet 5 x 2 x 2 feet containing four drawers each 14 x 16 x 20 inches in which unbound records are kept. Along the east and south walls are 1,332 steel file drawers 10 x 5 x 14 inches also containing unbound records.

Adjoining the main office on the north is the vault, 10 x 20 feet, which has a steel door on the south and one window on the west. In

the vault is a steel table 3 x 5 x 3 feet for the use of workers. Bound records are filed in 550 feet of steel roller shelving 20 inches deep, and the unbound documents are contained in 56 steel file drawers 10 x 5 x 14 inches.

To the south of the main office are two adjoining offices, the larger 16 x 30 feet with three windows on the west, a door on the north opening into the main office and another on the east leading to the smaller south office, 16 x 20 feet, which has a door on the east opening into the hallway. In the larger room are two steel filing cabinets each 4 x 6 x 2 feet with 32 file drawers 14 x 16 x 20 inches containing unbound records; and on the north, east, and south walls are 394 steel file drawers 10 x 5 x 14 inches in which other unbound records are kept. On the north wall of the smaller office are 176 steel file boxes 10 x 5 x 14 inches containing unbound records, and 72 linear feet of wooden shelving 20 inches deep on which volumes are kept.

The main office contains 35 percent of the records of the clerk of the district court, the vault holds 20 percent, and the two south offices contain 20 percent. The remaining 25 percent of the records are housed in the main attic, the bound records on 280 linear feet of new wooden shelving 20 inches deep, the unbound documents in 83 cardboard boxes 12 x 12 x 18 inches.

On the second floor of the courthouse are the first and second divisions of the district court, the first division on the south side of the building and the second division on the north. The courtroom of each division is 60 x 40 feet, with 40-foot ceiling. That of the first division has 16 windows, a door on the west opening onto a balcony, another on the north leading to the hallway, and two more on the east opening onto a cross hall. The second division courtroom has 14 windows, a door leading to a balcony on the east, another on the south opening into the corridor, and two on the west opening into a cross hall. On the opposite side of the cross hall for each division is the stenographer's office and the judge's chambers. The courtroom of the third division is on the third floor of the courthouse in the west center. It also is 60 x 40 feet, but the ceiling is 20 feet high. There are six windows each 4 x 6 feet, a door on the south opening into a hallway, two doors on the east leading from the main hall, and a fourth door on the north opening into a cross hall which connects with the judge's chambers and the stenographer's office in the northwest corner of the building.

Adjoining each court room and connected by a cross hall 8 x 16 x 40 feet are the judge's chambers, 12 x 16 feet, and the stenographer's room, 14 x 16 feet. In each case doors open into the hallway, and each stenographer's room has a connecting door into the adjoining chamber of the judge. Each room has two windows.

Housing, Care, and Accessibility of Records (First entry, p. 207)

In the southeast corner of the third floor are two jury rooms, each 16 x 18 feet. Each has a door on the west opening into a cross hall, and there is a connecting door between the two rooms. That in the extreme southeast corner has two windows on the south and two on the east; the room adjoining on the north has two windows on the east side.

Superior Court. The clerk of the district court is custodian of the records of the superior court which existed 1885-87. The case files of this court are contained in 11 steel file drawers 10 x 5 x 14 in the smaller south office of the clerk. One bound volume, the appearance docket, is kept in the clerk's vault, and the remaining records, consisting of six bound volumes, are in the attic.

Circuit Court. The records of this court, which existed 1891-95, also are in custody of the clerk of the district court. The case papers are contained in 55 steel file drawers on the east wall of the larger south office. Ten of the bound volumes are in the clerk's vault and the remainder, consisting of 18 bound volumes, are in the attic.

Probate Court. The office of the probate judge is located in the extreme southeast corner of the first floor. The public office and courtroom is 24 x 20 feet, with two windows on the south and two on the east side. A door on the west leads from the main corridor and a second door in the north wall of the room opens into the judge's private office. Three steel file cabinets on the south of the main office each 5 x 2 x 2 feet, contain 12 file drawers 14 x 16 x 20 inches in which unbound records are kept.

Adjoining the court room on the north is the private office of the probate judge. This room is 8 x 12 feet, with one window on the east, a door on the south leading from the court room, and another on the west opening into the vault.

The vault, adjoining the courtroom on the north and the private office on the west, is fireproof, of double-deck construction, and measures 12 x 20 feet. It has a steel door on the east opening from the private office, and another on the north. It has no windows. Unbound records are filed in 825 steel file drawers 10 x 5 x 14 inches and the bound volumes are kept on 560 linear feet of steel roller shelving 20 inches deep. The vault contains adequate space for housing more records.

Five percent of the probate judge's records are kept in the court room. The vault contains 94 percent, and the remaining 1 percent are in the attic. The overflow records include bound volumes kept on 8 linear feet of wood shelving 20 inches deep in the south end of the main attic, and unbound records stored in 24 cardboard file boxes 12 x 2 x 15 inches in the attic vault.

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Juvenile Court. Offices and rooms of the juvenile court are in the southeast corner of the courthouse basement. The main office or reception room is 14 x 16 feet, with one window, a door on the north leading from across the hall, and two doors in the east and south opening into small private offices, each 8 x 12 feet and having one window. In the northeast corner is a steel file cabinet 6 x 4 x 2 feet fitted with 125 linear feet of roller shelving and which provides ample space for the bound records. In the southeast corner are 63 steel filing boxes 10 x 5 x 14 inches and two steel boxes 4 1/2 x 4 x 14 inches containing the unbound records. All records of the office are kept in the reception room.

City Court of Topeka. The rooms occupied by the Court of Topeka are in the west central part of the basement of the courthouse. The court room is 50 x 30 feet, with four windows on the west; two doors on the east and one on the south, all opening into the corridor, and another on the south opening into the office of the clerk of the court. The public section is separated from the court proper by a railing 3 feet high and 30 feet long and is furnished with chairs.

Adjoining the court room on the south is the office of the marshal, with a door on the east, leading into the corridor. There are no windows.

On the south and west of the marshal's office is the office of the clerk of the court. This consists of two rooms, an outer office 12 x 14 feet which is directly south of the marshal's office, and a larger workroom 16 x 20 feet, west of the marshal's office and the outer office and south of the courtroom. Two doors lead from the central corridor into the clerk's outer office. In this room are 186 steel file boxes 10 x 5 x 14 inches on the east and south walls in which unbound records are kept. The workroom has two windows on the west side, a door on the north opening on the courtroom, another on the east leading to the office of the marshal, and a third, also on the east, connecting with the outer office. Unbound records in this room are contained in 90 steel file boxes 10 x 4 x 14 inches and the bound volumes are kept on 75 feet of wooden shelving 18 inches deep along the north wall.

Forty percent of the records are in this room, 45 percent in the outer office, and 15 percent consisting of unbound records filed in 24 cardboard boxes are stored in the southwest corner of the main attic. In addition, the bound records of the justice of the peace for Topeka Township are stored in the north end of the attic vault on 65 feet of wood shelving 18 inches deep. This office was superseded in 1899 by the Court of Topeka in Topeka City Township.

Constable. The constables keep no permanent records.

Sheriff. The office of the sheriff is in the southwest corner of the basement. The main office, 20 x 16 feet, has two windows on the

south, a door on the east leading from the corridor, and two doors on the west leading to the two private offices. On the north side of the office are two steel filing cabinets 5 x 2 x 2 feet fitted with eight drawers, and one wooden cabinet 4 x 2 x 2 feet with two drawers 14 x 16 x 20 inches, and on the east wall are 59 steel file drawers 10 x 5 x 14 inches in which unbound records are kept. Bound volumes are kept on 5 feet of wooden shelving along the north wall. Adjoining the main office on the west are two private offices, each 8 x 12 feet. That on the extreme southwest corner has one window on the south and one on the west, and the other has one window on the west. Both have doors opening into the main office on the east. The outer office contains 90 percent of the sheriff's records. One percent, consisting of 5 linear feet of bound volumes, are in the office of the county jail, and the remaining 9 percent, consisting of 5 linear feet of bound records, are in the southwest corner of the main attic.

Coroner. The office of the county coroner is on the second floor of the building at 825 Kansas Avenue. A reception room 12 x 14 x 12 feet and a private office 12 x 16 x 12 feet each with two windows 3 x 6 feet are joined by two connecting doors each 3 x 8 feet. All records of the coroner are kept on 5 linear feet of steel shelving in this office. The building is not fireproof.

County Attorney. The county attorney has three rooms in the east central part on the second floor of the courthouse. The reception room, 20 x 16 feet, has a door on the west opening from the corridor and one on each side opening into the adjoining private offices. There are two windows on the east. A railing 3 x 12 feet divides the office from east to west. On the east are six steel file cabinets 6 x 2 x 2 feet with 30 file drawers 14 x 16 x 20 inches in which unbound records are kept. Bound volumes are placed on 5 linear feet of wood shelving.

Two private offices, each 14 x 16 feet, adjoin the reception room on the north and south. Each has two windows on the east, a door on the west opening into the corridor, and a door at the side leading into the reception room.

About 70 percent of the records of the office are kept in the reception room. The remaining 30 percent consist of 5 linear feet of bound volumes stored on wooden shelves in the south end of the main attic, and unbound records in 25 cardboard boxes each 16 x 14 x 24 inches on the west side of the attic.

County Assessor. The assessor's quarters are in the northwest corner of the first floor and consist of a public office 20 x 18 feet, and a private office 14 x 16 feet adjoining it on the east. The public office has four windows, a steel door on the south leading to the county clerk's vault, a door on the east opening on the hallway, and

another on the east connecting the private office. In the east center of the office are two steel file cabinets 5 x 2 x 2 feet with 10 file drawers 14 x 16 x 20 inches holding unbound records. The private office has two windows on the north, a door on the east opening into the county commissioner's room, and another on the west leading to the assessor's public office.

The public office contains 15 percent of the assessor's records, all of them unbound. In the county clerk's vault are 15 percent more, all bound volumes housed on 20 linear feet of steel shelving. The remaining 70 percent are stored on 120 feet of wooden shelving in the main attic.

Board of Equalization. The county board of equalization is composed of the members of the board of county commissioners. Its records are included with the commissioners' records stored in the vault of the county clerk.

County Treasurer. The office of the treasurer is located in the extreme southwest corner on the first floor of the courthouse. It is 60 x 20 feet, with six windows. Three doors give access to the office from the corridor on the east, two doors lead to the county clerk's office on the north, and two steel doors lead to the fireproof vault, 16 x 12 feet, which is in the center of the office against the west wall. A steel counter 3 x 2 x 60 feet runs the length of the office from north to south. On the west are three steel filing cabinets 5 x 2 x 2 feet containing 15 filing drawers 14 x 16 x 20 inches, and on the east are steel cabinets containing 24 file drawers 8 x 6 x 20 inches and 20 drawers 10 x 5 x 14 inches. These cabinets contain the unbound records of the office. In the north and northwest are 180 feet of steel roller-type shelving 20 inches deep, on which the bound records are kept. The vault has one window on the west, and contains bound and unbound records on 20 feet of steel shelving 20 inches deep.

Thirty percent of the records are in the office, 10 percent in the vault, and 60 percent in the attic. The overflow bound volumes are stored on 210 linear feet of wood shelving in the northeast corner of the attic and on 110 feet of similar shelving on the attic vault. The unbound records in the attic are contained in 35 cardboard boxes 14 x 12 x 20 inches.

County Auditor. The office of the county auditor is located on the northwest corner of the sixth floor, suite 611-614, of the Central Building, at Kansas Avenue and Seventh Street. The building is not fireproof. The auditor occupies the north room of the suite, the office measuring 18 x 20 feet with a 12-foot ceiling. It is well lighted and ventilated, with two windows on the east and one on the north. A door on the south opens on the hall. Current records of the auditor, amounting to about 1 percent of the total, are kept in a steel cabinet

5 x 2 x 2 feet with three drawers each 14 x 16 x 20 inches. These are all unbound. Sixty percent of the auditor's records are in the county clerk's vault in the courthouse, and 39 percent in the attic.

County Superintendent of Public Instruction. The office of the county superintendent of public instruction is on the third floor of the courthouse in the center of the east side. It includes a main office 16 x 18 feet, with two private offices each 12 x 16 feet adjoining on the north and south. The main office has two windows on the east, a door on the west opening from the corridor, and doors on the north and south opening into the private offices. Each private office has one window on the east and one door on the west, in addition to the door connecting with the main office. In the south private office is a wooden cabinet and a steel cabinet, each 5 x 2 x 2 feet with four file drawers 14 x 16 x 20 inches in which unbound records are filed. Bound records are kept on 5 feet of wooden shelving 18 inches deep.

The south office contains 95 percent of the records. The remaining 5 percent are stored in the south end of the main attic, the unbound records in 10 linear feet of wooden pigeon holes each 12 inches deep and the bound records on 2 feet of wooden shelving 20 inches deep.

Board of County Examiners. Records of this board are in custody of the county superintendent of public instruction and kept in his office.

Board of Health. The office of the county health officer is in the north end of the courthouse basement, between the boiler room on the north and the court room of the Court of Topeka on the south. It consists of two rooms, one the main office or reception room, the other used as a clinic room. Each is 18 x 12 feet; with one window, and with two doors leading from the hallway.

All records are kept in the reception room, the bound volumes on 2 feet of wooden shelving 18 inches deep, and the unbound documents in a steel cabinet 4 x 2 x 2 feet with 4 file drawers each 20 x 8 x 24 inches.

County Social Welfare Board. The office of the director of social welfare is on the second floor of a fireproof building at 1135 Kansas Avenue, Topeka. It consists of a large main office 80 x 80 feet and seven private offices each 12 x 14 feet. All ceilings are 16 feet. Ventilation and lighting in all rooms is adequate. The offices are equipped with desks, tables and chairs.

All records are kept in the main office. In the east are 12 steel file cabinets 5 x 3 x 2 feet with 105 file drawers 14 x 12 x 20 inches, 20 file drawers 6 x 4 x 12 inches, 26 file drawers 5 x 3 x 6 inches, and 6 file drawers 20 x 6 x 20 inches. There also are seven cardboard boxes 14 x 12 x 18 inches. These containers provide ample space for the unbound records. Bound volumes are kept on 105 feet of wooden shelving 18 inches deep.

Housing, Care, and Accessibility of Records (First entry, p. 207)

County Engineer. The office of the county engineer is in the extreme northeast corner of the basement. There is an office and workroom 24 x 20 feet with two windows on the north and two on the east, a door opening from the corridor on the west, and another door leading to the vault on the south. Unbound records are kept in two steel cabinets each 6 x 2 x 2 feet with five file drawers 14 x 16 x 20 inches and three drawers 14 x 10 x 20 inches, and one steel cabinet 5 x 4 x 2 feet with 15 file drawers 4 x 10 x 14 inches. Bound records are kept on 5 feet of steel shelving 18 inches deep. In addition, five wooden hangers are provided for holding 356 blueprint maps.

The vault, which adjoins the office on the south, is fireproof and measures 10 x 20 feet. It has one window on the east, and is furnished with a wooden table 3 x 3 x 5 feet. Bound records are filed on 85 feet of steel shelving 20 inches deep, and unbound records in four cardboard boxes each 12 x 10 x 15 inches. There are 594 blueprint maps on 5 feet of wooden hangers. The office contains 25 percent of the records, and the vault 75 percent.

County Surveyor. The office of the county surveyor is in the southeast corner of the basement immediately north of the offices of the juvenile court. It consists of one office 8 x 12 feet and an adjoining fireproof vault also 8 x 12 feet. The office has one window on the east, a door on the west opening from the hallway, and a door in the northwest leading to the vault. Records are filed on 5 feet of wooden shelving 18 inches deep. The vault, to the west of the office, has one door but no windows. It has one table 3 x 3 x 5 feet, and contains only the tools and equipment of the surveyor. All records are kept in the office.

County Weed Supervisor. The county weed supervisor occupies a room 10 x 10 x 10 feet in the county farm bureau offices on the third floor of the Federal Building, Fifth and Kansas Avenues. An east window admits ample natural light and ventilation, and there is a door on the south. Records are contained in 4 file drawers 16 x 18 x 26 inches and on a shelf 12 x 18 x 14 inches in a utility cabinet on the east wall; and in two steel filing cabinets 6 x 8 x 18 and on two shelves 18 x 16 x 6 in a wooden cabinet on a desk.

Attic Storage Room and Vault. The courthouse attic is one large room 84 x 140 feet covering the entire fourth floor of the building. Sidewalls are 4 feet high, with a further slope to the roof. The floor is of cement. There are 36 windows around the sides and large skylights in the roof which admit ample natural light. On the east side, in the center, is a vault 24 x 20 x 24 feet which, though built of brick, is not entirely fireproof. It has three windows each 3 x 10 feet on the east and one door on the west. An iron stairway with a door at its foot leads to the third floor on each side of the vault. Ventilation of vault and main attic is fair.

Here are stored all overflow records of various offices, amounting to 40 percent of all the records in the courthouse. There is 1,303 feet of wooden shelving 20 inches deep, a considerable part of it built after the beginning of this Survey. There are 251 cardboard boxes serving as containers for unbound records. There is ample room for any additional overflow, with 180 feet of wooden shelving and 120 feet of steel shelving still unused.

The percentage of the total records of each office stored in the attic is as follows: County clerk, 60; register of deeds, 1; clerk of district court, 25; probate court, 1; Court of Topeka, 15; justice of peace, 100; sheriff, 9; county attorney, 30; county assessor, 70; county treasurer, 60; county auditor, 39; superintendent of public instruction, 5.

4. ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

Abbreviations

alph.	alphabet(ically)
arr.	arranged
art.	article
aver.	average
bdl.	bundle
bsmt.	basement
cb. b.	cardboard box(es)
ch.	chapter
chron.	chronologically
clk.	clerk('s)
co.	county
Const.	Constitution
ct.	court
dist.	district
eng.	engineer('s)
f. b.	file box(es)
f. dr.	file drawer(s)
fm.	form
G.S.	General Statutes (of Kansas)
hdw.	handwritten
Ibid.	in the same place
Kan.	Kansas (Supreme Court Reports)
L.	Laws (of Kansas)
no., nos.	number(s)
num.	numerically
off.	office
op. cit.	the work previously cited
Pac.	Pacific (Reporter)

 (First entry, p. 207)

p., pp.	page(s)
pr.	printed
pro. ct.	probate court
R.S.	Revised Statutes (of Kansas)
sec.	section(s)
shf.	sheriff('s)
st.	street
Stat.	Statutes (at Large of the United States)
supt.	superintendent('s)
Terr. L.	Territorial Laws
Terr. P.L.	Territorial Private Laws
treas.	treasurer('s)
twp.	township(s)
U.S.	United States
U.S.C.	United States Code
va.	vault
vol.	volume(s)

Symbols

&	and
x	by (in dimensions)
--	to date, continuing

Explanatory Notes

Titles of Records. Exact titles of records are written in solid capitals without parentheses. In the absence of titles, descriptive titles have been assigned, which are written in solid caps and enclosed in parentheses. If a record title is not descriptive of the contents of the record, an assigned explanatory title (or explanatory words), written with initial caps and enclosed in parentheses, has been added. The current or most recent title of a record is used as the entry title, and any title variations are shown with the inclusive dates for which they were used.

Dates. All dates used are inclusive. Missing records are indicated by broken dates.

Quantity. When two or more types of containers are considered in a single entry, the quantity is shown in chronological order, in so far as possible.

Labeling. Figures or letters in parentheses following the number of volumes, file boxes, or other types of containers, indicate the labeling. If no labeling is indicated, it may be assumed that there is none.

Abbreviations, Symbols, and Explanatory Notes - Explanatory Notes (First entry, p. 207)

Discontinuance. Where no statement is made that the record was discontinued at the last date shown in the entry, it could not be definitely established that such was the case. Where no comment is made on the absence of prior, subsequent, or intermediate records, no definite information could be obtained.

Description of Records. The description of the contents of a record applies only to the current or most recent record unless change in the contents is actually shown in the entry.

Indexing. All indexes of records, unless otherwise stated, are self-contained.

Condition of Records. Records are in good condition unless otherwise indicated.

Location of Records. When all or the majority of the records of an office have a common location, the location is indicated in the last sentence of the office essay instead of in each individual entry.

Dimensions. Dimensions are always given in inches, and therefore the symbol for inches (") has been omitted.

Cross References. Title-line cross references are used to show the continuity of a record series which has been kept separately for a period of time and with other records for different periods of time. An example is that in entry 6, "1898-- in Board Proceedings, entry 4." They are also used in all artificial entries, that is, entries set up to cover records which must be shown separately under their proper office, even though they are kept in files or records appearing elsewhere in this inventory, as, for example, the title line cross reference in entry 28, "In Reports of County Officials (of Fees Collected), entry 470;" or in entries set up for a record which is never kept by itself, but is found in two or more records of miscellaneous content, such as entry 34. In both instances the description of the master entry shows the title and entry number of the record from which the cross reference is made, as, for example, these words in entry 23 do: "Also contains: Claims of Townships (Road Drag and Patrol Vouchers), entry 35." Dates shown in the description of the master entry, or entry of miscellaneous content, are only for the part or parts of the record contained therein, and are shown only when they vary from those of the master entry.

Separate third paragraph cross references from entry to entry, and See also references from subject headings and subheadings are used to show prior, subsequent, or closely related records which are not parts of the same series.

(First entry, p. 207)

I. BOARD OF COUNTY COMMISSIONERS

Structural Organization and Evolution

Selection and Term. To administer the affairs of the county as a body corporate the first Territorial assembly in 1855 created a board of county commissioners composed of the probate judge of the county as chairman and two associates. All three were appointed by the assembly to hold office until the general election of October 1857, after which they were to be elected by the people for 4-year terms.[1] The first board of commissioners of Shawnee County was appointed at a joint meeting of the assembly on August 25, 1855 and consisted of William O. Yager, chairman by virtue of his appointment as probate judge, and Edward Hoogland and William Yocum.[2] The first meeting was held September 17, 1855 at Tecumseh, which the assembly had designated as the county seat.[3]

The Free State assembly of 1858 abolished the board of county commissioners and created in its place a board of county supervisors composed of the chairmen of the various township boards of supervisors, who were elected at the annual township meetings on the fourth Monday in March. The law required the township supervisors, at their first meeting, to choose one of their number as chairman. In event the township chairman was unable to attend the county board meeting he could designate another member of the township board to attend in his place.[4] The first board of county supervisors of Shawnee County, elected under the new law in March 1858, held its first meeting at the home of Eli Hopkins in Tecumseh Township September 4, 1858. There were four members, representing each of the four townships into which the county then was divided.[5]

The assembly of 1860 abolished the supervisor system and recreated the three-man board of county commissioners, elected annually by the voters of the whole county, though each commissioner represented a designated district.[6]

Although the State Constitution, effective January 29, 1861, prescribed 2-year terms for all county officers and a law was enacted that year providing for the election of three county commissioners in each county every second year,[7] the belief persisted in the legislative

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1. Terr. L. 1855, ch. 44, secs. 28, 29, 39.
2. Journal of the House of Representatives of the Territory of Kansas, 1855, p. 332.
3. Commissioners' Journal, 1855-62, p. 1, see entry 2.
4. Terr. L. 1858, ch. 13, secs. 3, 9; ch. 71, secs. 6, 41.
5. Commissioners' Journal, 1855-62, p. 103, see entry 2.
6. Terr. L. 1860, ch. 28, secs. 3, 10.
7. Const., art. 9, sec. 3; L. 1861, ch. 31, sec. 2.

mind that the constitutional provision did not include county commissioners. This was reflected in various changes in the laws, prescribing terms of from 1 to 3 years until 1869, when the Supreme Court held that county commissioners came within the 2-year term requirements.[1]

The legislature of 1868 provided that in counties of more than 24,000 population, which then included only Leavenworth County, a county commissioner should be elected from each township and city ward at the same time and in the same manner as representatives in the legislature. In the counties with less population the system continued as before.[2] In 1871 the population figure was moved up to 30,000 to keep pace with Leavenworth County's growth, the commissioner districts there were made to coincide with the representative districts, and the terms of the commissioners fixed at 2 years. Three districts were retained in other counties, the voters in each district being empowered to elect their own commissioner.[3]

An amendment to the Constitution in 1876 fixed the terms of county commissioners at 3 years. Each commissioner was to be chosen by the voters of a designated district and the terms so arranged that one commissioner would be elected annually.[4] In 1902 another constitutional amendment displaced annual general and township elections with biennial elections and provided further that "one county commissioner shall be elected from each of three districts numbered 1, 2, and 3 by the voters of the district; and the legislature shall fix the time of election and term of office of such commissioners; such election to be held at the general election, and no term of office shall exceed 6 years."[5] Pursuant to this amendment the legislature enacted the present law providing 4-year terms for all county commissioners. At the 1904 election commissioners were chosen from the districts which had elected commissioners in 1900 and 1901; and in 1906, from those districts which had elected commissioners in 1902. Their successors are elected at 4-year intervals.[6]

Qualifications - Oath - Bond. No person holding any State, county, township, or city office nor any employee, officer, or stockholder in any railroad company in which the county owns stock is eligible to hold the office of county commissioner.[7] The first assembly required each

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1. 5 Kan. 688.
2. G.S. 1868, ch. 25, secs. 9-11.
3. L. 1871, ch. 74, secs. 1-3.
4. Const., art. 9, sec. 3 as amended November 7, 1876.
5. Const., art. 4, sec. 2 as amended November 4, 1902.
6. L. 1903, ch. 233, sec. 1; G.S. 1935, ch. 19, sec. 202.
7. G.S. 1868, ch. 25, sec. 12; L. 1913, ch. 155, sec. 1; L. 1917, ch. 144, sec. 1; G.S. 1935, ch. 19, sec. 205.

county commissioner to take an oath of office, which had to be endorsed on his commission from the Governor and entered on the records of the board. The assembly of 1860 specified that each commissioner should take an oath to support the Constitution of the United States and the Organic Act and that such oath should be endorsed on his certificate of election.[1] No other provision for an oath by county commissioners has since appeared in the statutes other than the general provision that every county officer shall subscribe a written oath to be deposited and filed with his official bond.[2] The legislature of 1875 required that before entering upon the duties of his office every county commissioner-elect should execute to the State a bond in a penal sum of not less than one-fifth of 1 percent of the taxable valuation of property on the county tax rolls the preceding year but in no case more than $10,000, and that it should be approved by the probate judge and filed in his office. The legislature of 1876 reduced the maximum amount of the bond to $5,000 and specified that it should be approved by the register of deeds and filed in his office.[3]

Compensation. Salaries of county commissioners vary from $400 to $3,600 per year, depending upon the population of the county. In Shawnee County the salary is fixed at $1,800 per year and actual and necessary traveling expenses.[4]

Removal and Vacancies. Under a general law any county commissioner neglecting or refusing to perform an act which it is his duty to perform, or performing it "corruptly or oppressively," forfeits his office and may be removed by civil action instituted by the county attorney or State Attorney General.[5] He also may be removed for issuing county warrants in any one year in an amount greater than the tax levied to defray county expenses, less the amount for delinquencies, and in addition may be fined from $10 to $10,000.[6] Other statutes specify forfeiture of office for specific acts or omissions.

The resignation of a county commissioner must be made to the remaining members of the board.[7] In event of a vacancy the remaining

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1. Terr. L. 1855, ch. 44, sec. 30; Terr. L. 1860, ch. 28, sec. 13.
2. Terr. L. 1860, ch. 28, sec. 125; G.S. 1868, ch. 25, sec. 173; G.S. 1935, ch. 19, sec. 2602.
3. L. 1875, ch. 40, sec. 1; L. 1876, ch. 65, sec. 1; G.S. 1935, ch. 19, sec. 233.
4. L. 1921, ch. 191, sec. 1; L. 1929, ch. 192, sec. 10; R.S. 1923, ch. 28, sec. 312; G.S. 1935, ch. 28, secs. 312, 312a; L. 1937, ch. 232, sec. 1; ch. 233, sec. 12.
5. G.S. 1868, ch. 25, sec. 180; G.S. 1935, ch. 19, sec. 2609.
6. L. 1862, ch. 157, secs. 1-3; G.S. 1868, ch. 25, p. 295, secs. 1, 2; p. 296, sec. 3; G.S. 1935, ch. 19, secs. 241-243.
7. Terr. L. 1860, ch. 28, sec. 130; G.S. 1868, ch. 25, sec. 177; G.S. 1935, ch. 19, sec. 2606.

commissioners and the county clerk select a resident of the district to serve until the next ensuing general election, when a commissioner is elected to fill the unexpired term.[1]

Organization. The county commissioners must meet on the second Monday in January succeeding the general election or within 30 days thereafter and organize by electing one of their number as chairman, who presides at all subsequent meetings during his term of office. He is empowered to administer oaths to any person concerning any matter submitted to the board or concerning its powers and duties, and also must sign all county warrants. The first assembly provided for monthly meetings of the board, and that of 1858 for annual meetings. The assembly of 1860 required the county commissioners to hold regular quarterly meetings but in 1897 a law was enacted requiring monthly meetings in counties with more than 25,000 inhabitants. Since 1913 the commissioners in counties with 8,000 to 50,000 population must meet in regular session monthly, and in special session as often as the interests and business of the county may demand, unless, in their discretion, quarterly meetings are sufficient to enable them to properly handle the county business. But since 1899 in counties of more than 50,000 inhabitants, which includes Shawnee County, they must meet in regular session at least twice weekly. "They shall sit with open doors, and all persons conducting in an orderly manner may attend their meetings, and they may establish rules and regulations to govern the transaction of their business."[2]

Whenever required by them to do so the county attorney must give legal advice and opinions to the county commissioners, as well as to other county officers, on all matters relating to their duties or in which the State or county is interested.[3]

Clerk. The first assembly authorized the county commissioners to appoint their own clerk, who was commissioned by the Governor and required to give bond in the penal sum of $1,000 conditioned for faithful performance of duty. The assembly of 1858 made the office of clerk of

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1. Terr. L. 1860, ch. 28, sec. 9; G.S. 1868, ch. 25, sec. 10; L. 1871, ch. 74, sec. 2; L. 1901, ch. 129, sec. 3; G.S. 1935, ch. 19, sec. 203.

2. Terr. L. 1855, ch. 44, sec. 43; Terr. L. 1858, ch. 13, sec. 21; Terr. L. 1860, ch. 28, secs. 12, 13, 21-23; L. 1866, ch. 33, sec. 1; ch. 34, sec. 1; G.S. 1868, ch. 25, secs. 13, 26, 27; L. 1872, ch. 107, sec. 1; L. 1873, ch. 74, sec. 1; L. 1879, ch. 92, sec. 1; L. 1897, ch. 93, sec. 1; L. 1899, ch. 97, sec. 1; G.S. 1935, ch. 19, secs. 206, 209, 219, 220.

3. Terr. L. 1860, ch. 28, sec. 59; L. 1864, ch. 31, sec. 11; G.S. 1868, ch. 25, sec. 138; G.S. 1935, ch. 19, sec. 704.

the board elective for a 2-year term, but this law was repealed by the assembly of 1859 which created the office of county clerk as it now exists. This assembly specified that the county clerk should be clerk of the county board, and though this specific designation was dropped from the statutes in the revision of 1868 he still is required to perform these duties and keep the records of the commissioners.[1]

Functions

General. From the provisions of the Organic Act that "the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act" the Territorial assemblies derived their power to create counties and prescribe the powers and duties of county officers.[2] The State Constitution, effective January 29, 1861, provides that "the legislature may confer upon tribunals transacting the county business of the several counties such powers of local legislation and administration as it shall deem expedient."[3]

The board of county commissioners is "the executive branch of the county government and the representative and guardian of the county in all its corporate affairs,"[4] but only in so far as authorized by legislative enactment, for "a county is a creature of the statute and it and its officers can exercise no powers except such as the statute confers upon them."[5] In many instances these powers may be exercised only with the approval of a majority of the electors expressed at the polls.

The county commissioners are empowered by statute: 1) to make such orders concerning the county property as they may deem expedient; 2) to examine and settle all accounts of the receipts and expenses of the county and all accounts chargeable against the county, and when so settled to issue county warrants therefor as provided by law; 3) to purchase sites, erect county buildings, keep them in repair, and cause them to be insured in the name of the county treasurer; 4) to apportion and order the levying of taxes and to borrow upon the credit of the

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1. Terr. L. 1855, ch. 44, sec. 33; Terr. L. 1858, ch. 13, sec. 26; Terr. L. 1859, ch. 42, secs. 39, 40, 43; Terr. L. 1860, ch. 28, secs. 33, 42, 43; G.S. 1868, ch. 25, secs. 40, 43, 44; G.S. 1935, ch. 19, secs. 301, 304, 305. See County Clerk, p. 219.
2. 10 Stat. 285; 3 Kan. 445-447.
3. Const., art. 2, sec. 21.
4. 71 Kan. 683; 81 Pac. 503.
5. 104 Kan. 673.

county a sum sufficient to erect county buildings or to meet current expenses in case of a deficit; 5) to represent the county and manage all its business where no other provision is made by law; 6) to set off, organize, and alter the boundaries of townships and fix the time and place of the first township election; 7) to establish election precincts in any township as the convenience of the inhabitants may require; 8) to lay out, alter, or discontinue any county road and perform such other duties respecting roads as may be provided by law; 9) to grant such licenses as may be provided by law; 10) to perform such other duties as may be prescribed by law.[1]

Until 1876 it was the duty of the county commissioners, at their first meeting each year, to make lists from suitable names appearing on the assessment rolls of persons to serve as jurors and certify them to the county clerk. This duty has subsequently been performed by the township trustees, except that in counties with more than 90,000 inhabitants the names have been drawn by the judges of the district court since 1907 and certified to the clerk of the district court to be summoned.[2] This law has applied to Shawnee County since 1936.

Upon receiving satisfactory proof that anyone imprisoned in the county for failure to pay his fine and the costs of his conviction, is unable to pay such costs, the county commissioners may discharge the prisoner from jail, though not from liability to pay the amount later.[3] The statutes specify that the county board shall make such regulations for the working of vagrants as "will keep them as nearly as possible in constant employment."[4] They may offer and pay rewards, not exceeding $300 in one case, for the arrest and conviction of any persons commiting felonies within the county.[5]

The first assembly empowered the county board to appoint one or more companies of patrol, consisting of as many persons as they deemed necessary, who were to visit the negro quarters "and any other places suspected of unlawful assemblage." This law was repealed by the Free-State assembly of 1858.[6]

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1. Terr. L. 1855, ch. 44, secs. 31, 32, 55; ch. 157, sec. 1; Terr. L. 1858, ch. 13, secs. 11, 12; Terr. L. 1860, ch. 28, sec. 15; G.S. 1868, ch. 25, sec. 16; L. 1911, ch. 141, sec. 1; G.S. 1935, ch. 19, sec. 212.
2. Terr. L. 1859, ch. 84, secs. 1-5; L. 1866, ch. 60, secs. 1-5; G.S. 1868, ch. 54, secs. 1-5; L. 1876, ch. 104, secs. 1-3; L. 1907, ch. 232, secs. 1-10; G.S. 1935, ch. 43, secs. 101-103, 135-144.
3. Terr. L. 1855, ch. 129, art. 7, secs. 28-30; Terr. L. 1858, ch. 12, art. 12, sec. 9; Terr. L. 1859, ch. 27, sec. 236; G.S. 1868, ch. 82, sec. 253; L. 1871, ch. 117, sec. 1; G.S. 1935, ch. 62, sec. 1515.
4. G.S. 1868, ch. 31, sec. 281; G.S. 1935, ch. 21, sec. 2408.
5. L. 1905, ch. 360, sec. 1; G.S. 1935, ch. 62, sec. 1826.
6. Terr. L. 1855, ch. 122; Terr. L. 1858, ch. 58.

Taxation. The county commissioners, as well as the governing bodies of the taxing subdivisions of the county, except rural school districts, are required to meet not later than August 1 each year and prepare a budget, showing in detail the amounts to be raised by taxation and from other sources for all purposes for the ensuing year. They also must prepare a detailed statement showing the true financial condition of the county, and publish both statements together with notice of the date set for a public hearing, which must be not less than ten days prior to the date the levies are certified to the county clerk. The budget as finally adopted and certified to the clerk constitutes the county appropriation for each purpose and cannot thereafter be changed, nor may the money in any fund be diverted to any other purpose.[1] In Shawnee and other counties of more than 45,000 population it is the duty of the county auditor to submit to the county commissioners, annually a budget, showing in his judgment the amount of money necessary to be raised by taxation for county purposes for the ensuing year.[2] The law formerly provided that in addition to the county tax to defray all expenses for the year and such other taxes as they may be required by law to levy, the commissioners should levy 20 percent additional to make up for delinquent taxes. The budget law of 1933 specified that the allowance for delinquency may not exceed by more than 6 percent the delinquency of the preceding year.[3]

The first Territorial assembly made the office of county assessor appointive by the county commissioners, but in 1860 it was made elective.[4] It was made appointive by the commissioners again beginning in January 1908, but again made elective beginning in January 1911.[5] The assembly of 1855 required that the tax book remain open for inspection of the public in the clerk's office for at least 10 days before the meeting of the county commissioners, and persons considering themselves aggrieved could appeal to the county board, which was required to "hear and determine all appeals in a summary way" and adjust the tax book accordingly.[6] The assembly of 1860 designated boards of county commissioners as county

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1. Terr. L. 1858, ch. 66, sec. 44; Terr. L. 1860, ch. 114, sec. 27; L. 1863, ch. 60, sec. 14; L. 1866, ch. 118, secs. 55-57; G.S. 1868, ch. 107, secs. 69-72; L. 1876, ch. 34, sec. 83; L. 1933, ch. 316, secs. 3-5, 9, 10; G.S. 1935, ch. 79, secs. 1801, 1802, 2927-2929, 2933, 2934.

2. L. 1872, ch. 67, sec. 11; L. 1915, ch. 172, sec. 4; G.S. 1935, ch. 19, secs. 612, 623.

3. Terr. L. 1855, ch. 137, art. 4, sec. 2; Terr. L. 1858, ch. 66, secs. 41-43; Terr. L. 1860, ch. 114, sec. 27; L. 1862, ch. 157, sec. 1; G.S. 1868, ch. 25, p. 295, sec. 1; L. 1933, ch. 316, sec. 6; G.S. 1935, ch. 19, sec. 241, ch. 79, sec. 2930.

4. Terr. L. 1855, ch. 137, art. 2, sec. 1; Terr. L. 1860, ch. 28, sec. 121.

5. L. 1907, ch. 408, sec. 18; L. 1909, ch. 251, sec. 3; L. 1913, ch. 321, sec. 1; G.S. 1935, ch. 19, sec. 401. See County Assessor, p. 457.

6. Terr. L. 1855, ch. 137, art. 2, secs. 31-35.

boards of equalization and review. They are required to meet on the third Monday in May of each year, hear complaints regarding excessive and erroneous assessments, and equalize assessments of the various classes of property in the various townships.[1] Between November 1, when the tax roll is delivered to the county treasurer, and August 1 of the year following the assessment year, errors in assessments may be corrected only upon order of the county commissioners. Authority vested in the county board to correct errors carries with it authority to issue warrants for the refund of taxes illegally charged and collected.[2] The county commissioners also have authority to compromise the amount of delinquent taxes paid for redemption of real estate bid in by the county, whenever they believe such compromise would be advantageous to the county.[3]

The county is responsible to the State for the full amount of taxes levied by law for State and other purposes. Formerly, in order to obtain credit for double and erroneous assessments on real estate and uncollected personal property taxes it was required that the county commissioners make an annual report thereof to the State Auditor and State Treasurer. An amendment in 1937 provides that the report shall be made by the county clerk and countersigned by the county treasurer, and that it shall include a statement of personal property warrants for which credit has been taken in prior years but which subsequently have been collected.[4]

In 1925 a law was passed imposing a State tax on motor vehicle fuel. It authorized the county commissioners to refund to the purchasers, upon his sworn application, the tax paid by him on such fuel purchased for non-high-way purposes. This law was repealed and a tax exemption system substituted in 1933.[5] Upon certification by the division of water resources of the State Board of Agriculture of the completion of a dam or reservoir on privately-owned land, the county board is required to grant the owner a reduction in the assessed valuation of his property.[6]

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1. Terr. L. 1860, ch. 114, sec. 25; L. 1866, ch. 118, secs. 27, 28; G.S. 1868, ch. 107, secs. 42, 43; L. 1876, ch. 34, secs. 73, 74; L. 1911, ch. 317, sec. 2; L. 1913, ch. 323, sec. 1; G.S. 1935, ch. 79, secs. 1601, 1602. See County Board of Equalization, p. 470.

2. L. 1913, ch. 322, sec. 1; L. 1917, ch. 321, sec. 1; G.S. 1935, ch. 79, sec. 1701; L. 1939, ch. 319, sec. 1.

3. L. 1879, ch. 43, sec. 1; L. 1893, ch. 110, sec. 4; L. 1933, ch. 312, sec. 5; G.S. 1935, ch. 79, sec. 2411.

4. L. 1866, ch. 118, sec. 108; G.S. 1868, ch. 107, sec. 132; L. 1876, ch. 34, sec. 102; G.S. 1935, ch. 79, sec. 2203; L. 1937, ch. 359, sec. 4.

5. L. 1925, ch. 274, sec. 11; L. 1933, ch. 317, sec. 18; G.S. 1935, ch. 79, sec. 3418.

6. L. 1933, ch. 332, sec. 1; G.S. 1935, ch. 82a, sec. 401; L. 1939, ch. 353, sec. 1.

Finance. Bonds issued by the county and the interest coupons thereon must be signed by the chairman of the board of county commissioners and attested by the clerk. A transcript of the proceedings leading up to the issue must be properly certified by the county clerk and filed with the State Auditor.[1]

"The allowance of fees and claims, as well as the management and control of all the business and financial affairs of a county are confided to the board of county commissioners."[2] The commissioners are empowered "to examine and settle all accounts of the receipts and expenses of the county and to examine and settle and allow all accounts chargeable against the county; and when so settled they may issue county orders therefor as provided by law."[3] The law specifies that the county board "shall have exclusive control of all expenditures accruing either in the publication of delinquent tax lists, treasurer's notices, county printing, or any other county expenditures."[4] No account may be allowed by the county commissioners unless it is made out in separate items, the nature of each item stated, and the statement verified by affidavit. But they may require further evidence of the property of the claim, and may disallow any claim in whole or in part. County warrants issued in payment of claims must be signed by the chairman of the board and attested by the county clerk and must specify the nature of the claim or service. At the end of each regular or special meeting the commissioners must publish a statement of all sums allowed and for what purposes, and each year they must publish a report of receipts and expenditures for the preceding year. At their July session each year, or oftener if they deem it necessary, they must examine the warrants paid and returned by the county treasurer and compare them with the record of warrants issued in the clerk's office.[5]

The county clerk, as clerk of the board, must make regular entries of all resolutions and decisions of the county commissioners in the raising of money, sign all orders issued by them for the payment of money, and preserve and file all accounts acted upon by the commissioners and a record of their action thereon.[6]

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1. R.S. 1923, ch. 10, secs. 105, 108; L. 1933, ch. 34, sec. 1 (Special Session); G.S. 1935, ch. 10, secs. 105, 108.
2. 71 Kan. 683; 81 Pac. 503.
3. Terr. L. 1855, ch. 44, sec. 35; Terr. L. 1858, ch. 13, sec. 11; Terr. L. 1860, ch. 28, sec. 15; G.S. 1868, ch. 25, sec. 16; G.S. 1935, ch. 19, sec. 212.
4. L. 1865, ch. 29, sec. 1; G.S. 1868, ch. 25, sec. 36; L. 1872, ch. 108, sec. 1; G.S. 1935, ch. 19, sec. 229.
5. Terr. L. 1858, ch. 13, secs. 16, 21, 22; Terr. L. 1860, ch. 28, secs. 24, 25, 29, 30; L. 1865, ch. 29, sec. 1; G.S. 1868, ch. 25, secs. 28, 29, 33-36; G.S. 1935, ch. 19, secs. 221, 222, 226-229.
6. Terr. L. 1858, ch. 13, sec. 29; Terr. L. 1859, ch. 42, sec. 43; Terr. L. 1860, ch. 28, sec. 33; G.S. 1868, ch. 25, sec. 44; G.S. 1935, ch. 19, sec. 305.

By reason of population Shawnee County in 1880 came under the law providing for a county auditor,[1] and on July 28, 1880 a county auditor was appointed by the district court.[2] Since that time the statutes have required that all claims against the county shall be audited by the county auditor, who makes his report to the county clerk, who in turn lays it before the county commissioners for their approval or rejection in whole or in part.[3] Since 1913 it has been the duty of the county attorney in counties with less than 45,000 inhabitants to examine the bills and accounts presented at each session of the county board and no claim may be allowed by the commissioners until he has passed upon it.[4]

The clerk of any court in which any criminal cause shall have been determined, and in which the county is liable to pay the costs, must make out and deliver a complete fee bill to the prosecuting attorney who, after correcting any errors therein, must certify it to the county commissioners for payment.[5] The clerk of the court must certify to the county commissioners a statement of the fees and mileage due witnesses and jurors in all criminal cases payable by the county.[6] Justices of the peace also must certify to the county commissioners the costs taxed in every criminal examination before them, for which the county is liable.[7] It is the duty of the county commissioners to examine the appearance dockets in the office of the clerk of the district court quarterly and determine the amount of stenographers' fees collected by the clerk during the preceding 3 months. They must make a report in triplicate, certified by the chairman, and file one copy with the county clerk, forward another to the State Treasurer, and deliver the third to the clerk of the court, who attaches it to his statement of regular quarterly remittances of stenographers' fees to the State Treasurer.[8]

Township trustees must make a complete report of the financial affairs of their township for the preceding year and submit it to the

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1. L. 1876, ch. 67, sec. 1.
2. District Court, Journal, vol. N, p. 32, see entry 196.
3. L. 1872, ch. 67, secs. 5-8; L. 1876, ch. 67, sec. 3; L. 1915, ch. 172, secs. 3, 4; G.S. 1935, ch. 19, L. 1876, ch. 67, sec. 3; L. 1915, ch. 172, secs. 3, 4; G.S. 1935, ch. 19, secs. 605-608, 622, 623. See County Auditor, p. 507.
4. L. 1913, ch. 156, sec. 1; G.S. 1935, ch. 19, sec. 716.
5. Terr. L. 1855, ch. 29, art. 2, secs. 20, 21; Terr. L. 1859, ch. 27, secs. 323, 324; G.S. 1868, ch. 82, secs. 333, 334; G.S. 1935, ch. 62, secs. 1909, 1910.
6. Terr. L. 1859, ch. 68, sec. 17; L. 1862, ch. 99, sec. 24; G.S. 1868, ch. 39, sec. 21; L. 1913, ch. 197, sec. 36; G.S. 1935, ch. 28, sec. 139.
7. Terr. L. 1859, ch. 68, sec. 25; L. 1862, ch. 99, sec. 31; G.S. 1868, ch. 39, sec. 27; L. 1913, ch. 197, sec. 41; G.S. 1935, ch. 28, sec. 144.
8. L. 1913, ch. 197, sec. 25; G.S. 1935, ch. 28, sec. 130.

county board at its regular meeting following the annual settlement with the county treasurer. If the accounts are correct, the commissioners approve the report and file it with the county clerk. If they find it incorrect or not in conformity to law they may cite the township auditing board to appear and correct any errors. In case of an unlawful allowance the township trustee, clerk, and treasurer and their bondsmen are liable for the shortage, and it is the duty of the county attorney to prosecute suits for the recovery of the money for the township.[1]

Any person aggrieved by the decision of the county board in the matter of claims may appeal to the district court by filing a written notice with the clerk of the board within 30 days and executing a bond to guarantee payment of costs. The clerk must immediately notify the county attorney and file with the clerk of the court a brief return of the proceedings of the county commissioners, together with the bond and all other papers in his possession relating to the case. The appeal then is tried in the same manner as appeals from justice courts.[2]

At their meeting in October, or oftener if they direct, the county treasurer must settle with the county commissioners his accounts as treasurer and exhibit to them his books and vouchers.[3] When the county commissioners so order, it is the duty of the probate judge, assisted by two other persons appointed by the commissioners, to examine the books and accounts of the treasurer and make a report to the county board. If a deficiency is found the commissioners may take such action as they deem necessary to preserve and protect the county funds, including the removal of the treasurer and appointment of another person in his place.[4]

From the time a county auditor was appointed in Shawnee County in 1880 it was the auditor's duty to examine the treasurer's accounts every two months and report thereon in detail to the county commissioners at their next regular meeting. Since 1922, when Shawnee County came under the laws governing counties of more than 70,000 inhabitants, it has been the auditor's duty to examine the treasurer's accounts every three months and also to examine all accounts and settlements made by the treasurer with the county board.[5]

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1. Terr. L. 1860, ch. 128, sec. 7; G.S. 1868, ch. 110, sec. 25; L. 1877, ch. 189, sec. 3; L. 1885, ch. 168, sec. 11; G.S. 1935, ch. 80, sec. 304.

2. Terr. L. 1858, ch. 13, sec. 16; Terr. L. 1859, ch. 42, sec. 29; Terr. L. 1860, ch. 28, secs. 26, 27; G.S. 1868, ch. 25, secs. 30, 31; G.S. 1935, ch. 19, secs. 223, 224.

3. Terr. L. 1855, ch. 137, art. 3, sec. 32; ch. 32, sec. 6; Terr. L. 1858, ch. 13, sec. 88; G.S. 1868, ch. 25, sec. 67; L. 1891, ch. 101, sec. 1; G.S. 1935, ch. 19, sec. 507.

4. L. 1874, ch. 8, secs. 3, 4 (Special Session); L. 1905, ch. 187, sec. 1; G.S. 1935, ch. 19, secs. 522, 523.

5. L. 1874, ch. 56, sec. 3; L. 1915, ch. 172, sec. 5; G.S. 1935, ch. 19, secs. 616, 624.

In counties with less than 90,000 population quarterly reports of the fees collected by them must be made to the county commissioners by the county clerk, register of deeds, clerk of the district court, probate judge, county attorney, sheriff, and treasurer,[1] but in Shawnee and other counties with more than 90,000 inhabitants the reports are made to the county auditor. The auditor also is required to audit the books and accounts of each officer monthly and report his findings in writing to the county commissioners.[2] A law enacted in 1915 requires all public officers collecting any money for the county to file a sworn statement thereof with the auditor monthly, and make it the duty of the auditor to examine their books, compare them with the sworn statements, and report the examination to the county board.[3] The county board designates the banks in which the county funds may be deposited and requires them to furnish bond or collateral to guarantee the security of such deposits.[4]

The county commissioners are empowered to issue licenses for the retailing of cereal malt beverages outside incorporated cities, but they may not do so over the objection of the trustees of the township in which the applicant's place of business is located.[5] From the beginning of county government they have been authorized to issue licenses for ferries and to fix ferry rates,[6] though the law now is practically obsolete. From 1855 to 1881 they also licensed dramshop keepers, tavern keepers, and grocers, and could levy a tax on the business of from $50 to $500, in their discretion.[7]

Canvass of Election Returns. It is the duty of the county commissioners to meet with the county clerk in his office on the Friday following any primary, general, or special election held in the county and canvass the votes cast.[8] They are required to appoint two electors from the ranks of the two leading political parties to witness destruction of the ballots by the county clerk, unless there is a contest, when the ballots have been preserved by the clerk for six months following

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1. L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1913, ch. 197, sec. 16; R.S. 1923, ch. 28, sec. 123; G.S. 1935, ch. 28, sec. 123.
2. L. 1909, ch. 145, secs. 16-18; L. 1911, ch. 190, secs. 16-18; G.S. 1935, ch. 28, secs. 315-317.
3. L. 1915, ch. 172, sec. 6; G.S. 1935, ch. 19, sec. 625.
4. L. 1887, ch. 131, sec. 1; L. 1889, ch. 189, sec. 1; L. 1891, ch. 102, sec. 1; L. 1895, ch. 116, sec. 1; L. 1897, ch. 94, sec. 1; L. 1901, ch. 130, sec. 1; L. 1909, ch. 101, sec. 1; L. 1933, ch. 159, sec. 1; ch. 160, sec. 1; G.S. 1935, ch. 19, sec. 530; L. 1937, ch. 82, sec. 4.
5. L. 1937, ch. 214, sec. 2.
6. Terr. L. 1855, ch. 71, secs. 2, 4, 6; Terr. L. 1859, ch. 69, secs. 1-8; G.S. 1868, ch. 41, secs. 1-6; G.S. 1935, ch. 30, sec. 101.
7. Terr. L. 1855, ch. 64, secs. 1-8, 12; Terr. L. 1859, ch. 91, secs. 1, 2, 5; G.S. 1868, ch. 35, secs. 1, 2, 5; L. 1881, ch. 128, sec. 23.
8. Terr. L. 1859, ch. 65, sec. 53; L. 1861, ch. 28, sec. 27; G.S. 1868, ch. 36, sec. 28; G.S. 1935, ch. 25, sec. 701.

the election.[1] The county commissioners constitute a court for the trial of contested township elections, which trials are conducted in the same manner, in so far as practicable, as the trial of contested county elections by the probate judge and his associates.[2] The county commissioners are required to apportion the expense of elections to the various townships and cities of the first and second class on the basis of the number of votes cast.[3] The legislature of 1867 required the registration of all persons in the county legally qualified to vote. The county commissioners were required to meet on the third Monday in each March and October as a "board of correction for registration" and correct, revise,, and complete the lists. This law was repealed in 1868.[4]

The county commissioners fill vacancies occuring in the offices of township trustee, clerk, treasurer, and constable.[5] Under the statute requiring all elective county officers to make their resignations to the officers authorized to appoint their successors to fill the vacancies,[6] the county commissioners accept the resignations of members of the board itself,[7] and of the county clerk,[8] the register of deeds,[9] the county treasurer,[10] and the county superintendent of public instruction.[11] The amount of money the various county officers may spend for clerk hire is fixed by statute for each office, but most of those laws carry with them the provision that if the amount allowed is not sufficient, the county commissioners may allow such additional sum as they deem necessary for the efficient conduct of the work of the office.

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1. L. 1893, ch. 78, sec. 25; L. 1897, ch. 129, sec. 25; L. 1901, ch. 177, sec. 11; L. 1903, ch. 228, sec. 4; L. 1905, ch. 222, sec. 3; L. 1913, ch. 189, sec. 4; G.S. 1935, ch. 25, sec. 419.
2. Terr. L. 1855, ch. 66, sec. 31; Terr. L. 1859, ch. 66, sec. 37; L. 1861, ch. 34, sec. 32; G.S. 1868, ch. 36, sec. 106; G.S. 1935, ch. 25, sec. 1432.
3. L. 1893, ch. 78, sec. 1; L. 1897, ch. 129, sec. 1; L. 1909, ch. 133, sec. 1; R.S. 1923, ch. 25, sec. 109; G.S. 1935, ch. 25, sec. 109, L. 1939, ch. 187, sec. 1.
4. L. 1867, ch. 112, sec. 3; G.S. 1868, ch. 87.
5. Terr. L. 1860, ch. 128, secs. 5, 20; G.S. 1868, ch. 110, sec. 12; G.S. 1935, ch. 25, sec. 1606.
6. Terr. L. 1858, ch. 13, sec. 103; Terr. L. 1860, ch. 28, sec. 130; G.S. 1868, ch. 25, sec. 177; G.S. 1935, ch. 19, sec. 2606.
7. Terr. L. 1860, ch. 28, sec. 9; G.S. 1868, ch. 25, sec. 10; L. 1871, ch. 74, sec. 2; L. 1901, ch. 129, sec. 3; G.S. 1935, ch. 19, sec. 203.
8. Terr. L. 1859, ch. 42, sec. 42; L. 1862, ch. 52, sec. 45; G.S. 1868, ch. 25, sec. 42; G.S. 1935, ch. 19, sec. 303.
9. G.S. 1868, ch. 25, sec. 89; G.S. 1935, ch. 19, sec. 1203.
10. Terr. L. 1860, ch. 28, sec. 107; G.S. 1868, ch. 25, sec. 64; G.S. 1935, ch. 19, sec. 504.
11. L. 1861, ch. 76, art. 2, sec. 10; G.S. 1868, ch. 92, sec. 13; L. 1876, ch. 122, art. 2, sec. 10; L. 1881, ch. 152, sec. 8; L. 1911, ch. 278, sec. 1; G.S. 1935, ch. 72, sec. 209.

Education. From the establishment of county government in 1855 until 1858 the common school system of the county, except in its purely local aspects, was under the jurisdiction of the county commissioners. It was made the duty of the county board to lay off the townships into school districts, select sites for schoolhouses, and devise means to raise money for schoolhouses and equipment.[1] The assembly of 1857 required the school district boards to report annually to the county commissioners and the clerk of the county board to make a report to the Secretary of the Territory. The county commissioners also were empowered to appoint the school district treasurers and to apportion the township school funds among the several districts in proportion to the number of pupils.[2] The assembly of 1858 placed jurisdiction of the common schools in the hands of a county superintendent but the county board still was required to determine the amount of money needed for school purposes and was authorized to raise 2 1/2 mills on the dollar valuation until there should be a distribution from the school fund.[3] From 1869 to 1937 it was the duty of the county commissioners to appoint annually two competent persons to serve with the county superintendent as a board of county examiners of applicants for teacher's certificates.[4] The county board since 1886 has appointed the first boards of trustees for newly established county high schools, now classed as community high schools.[5] The commissioners still have some duties in relation to making tax levies for the support of high schools and the formation of high school districts, but the trend has been to vest these powers in the county superintendent and the school district officers. Persons feeling themselves aggrieved by the action of the county superintendent in the formation or alteration of any school district may appeal to the county commissioners, who must confer with the superintendent and whose action is final.[6]

Upon written petition of 10 percent of the taxpayers of the county, the county commissioners must submit at the next general election the proposition of establishing a county library. If the proposition carries, the commissioners appoint a library board of three members, and levy not more than 1/2 mill tax for a library fund.[7]

Public Health. No special powers regarding health and sanitation had been delegated to counties prior to 1885. In that year, with the

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1. Terr. L. 1855, ch. 144, art. 4, sec. 2.
2. Terr. L. 1857, pp. 86, 87, secs. 1-4.
3. Terr. L. 1858, ch. 8, sec. 13; ch. 66, secs. 41, 42.
4. L. 1869, ch. 86, sec. 4; G.S. 1935, ch. 72, sec. 1317; L. 1937, ch. 296, sec. 11.
5. L. 1886, ch. 147, sec. 3; L. 1923, ch. 187, secs. 1-3; G.S. 1935, ch. 72, secs. 2501-2503, 2603.
6. L. 1861, ch. 76, art. 5, sec. 2; G.S. 1868, ch. 92, sec. 51; L. 1872, ch. 185, sec. 2; L. 1874, ch. 122, sec. 7; L. 1876, ch. 122, art. 3, sec. 5; G.S. 1935, ch. 72, sec. 309.
7. L. 1921, ch. 152, secs. 1-3; G.S. 1935, ch. 19, secs. 1701-1703.

establishment of the State Board of Health, the legislature designated boards of county commissioners as county boards of health and required them to appoint a physician as county health officer to hold office at the pleasure of the local board and receive such compensation as it deems proper. It may permit him to employ a skilled health nurse and also such additional personnel as it considers necessary.[1] The county commissioners in counties with less than 40,000 inhabitants may establish, upon proper petition by the voters, a county hospital, appoint a board of trustees for its management, and levy a tax therefor.[2] Indigent persons suffering from pulmonary tuberculosis may make application through the county commissioners for admission to the State tuberculosis sanatorium for free treatment. The costs, which must not exceed $1 per day, are charged to the county. The superintendent of the institution must render his bills to the various counties monthly, together with a statement as to the number of patients from that county receiving free treatment.[3]

Upon being petitioned by owners of 51 percent of the acreage in the proposed area, county commissioners of counties with a population of more than 21,000 and less than 100,000 may establish taxing districts for the construction of storm and sanitary sewers, and the construction and maintenance of sewage disposal plants, and levy a tax therefor; or they may purchase or lease sewer systems or disposal plants already in existence.[4] The law provides that the commissioners of certain counties in which lead and zinc mining is the principal industry may establish county hospitals for the treatment of tuberculosis, and appoint a board of trustees therefor.[5]

Public Welfare. From the beginning of county government the county commissioners have been required to provide for the relief of the poor at county expense. From 1855 to 1862 the administration of poor relief devolved entirely upon the county commissioners. The first assembly authorized the county board to make orders for such relief in their discretion; to purchase land, erect a poorhouse, and employ a superintendent therefor, and to levy taxes for that purpose.[6]

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1. L. 1885, ch. 129, secs. 7, 8; L. 1909, ch. 102, sec. 1; L. 1925, ch. 202, sec. 1; L. 1927, ch. 240, sec. 1; G.S. 1935, ch. 65, secs. 201, 202. See County Board of Health, p. 541.
2. L. 1913, ch. 202, secs. 1-3; L. 1919, ch. 158, secs. 1, 2; ch. 159, sec. 1; G.S. 1935, ch. 19, secs. 1801-1803.
3. L. 1915, ch. 335, secs. 2, 4; L. 1917, ch. 305, sec. 1; G.S. 1935, ch. 76, secs. 1510, 1512.
4. L. 1927, ch. 165, sec. 1; L. 1931, ch. 165, secs. 1, 2; L. 1935, ch. 139, secs. 1, 2; G.S. 1935, ch. 19, secs. 2704, 2704a; L. 1938, ch. 42, secs. 1, 2 (Special Session).
5. L. 1925, ch. 142, secs. 1, 2; G.S. 1935, ch. 19, secs. 1821, 1822.
6. Terr. L. 1855, ch. 126, secs. 1-12.

The legislature of 1862 designated the trustees of townships and the mayors and councils of cities as overseers of the poor, the amounts of money they needed for this purpose being certified to the county clerk and paid from the county treasury upon order of the county commissioners, but persons thus cared for were deemed county charges and the county commissioners were authorized to raise money for this purpose by assessing a tax amounting to not more than $500 per year, unless a greater sum was authorized by vote of the electors. The commissioners were authorized to acquire land, erect a poor asylum, and employ a superintendent and physician, and when such arrangements had been made they were required to order all persons who had become permanent charges to be removed to such asylum. Where there was no common poorhouse the overseers were required to advertise for and received sealed bids annually for the support of the poor under their jurisdiction. It also was their duty, and that of the superintendents of the county poorhouses, to bind out such poor children as came into their care, and see that they were properly treated. In their discretion, the county commissioners could make an allowance to poor persons who had become chargeable as paupers, and who were of mature years and sound minds, and also to the parents of children mentally or physically crippled, in such sums as would not exceed their maintenance in the ordinary mode.[1]

In 1872 a law was passed abolishing duties of the local overseers in Leavenworth County and requiring the county commissioners to appoint a commissioner of the poor to have charge of administering relief under their jurisdiction. This law gradually was extended to embrace counties of lesser population until in 1933 it was made to apply to every county in the State.[2] By virtue of population Shawnee County came under provisions of this statute in 1882, and a poor commissioner was appointed June 19 of that year to take office on July 1.[3] However, when the State Board of Social Welfare was created in 1937 the legislature designated boards of county commissioners as county social welfare boards for their respective counties and required each such local board to appoint a county director as administrative and executive officers.[4] The poor relief laws enacted in 1933, together with certain other relief laws enacted at different times were not expressly repealed by the social welfare legislation of 1937. But although the question has not come

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1. L. 1862, ch. 163, secs. 1, 2, 4, 6-8, 19, 21-23, 25-30; G.S. 1868, ch. 79, secs. 1, 2, 4, 6-8, 19, 21-23, 25-30; G.S. 1935, ch. 39, secs. 301, 302, 304, 306, 307, 318, 320-322, 324-329.

2. L. 1872, ch. 161, sec. 1; L. 1891, ch. 155, sec. 1; L. 1901, ch. 133, sec. 1; L. 1913, ch. 162, sec. 1; L. 1931, ch. 199, sec. 1; L. 1933, ch. 196, sec. 6; G.S. 1935, ch. 39, sec. 517.

3. Commissioners' Journal, vol. F, p. 471, see entry 2.

4. L. 1937, ch. 327, secs. 10-12. See County Social Welfare Board, p. 549.

before the Supreme Court it is the opinion of legal authorities that most of them are repealed by implication, especially when their provisions conflict in any way with the social welfare law.[1] Some cases are questionable, as that of certain laws regarding former soldiers, sailors, and marines. One enacted in 1885 required the county to pay the burial expenses up to $100 of any deceased veteran of the Civil War, or his wife or widow, and forbidding interment in a pauper cemetery. Provisions of this law were extended in 1907 to include veterans of the Spanish-American War, the Phillippine Insurrection, and the Boxer Uprising in China. The county commissioners were required to designate the township trustees or some other suitable persons in the townships to carry out provisions of the law and direct payment of expenses from the county treasury.[2] A law enacted in 1911 and probably repealed by implication by the 1937 law, authorized county commissioners to grant pensions to indigent persons disabled from performing any manual labor and who had resided in the State for 10 years and in the county for 2 years; except that no pension in excess of $25 per month could be granted without a vote of the electors.[3]

A law enacted in 1915 authorized the county commissioners of any county to grant a pension of $25 per month to mothers having the sole care and custody of children under 16 years of age and who were unable to support them. The amount could be increased or decreased in the discretion of the commissioners, depending upon the circumstances. After investigating applicants for such pensions the commissioners, if they granted the application, were required to file their findings with the county clerk, whose duty it then became to make out a warrant for the applicant monthly until further notice.[4] This law probably is inoperative in view of enactment of the social welfare law of 1937.

The legislature of 1889 decreed that if any honorably discharged Union veteran of the Civil War, or his wife or widow or children under 14 years old should become destitute, that the overseer of the poor should provide them with necessities at their residence and that in no case should they be required to become inmates of any city or county poorhouse. The act was made applicable to Spanish-American War veterans

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1. Information obtained from Jay S. Parker, Attorney General of Kansas, March 2, 1940.

2. L. 1885, ch. 184, secs. 1-3; L. 1907, ch. 375, secs. 1, 2; ch. 376, sec. 1; L. 1927, ch. 284, secs. 1, 2; G.S. 1935, ch. 73, secs. 301-305.

3. L. 1911, ch. 146, secs. 1, 2; L. 1913, ch. 149, sec. 1; L. 1915, ch. 263, sec. 1; G.S. 1935, ch. 19, secs. 244, 245.

4. L. 1915, ch. 261, sec. 1; L. 1917, ch. 138, secs. 1, 2; L. 1921, ch. 153, sec. 1; G.S. 1935, ch. 39, secs. 601, 602.

in 1901 and to World War veterans in 1929. The duty of carrying out its provisions was made incumbent upon the county social welfare director in 1939.[1]

Public Works. Public works and engineering activities of the county have been administered by the board of county commissioners from the beginning of county government in Kansas. All applications for the laying out, opening, vacating, viewing, and reviewing of public roads in the county must be made by petition of freeholders to the county commissioners.[2]

The legislature of 1909 decreed that the county commissioners of counties with more than 20,000 inhabitants should appoint a county engineer of roads and bridges,[3] and in compliance with this act the county commissioners of Shawnee County appointed D. J. Graves to the office on August 9, 1909. Graves declined the appointment, however, and on August 20 the commissioners appointed V. R. Parkhurst.[4] An amendment to the law in 1917 required appointment of a county engineer in all counties.[5] The statutes require that the county engineer make an annual report to the county commissioners of all the work accomplished and funds expended upon all the roads and bridges in the county during the year, and forward a copy thereof to the State Highway Engineer.[6]

To the township boards of highway commissioners is given management of the township roads, bridges, and culverts in their respective townships, under supervision of the county engineer.[7] The legislature of 1917 authorized any county to adopt, by resolution of its board of commissioners and with the approval of the voters, the "county unit system" under which all roads, bridges, and culverts in the county except those on the State Highway system are built and maintained by the county as a whole.[8] Shawnee County never has adopted this system. From 1917

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1. L. 1889, ch. 234, sec. 1; L. 1901, ch. 289, sec. 1; L. 1929, ch. 249, sec. 1; G.S. 1935, ch. 73, sec. 211; L. 1939, ch. 282, sec. 1.
2. Terr. L. 1855, ch. 139, secs. 6, 12; Terr. L. 1860, ch. 104, sec. 17; L. 1864, ch. 112, sec. 1; G.S. 1868, ch. 89, sec. 1; L. 1874, ch. 1108, sec. 1; L. 1911, ch. 248, sec. 2; L. 1931, ch. 243, sec. 1; G.S. 1935, ch. 68, sec. 102.
3. L. 1909, ch. 198, sec. 1.
4. Commissioners' Journal, vol. N, pp. 289, 290, see entry 2.
5. L. 1917, ch. 264, sec. 8; L. 1919, ch. 245, sec. 2; G.S. 1935, ch. 68, sec. 501. See County Engineer, p. 568.
6. L. 1917, ch. 264, sec. 47; L. 1919, ch. 245, sec. 12; G.S. 1935, ch. 68, sec. 540.
7. L. 1885, ch. 168, secs. 1, 5; L. 1917, ch. 264, sec. 30; G.S. 1935, ch. 68, sec. 523.
8. L. 1917, ch. 264, sec. 25; L. 1919, ch. 245, sec. 7; L. 1929, ch. 224, sec. 1; L. 1931, ch. 248, sec. 1; G.S. 1935, ch. 68, sec. 516.

to 1929 county commissioners were largely subject to the dictates of the State Highway Commission in the matter of roads and bridges, under various laws enacted from time to time. Since 1929 the State Highway Commission alone is empowered to designate, construct, reconstruct, and maintain all roads and bridges on the State highway system.[1]

It is the duty of the county commissioners to obtain sites for, erect, and keep in repair courthouses, jails, and other county buildings necessary for the transaction of county business and cause them to be insured in the name of the treasurer, and where there are no county buildings, to provide suitable rooms for county purposes.[2] However, they may not borrow money for these purposes without first submitting the proposition to a vote of the electors.[3] County commissioners have the power of eminent domain to obtain land for county purposes,[4] but in erection of bridges or buildings costing more than $1,000 they must advertise for bids and let the contract to the lowest responsible bidder.[5] They may not dispose of any property exceeding $5,000 in value without approval of the electors.[6]

In counties of 20,000 or more inhabitants the county commissioners are required, upon petition of 15 percent of the voters, to submit to the electors the question of establishing a county detention home or juvenile farm for children under 18 years old in the custody of the probate judge of the county. If a majority of the votes cast are favorable the commissioners may rent a suitable building for a term not exceeding 5 years, for such purpose until a suitable home can be provided.[7] In Shawnee County, pursuant to such an election, a county detention home first was established in rented quarters on December 21, 1914, the county paying $25 per month rent and 50 cents for each child.[8] On August 22, 1927 the commissioners levied a tax of .061 of a mill on all

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1. L. 1929, ch. 225, secs. 3, 8; L. 1933, ch. 97, sec. 1 (Special Session); L. 1935, ch. 245, sec. 1; G.S. 1935, ch. 68, secs. 406, 407; L. 1937, ch. 285, sec. 1.

2. Terr. L. 1855, ch. 44, sec. 32; Terr. L. 1858, ch. 13, sec. 11; Terr. L. 1860, ch. 28, sec. 15; G.S. 1868, ch. 25, sec. 16; G.S. 1935, ch. 19, sec. 212.

3. Terr. L. 1860, ch. 28, sec. 16; G.S. 1868, ch. 25, sec. 17; G.S. 1935, ch. 19, sec. 213.

4. L. 1889, ch. 110, sec. 1; R.S. 1923, ch. 19, sec. 1501; G.S. 1935, ch. 19, sec. 1501.

5. L. 1864, ch. 38, sec. 1; G.S. 1868, ch. 25, sec. 21; G.S. 1935, ch. 19, sec. 214.

6. L. 1871, ch. 74, sec. 7; G.S. 1935, ch. 19, sec. 211.

7. L. 1907, ch. 177, sec. 7; L. 1923, ch. 108, sec. 1; G.S. 1935, ch. 38, sec. 501.

8. Commissioners' Journal, vol. P, p. 50, see entry 2.

taxable property in the county to purchase a site and erect a building. The contract was let October 14, 1929 to L. K. Bower & Son.[1]

The commissioners of any county, upon being properly petitioned by the voters, may establish and construct any ditch, drain, or watercourse which they consider conducive to the public health, convenience, or welfare and levy a tax on all taxable property in the county to maintain it. Appeals from their actions in such matters lie to the probate court.[2] Upon proper petition of the voters in the proposed area they also may establish and incorporate drainage districts and fix the time and place for the first election.[3] They may, upon petition of the property owners, order the construction of levees if viewers appointed by them find such construction necessary and practical.[4] Irrigation districts may be organized and maintained in practically the same manner as drainage districts.[5]

If a tract of not less than 10 acres of land is donated for the purpose the county commissioners may, upon petition of the voters, cause an artesian well to be drilled and paid for from the county general fund. The well is the property of the county and under exclusive management of the county board.[6] In any county having one or more privately owned artesian wells the county commissioners constitute the county artesian well board and must elect an artesian well supervisor. When ten such wells have been drilled in the county the commissioners must call a convention of the owners for the purpose of electing a county artesian well board of three members, whose duty it is to arbitrate all disputes between well owners and the county supervisor.[7]

In counties with not more than 50,000 inhabitants the county commissioners, upon petition of 51 percent of the resident property owners, may appropriate $3,500 from the general fund to purchase deep well drilling machinery to ascertain the formation of substrata and obtain other geological information. The machinery may be loaned to residents

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1. Commissioners' Journal, vol. R, pp. 48, 192, 193. See Juvenile Court, p. 388.

2. L. 1886, ch. 161, secs. 1-7; L. 1920, ch. 42, sec. 1; G.S. 1935, ch. 24, secs. 301-308.

3. L. 1905, ch. 215, secs. 1-6; L. 1909, ch. 132, secs. 1, 2; G.S. 1935, ch. 24, secs. 401-406.

4. L. 1893, ch. 104, secs. 1-10; L. 1901, ch. 248, sec. 1; L. 1905, ch. 216, secs. 1, 2; G.S. 1935, ch. 24, secs. 801-810.

5. L. 1891, ch. 133, art. 7, secs. 1-3, 7-9; L. 1901, ch. 71, sec. 1; L. 1929, ch. 204, secs. 1-3; G.S. 1935, ch. 42, secs. 357-359, 363-365.

6. L. 1909, ch. 97, secs. 1, 2; G.S. 1935, ch. 42, secs. 505, 506.

7. L. 1911, ch. 210, sec. 13; G.S. 1935, ch. 42, sec. 413.

of the county but must be operated only by a competent person named by the commissioners, and whose salary the borrower must pay at a rate not exceeding $5 per day.[1]

Miscellaneous Functions

Upon petition of the owners of 51 percent of the platted land in a designated area the county commissioners may create taxing districts composed of unincorporated towns or villages for the purpose of providing fire protection and street lighting.[2] When petitioned by owners of a majority of the front feet of land abutting on streets and highways lying outside incorporated cities the county board may contract with such city for lighting such streets and levy a special tax upon the benefitting property.[3] The commissioners of any county may submit to the voters at any time a proposition to establish public parks and recreation grounds, and are required to do so if petitioned by 20 percent of the voters.[4] Several special laws from time to time have applied to various counties in the matter of drainage and irrigation districts, and parks and recreation grounds.

Any city desiring to annex adjacent territory must file a petition with the board of county commissioners asking for a ruling as to the advisability of the proposal. The board, after publishing notice thereof, must hold a hearing on the proposition and render an opinion, and if the decision is in favor of the proposal the governing body of the city may take action to annex the territory.[5] Upon petition of the inhabitants in the proposed area the county commissioners may incorporate cities of the third class.[6]

The county commissioners of any county in which a county farm bureau has been organized with a membership consisting of 25 percent of the farmers of the county, or not less than 250 farmers, and which has complied with all laws governing such organizations, must appropriate

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1. L. 1913, ch. 153, secs. 1-3; G.S. 1935, ch. 19, secs. 2501-2503.

2. L. 1927, ch. 170, secs. 1-3; G.S. 1935, ch. 19, secs. 2716-2718; L. 1938, ch. 43, secs. 1-3 (Special Session).

3. L. 1931, ch. 158, secs. 1-9; G.S. 1935, ch. 19, secs. 2721-2729.

4. L. 1929, ch. 158, secs. 1-3; G.S. 1935, ch. 19, secs. 2801-2803.

5. L. 1871, ch. 60, sec. 92; L. 1872, ch. 100, sec. 133; ch. 102, sec. 3; L. 1875, ch. 73, sec. 1; L. 1885, ch. 97, secs. 1-3; L. 1886, ch. 66, secs. 4-7; ch. 69, secs. 1, 2; L. 1905, ch. 118, sec. 1; R.S. 1923, ch. 12, secs. 501, 502; G.S. 1935, ch. 12, secs. 501, 502.

6. L. 1886, ch. 66, sec. 2; L. 1905, ch. 123, sec. 1; L. 1923, ch. 101, sec. 1; L. 1929, ch. 134, sec. 1; G.S. 1935, ch. 15, sec. 102.

not less than $1,200 per year to assist in payment of the salary of an agricultural agent and the expenses of the farm bureau.[1] The Shawnee County farm bureau was organized in 1917. The county commissioners on April 27 of that year made an allowance of $1,400 a year to the bureau. This sum was increased on April 8, 1918 to $1,600 a year, and in November 1919 to approximately $4,000 a year.[2] Whenever a county farmers' institute association shall have elected officers, complied with the laws, and fulfilled such other requirements as the superintendent of farmers' institutes of the Kansas State College of Agriculture and Applied Science shall make, the county commissioners must appropriate annually the sum of $50 or as much thereof as may be necessary to defray the expenses of a 2-day institute.[3] Upon petition of 60 percent of the landowners, county commissioners may create county free fairs, levy a tax of from 1/2 to 1 mill on all taxable property to maintain them, and appoint a board of directors representing each township for their management.[4] They also may aid county fair associations which have incorporated with a paid up capital stock of not less than $5,000 or which own lands and buildings worth that amount, to the extent of paying the premiums actually awarded at the fair for the current year but not in excess of $2,000; except that in counties with more than 70,000 inhabitants the sum of $2,500 may be appropriated. The amount may be raised by tax levy or paid from the general fund, in the discretion of the commissioners.[5] Whenever any agricultural society of one county or less has raised at least $50 by voluntary contributions or membership fees and held a fair at which premiums have been offered and awarded, the county commissioners may pay the society an amount equal to that it has raised, but not exceeding $500 for any one fair.[6]

The legislature of 1868 enacted a law providing that the county commissioners, when petitioned by a majority of the electors, might appropriate a sum not exceeding what would be raised by a 1/4 mill levy on all taxable property for the purchase and improvement of a tract of ground for use of the county agricultural society in holding fairs. In 1870 the allowable levy was raised to 1 3/4 mills.[7] Having received the proper petitions, the Shawnee County commissioners on March 12, 1870 called a special election for the first Tuesday in April on the

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1. L. 1915, ch. 166, sec. 3; L. 1919, ch. 157, sec. 2; G.S. 1935, ch. 2, sec. 603; L. 1939, ch. 1, secs. 1-3.
2. Commissioners' Journal, vol. P, pp. 240, 284, 418.
3. L. 1903, ch. 238, sec. 1; L. 1909, ch. 103, sec. 1; L. 1911, ch. 1, sec. 1; G.S. 1935, ch. 2, sec. 116.
4. L. 1929, ch. 1, secs. 8, 9; L. 1935, ch. 2, sec. 5; G.S. 1935, ch. 2, secs. 132, 133.
5. L. 1929, ch. 1, secs. 5-7; L. 1935, ch. 2, secs. 1, 2; G.S. 1935, ch. 2, secs. 129-131.
6. L. 1929, ch. 1, sec. 10; G.S. 1935, ch. 2, sec. 134.
7. G.S. 1868, ch. 2, secs. 1-3; L. 1870, ch. 17, sec. 1.

proposition of making such a levy,[1] and the proposition was approved by the electors. On August 11, 1870, the county commissioners purchased from A. J. and Mary C. Ryan a tract of 44 acres in the west 1/2 of the southwest 1/4 of sec. 6, township 12, range 16 for the sum of $6,600.[2] On July 13, 1870 an additional 4 acres was purchased from the same owners,[3] and on May 15, 1871 an additional 8 acres was bought from the Ryans.[4] Subsequently 20 acres more was added to the original tract so that it now comprises the entire west 1/2 of the southwest 1/4 of sec. 6, township 12, range 16, except 4 acres in the northwest corner.[5] On April 12, 1871 the county commissioners called a special election for the first Monday in May on the proposition of issuing the county's 10-year bonds in the sum of $15,000 for the purpose of making improvements on the fairgrounds,[6] which proposition was approved by the voters.

County, and subsequently State fairs, were held on these grounds until 1913, when by legislative enactment the official State fair was established at Hutchinson.[7] On September 29, 1919 the fairgrounds were leased for a period of 20 years to the Kansas Free Fair Association.[8] An act of the legislature effective March 13, 1923 authorized the Shawnee County commissioners to issue bonds of the county in the sum of $200,000 for erection of a grandstand on the fairgounds, with the provision that at least 40 percent of the gross revenues accruing from the use of the grandstand during the continuance of any fair should be paid into the county treasury to apply on payment of the bonds.[9] The commissioners on March 16, 1923 adopted the resolution to build a concrete and steel grandstand. The contracts were let April 10, the bonds issued May 4, and on October 22, 1923 the contractor filed an affidavit with the board that the work was completed.[10]

County commissioners are empowered to devise methods to stop soil drifting and call upon experts of the State Agricultural College for assistance. They may require lands subject to soil drfiting to be cultivated, ditched, furrowed, or planted and may enter upon any such lands for this purpose if the owner fails to comply with their orders,

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1. Commissioners' Journal, vol. BC, p. 205, see entry 2.
2. Deed and Mortgage Record, vol. 24, p. 395, see entry 164.
3. Ibid., vol. 25, p. 84.
4. Ibid., vol. 28, p. 15.
5. Commissioners' Journal, vol. N, p. 350, see entry 2.
6. Ibid., vol. BC, p. 383.
7. L. 1913, ch. 293, sec. 1; G.S. 1935, ch. 2, sec. 201.
8. Commissioners' Journal, vol. P, p. 374, see entry 2.
9. L. 1923, ch. 143, secs. 1-3; L. 1927, ch. 10, sec. 1; G.S. 1935, ch. 2, sec. 124.
10. Commissioners' Journal, vol. Q, pp. 100, 107, 113, 114, 149, see entry 2.

and may either assess the costs against the property or pay them from a "soil drifting fund" they are authorized to create by a general tax levy.[1] They may order removal of signs and billboards, and the cutting of hedge fences within 50 yards of any railroad grade crossing, abrupt turn in the highway, or entrance to a driveway off the public highway; and if the owner fails to comply, may cause the work to be performed and assess the costs against the property.[2]

In 1864 county commissioners were authorized upon petition of the voters, to pay bounty on gopher scalps to encourage destruction of these rodents and since then numerous laws have been in effect from time to time authorizing payment in various sums as bounty on other kinds of predatory and destructive birds and animals. Under current laws a tax of 1/8 mill may be levied for this purpose. The commissioners also may purchase poisons and employ persons to exterminate such pests.[3] A poison mixture conforming to a formula prepared by the Kansas State College must be purchased and distributed by the county commissioners when petitioned by the voters, for the control of grasshoppers.[4] A law enacted in 1865 another enacted in 1868 and repealed in 1874, and another passed in 1880 and repealed in 1923, authorized county commissioners to pay a bounty on trees planted and maintained by landowners.[5] County commissioners of any county are authorized to employ for a stated time each year a competent person as weed supervisor to superintend control and eradication of field bindweed.[6] A bindweed inspector was first appointed by the Shawnee County commissioners January 18, 1938.[7] They also may appoint a county gas inspector to enforce all laws pertaining to the drilling and regulating of gas wells, and the piping and consumption of natural gas in the county.[8]

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1. L. 1913, ch. 150, sec. 1; L. 1933, ch. 60, sec. 1 (Special Session); L. 1935, ch. 138, sec. 1; G.S. 1935, ch. 19, sec. 2611; L. 1937, ch. 189.
2. L. 1915, ch. 288, sec. 1; L. 1921, ch. 221, sec. 1; L. 1927, ch. 150, sec. 1; G.S. 1935, ch. 19, sec. 2612.
3. L. 1864, ch. 130, sec. 1; L. 1871, ch. 87, secs. 1, 2; L. 1877, ch. 76, secs. 1-4; L. 1885, ch. 73, secs. 1-3; L. 1889, ch. 90, secs. 1-5; L. 1899, ch. 59, secs. 1-3; L. 1905, ch. 73, sec. 1; ch. 74, secs. 1, 2; ch. 319, secs. 1-4; L. 1907, ch. 67, sec. 2; L. 1913, ch. 146, sec. 1; L. 1927, ch. 334, sec. 1; L. 1929, ch. 147, secs. 1-6; L. 1933, ch. 167, sec. 1; G.S. 1935, ch. 19, secs. 2311-2315; L. 1939, ch. 161.
4. L. 1877, ch. 119, sec. 1; L. 1917, ch. 147, sec. 1; L. 1919, ch. 314, sec. 1; L. 1925, ch. 136, sec. 1; G.S. 1935, ch. 19, secs. 2401, 2403.
5. L. 1865, ch. 39, secs. 1, 2; G.S. 1868, ch. 112, secs. 1-3; L. 1872, ch. 204, secs. 1, 2; L. 1874, ch. 76, sec. 1; L. 1889, ch. 254, secs. 1-4; Report of Commission to Revise the General Statutes, Topeka, 1922, p. 207.
6. L. 1937, ch. 1, sec. 3.
7. Commissioners' Journal, vol. U, p. 436, see entry 2.
8. L. 1905, ch. 313; G.S. 1935, ch. 55, secs. 301-310.

Board of County Commissioners - Miscellaneous Functions (First entry, p. 207)

The legislature of 1933 decreed that any officer, person, or firm possessing a machine gun, submachine gun, or machine rifle should register it immediately with the county clerk. It was made the duty of the county commissioners to determine at least once each year the whereabouts of each such firearm registered, and enter their findings on the county clerk's record.[1] Upon application of railroad companies, county boards may condemn land for railroad rights-of-way and assess the amount of damages which must be paid by the company to the landowners.[2]

County commissioners are empowered to direct by order what animals shall not be permitted to run at large within the bounds of the county, and may rescind or modify such order in their discretion. When petitioned by two-thirds of the voters of the county that one or more classes of livestock be prohibited from running at large, it is their duty to make such order, and to modify or rescind it upon proper petition. They are required to submit to an election the question of whether the herd law shall be adopted in the county, when so petitioned by a majority of the electors.[3] On petition of a majority of the electors in any township of the county that owners of domestic animals be required to keep them up at night during certain portions of the year, the county board is required to make such order,[4] and also is required to order domestic animals to be kept up in the daytime in any township when so petitioned by 55 percent of the voters therein.[5] From 1901 to 1940 the county board was authorized to appoint brand inspectors to inspect the brands and marks of any livestock about to be driven from, through, or to any point in the State, to make sure that it was not stolen property, but this law was repealed in 1939.[6] The chairman of the board of county commissioners must join with the State livestock sanitary commissioner in the appraisal of any domestic animal owned in the county which in the sanitary commissioner's judgment must be killed to prevent the spread of contagious or infectious diseases.[7]

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1. L. 1933, ch. 62, secs. 7, 8 (Special Session); G.S. 1935, ch. 21, secs. 2607, 2608.
2. L. 1864, ch. 124, secs. 1-3; G.S. 1868, ch. 23, secs. 81-83; G.S. 1935, ch. 66, secs. 901-903.
3. L. 1872, ch. 193, sec. 1; L. 1874, ch. 128, sec. 1; L. 1879, ch. 175, secs. 1-3; G.S. 1935, ch. 47, secs. 301, 306-309.
4. L. 1864, ch. 34, sec. 1; L. 1867, ch. 41, sec. 1; G.S. 1868, ch. 105, sec. 1; L. 1886, ch. 159, sec. 1; G.S. 1935, ch. 47, sec. 101.
5. L. 1917, ch. 235, sec. 1; G.S. 1935, ch. 47, sec. 313.
6. L. 1901, ch. 87, secs. 1-3; G.S. 1935, ch. 47, secs. 406-408; L. 1939, ch. 222.
7. L. 1884, ch. 2, sec. 5; L. 1905, ch. 495, sec. 8; L. 1911, ch. 312, sec. 6; L. 1915, ch. 348, sec. 1; G.S. 1935, ch. 47, sec. 615.

A law in effect from 1883 to 1911 authorized county commissioners to appoint, upon petition of the voters, a suitable person to inspect any flocks of sheep in the county suspected of being infected with scab, and require the treatment of diseased flocks by approved methods.[1] From 1905 to 1911 the commissioners were required to appoint a county bee inspector upon petition of 25 beekeepers in the county.[2] The offices of brand inspector, sheep inspector, and bee inspector never existed in Shawnee County.

Records

Kansas statutes prescribing the powers, duties, and functions of the board of county commissioners specify that certain records shall be kept, but in many instances the keeping of records is implied rather than specified, so that in a large measure the records system of the various county boards is based upon custom and practice rather than statutory requirements.

From Territorial days it has been the duty of the county clerk to attend all sessions of the board of county commissioners and record in their journals all their proceedings; make regular entries of their resolutions and decisions on all questions concerning the raising of money, record the vote of each member on any question, if so required, and sign their proceedings and attest them with the seal of the county. He must keep the seals, records, and papers of the board; sign all orders issued by them; preserve and file all accounts acted upon, together with a record of the action taken, and perform such other special duties as may be required by law.[3] Temporary minutes of county board meetings usually are made separately, and copied into the journals later. In Shawnee County a docket of business to be considered at future sessions was kept by the county commissioners from 1890 to 1931. The numbers, dates, and amounts of all warrants returned by the county treasurer, and the names of the persons to whom they were made payable, are required by law to be recorded in the journal.[4] In Shawnee County the clerk files the written opinions and rulings of the county attorney requested by the county commissioners and other civil officers of the county.[5] As implied by the statutes granting to them the management and control of the county property, the county commissioners retain

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1. L. 1883, ch. 144; L. 1911, ch. 312.
2. L. 1905, ch. 71; L. 1911, ch. 66.
3. Terr. L. 1858, ch. 13, sec. 29; Terr. L. 1859, ch. 42, sec. 43; G.S. 1868, ch. 25, secs. 43, 44; G.S. 1935, ch. 19, secs. 304, 305.
4. G.S. 1868, ch. 25, sec. 33; G.S. 1935, ch. 19, sec. 226.
5. Terr. L. 1860, ch. 28, sec. 58; L. 1864, ch. 31, sec. 11; G.S. 1868, ch. 25, sec. 138; G.S. 1935, ch. 19, sec. 704.

custody of all deeds, abstracts of titles, leases, and other original instruments pertaining to such property.[1]

In Shawnee County the commissioners preserve the annual county budgets submitted to them by the county auditor;[2] duplicates of their annual reports to the State Auditor of real estate doubly and erroneously assessed and personal property taxes uncollected;[3] and copies of warrants issued by them for refund of taxes paid on excessive and erroneous assessments.[4] While the law was in effect, 1925-32, they also caused the clerk to file applications made to them for the refund of taxes paid on motor vehicle fuel used for non-road purposes.[5]

As clerk of the board the county clerk preserves and files all the bills, claims, vouchers, and other papers pertaining to accounts against the county,[6] including those for personal services;[7] materials and supplies for county offices;[8] bounty on destructive birds and animals;[9] expenses of the county juvenile detention home;[10] fees allowed sheriffs, constables, clerks, jurors, and witnesses for the State in criminal cases;[11] costs in criminal cases payable by the county;[12] costs incurred in lunacy proceedings;[13] and for all county road work, and culvert and

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1. Terr. L. 1855, ch. 44, sec. 35; Terr. L. 1858, ch. 13, sec. 11; G.S. 1868, ch. 25, sec. 16; G.S. 1935, ch. 19, sec. 212.
2. L. 1915, ch. 172, sec. 4; G.S. 1935, ch. 19, sec. 623.
3. L. 1866, ch. 118, sec. 108; G.S. 1868, ch. 107, sec. 132; L. 1876, ch. 34, sec. 102; G.S. 1935, ch. 79, sec. 2203; L. 1937, ch. 359, sec. 4.
4. L. 1913, ch. 322, sec. 1; L. 1917, ch. 321, sec. 1; G.S. 1935, ch. 79, sec. 1701; L. 1939, ch. 319, sec. 1.
5. L. 1925, ch. 274, sec. 11; L. 1933, ch. 317, sec. 18.
6. Terr. L. 1858, ch. 13, sec. 29; Terr. L. 1860, ch. 28, sec. 33; G.S. 1868, ch. 25, sec. 44; G.S. 1935, ch. 19, sec. 305.
7. L. 1876, ch. 64, sec. 1; L. 1897, ch. 93, sec. 2; G.S. 1935, ch. 19, sec. 208.
8. Terr. L. 1860, ch. 28, sec. 28; G.S. 1868, ch. 25, sec. 32; G.S. 1935, ch. 19, sec. 225.
9. L. 1905, ch. 74, sec. 2; L. 1909, ch. 150, sec. 2; L. 1923, ch. 109, sec. 2; L. 1929, ch. 147, sec. 4; G.S. 1935, ch. 19, sec. 2314.
10. L. 1915, ch. 276, sec. 6; G.S. 1935, ch. 38, sec. 510.
11. L. 1862, ch. 99, secs. 22, 24; G.S. 1868, ch. 39, secs. 19, 21; L. 1881, ch. 108, sec. 1; L. 1913, ch. 197, secs. 36, 47; G.S. 1935, ch. 28, secs. 139, 150.
12. Terr. L. 1855, ch. 29, art. 2, secs. 20-23; Terr. L. 1859, ch. 27, secs. 323-326; G.S. 1868, ch. 82, secs. 333-336; G.S. 1935, ch. 62, secs. 1909-1912.
13. Terr. L. 1859, ch. 92, secs. 6, 7, 43; G.S. 1868, ch. 60, sec. 6; L. 1901, ch. 353, sec. 66; L. 1905, ch. 299, sec. 4; L. 1907, ch. 247, sec. 4; G.S. 1935, ch. 39, sec. 204; ch. 76, sec. 1219.

bridge construction.[1] Original warrants paid by the county treasurer are required to be returned to the county commissioners for examination, and are filed by the county clerk.[2] In many counties the county clerk keeps stubs or copies of the warrants he issues on order of the county commissioners, but in Shawnee County the only record kept is the clerk's warrant register.

As clerk of the county board the county clerk of Shawnee County files the annual reports of the county auditor on the financial condition of the county,[3] and the county auditor's reports on his examination of the county treasury.[4] He also files the county treasurer's quarterly reports to the commissioners on the condition of the treasury,[5] and the annual financial reports of township trustees after their approval by the county commissioners.[6] Contracts with banks in the county for the deposit of county funds, and bonds given by such depositories as security, are regarded as records of the county board.[7]

In counties with less than 45,000 population reports of fees collected by them must be filed quarterly with the county commissioners by the county attorney, county clerk, county treasurer, clerk of the district court, probate judge, register of deeds, and sheriff,[8] but in the more populous counties, including Shawnee, these reports are made to the county auditor.[9] Whenever the probate judge is required by the county commissioners to examine the county treasury, he is required to file his report with them.[10] In counties with a population in excess

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1. L. 1917, ch. 264, sec. 29; G.S. 1935, ch. 68, sec. 522.
2. Terr. L. 1860, ch. 28, secs. 29; G.S. 1868, ch. 25, sec. 33; G.S. 1935, ch. 19, sec. 226.
3. L. 1872, ch. 67, sec. 11; L. 1915, ch. 172, sec. 4; G.S. 1935, ch. 19, secs. 602, 623.
4. L. 1874, ch. 56, sec. 3; L. 1915, ch. 172, sec. 5; G.S. 1935, ch. 19, secs. 616, 624.
5. L. 1874, ch. 8, sec. 1 (Special Session); L. 1875, ch. 78, sec. 1; L. 1915, ch. 175, sec. 1; G.S. 1935, ch. 19, sec. 520.
6. Terr. L. 1860, ch. 128, sec. 7; G.S. 1868, ch. 110, sec. 25; L. 1877, ch. 189, sec. 3; L. 1885, ch. 168, sec. 11; G.S. 1935, ch. 80, sec. 304.
7. L. 1887, ch. 131, sec. 1; L. 1889, ch. 189, sec. 1; L. 1891, ch. 102, sec. 1; L. 1895, ch. 116, sec. 1; L. 1897, ch. 94, sec. 1; L. 1901, ch. 130, sec. 1; L. 1909, ch. 101, sec. 1; L. 1933, ch. 159, sec. 1; ch. 160, sec. 1; G.S. 1935, ch. 19, sec. 530; L. 1937, ch. 82, sec. 2.
8. L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1913, ch. 197, sec. 16; R.S. 1923, ch. 28, sec. 123; G.S. 1935, ch. 28, sec. 123.
9. L. 1915, ch. 172, sec. 6; G.S. 1935, ch. 19, sec. 625.
10. L. 1874, ch. 8, sec. 4 (Special Session); G.S. 1935, ch. 19, sec. 523.

of 90,000 which includes Shawnee County, the law specifies that the county auditor shall make a monthly examination of the books and accounts of all officers handling county money and file with the county commissioners a report of his findings.[1]

The Territorial assembly of 1857 required the school district boards to file annual reports with the county commissioners, but this law was changed in 1858.[2] Appeals from actions of the county superintendent in altering or refusing to alter school boundaries are filed with the commissioners,[3] as are petitions for elections on the question of establishing rural high schools,[4] and for aid for high schools under several different laws; and petitions for an election on the question of establishing a county library.[5]

From 1862 until 1933 the township trustees and mayors of cities as overseers of the poor were required to present their accounts and file an annual report of their proceedings with the county commissioners,[6] except in those counties which by virtue of population were required to appoint a county poor commissioner. Shawnee County came under the poor commissioner law in 1882.[7] Monthly and annual reports of the poor commissioner to the county commissioners also were filed for the county board by the county clerk.[8] The certificates of township officers of persons made destitute by the grasshopper invasion of 1874, and to whom the county furnished food, fuel, and clothing, were required to be filed with the county commissioners.[9] Children's aid societies and institutions are required to keep a record of children submitted to their care, and to make such reports as the court having jurisdiction may require of them.[10] Though not definitely required by law, the county health officer and county physician make monthly reports to the county commissioners in Shawnee County. Formerly the county clerk as clerk of the county board filed duplicates of his quarterly statements to the

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1. L. 1909, ch. 145, sec. 18; L. 1911, ch. 190, sec. 18; G.S. 1935, ch. 28, sec. 317.
2. Terr. L. 1857, pp. 86, 87, secs. 1-4; Terr. L. 1858, ch. 8, sec. 13.
3. L. 1861, ch. 76, art. 5, sec. 2; G.S. 1868, ch. 92, sec. 51; L. 1872, ch. 185, sec. 2; L. 1874, ch. 122, sec. 7; L. 1876, ch. 122, art. 3, sec. 5; G.S. 1935, ch. 72, sec. 309.
4. L. 1915, ch. 311, sec. 2; L. 1917, ch. 284, sec. 2; L. 1921, ch. 250, sec. 1; G.S. 1935, ch. 72, sec. 3502.
5. L. 1921, ch. 152, sec. 1; G.S. 1935, ch. 19, sec. 1701.
6. L. 1862, ch. 163, sec. 22; G.S. 1868, ch. 79, sec. 22; G.S. 1935, ch. 39, sec. 321.
7. Commissioners' Journal, vol. F, p. 471, see entry 2.
8. L. 1872, ch. 161, secs. 4, 8; L. 1933, ch. 196, secs. 11, 14; G.S. 1935, ch. 39, secs. 522, 525.
9. L. 1874, ch. 5, sec. 7 (Special Session).
10. L. 1901, ch. 106, sec. 16; G.S. 1935, ch. 38, sec. 316.

State Board of Administration of destitute insane persons in the county who have been refused admittance to State institutions because of lack of room.[1]

The superintendent of the county poor farm was required to file his surety bond and annual report with the county commissioners; and if they so desired, the commissioners could appoint a board of visitors to the poor farm, who filed their reports with the county board.[2] Tuberculosis patients may file with the county commissioners requests that the board apply for their admittance to the State tuberculosis sanatorium, the superintendent of which must furnish the county commissioners monthly a list of patients admitted from the county and who are unable to pay the costs, together with an itemized account of costs then due.[3] Copies of applications to the State Tax Commission for the approval of bond issues for poor relief when it appears that current revenue will be insufficient, are often found among the commissioners' records.[4] In counties having a county hospital the board of trustees is required to file a report annually with the county commissioners.[5]

By implication of the statutes giving the county board jurisdiction over the opening, vacating, and laying out of county roads, all original instruments pertaining to roads and bridges, including petitions, copies of notices to landowners, appointments and reports of viewers and appraisers, reports of surveyors, claims for damages, and bonds for costs are regarded as records of the county commissioners and are kept for them by the county clerk. Petitions for the laying out, altering, or vacating of roads are by law required to be presented to the county commissioners, together with a bond for the payment of the costs in event the proceedings are not confirmed.[6] Engineer's estimates, and plans and specifications for roads costing more than $500, together with the bids and surety bonds of contractors, and the contracts themselves, are regarded as commissioners' records and filed by the county clerk. The same is true of the county engineer's estimates and final statements of expenses on other roads.[7] County engineers' estimates, plans and

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1. L. 1901, ch. 353, sec. 66; G.S. 1935, ch. 76, sec. 1219.
2. L. 1862, ch. 163, secs. 31, 37; G.S. 1868, ch. 79, secs. 31, 37; G.S. 1935, ch. 39, secs. 330, 336.
3. L. 1915, ch. 335, secs. 2, 4; L. 1917, ch. 305, sec. 1; G.S. 1935, ch. 76, secs. 1510, 1512.
4. L. 1935, ch. 192, sec. 2; G.S. 1935, ch. 39, secs. 3a02; L. 1937, ch. 244, sec. 2; L. 1939, ch. 201, sec. 2.
5. L. 1913, ch. 202, sec. 4; L. 1919, ch. 159, sec. 2; G.S. 1935, ch. 19, sec. 1804.
6. Terr. L. 1855, ch. 139, secs. 6, 23; Terr. L. 1860, ch. 104, sec. 17; L. 1864, ch. 112, secs. 1-5, 7; G.S. 1868, ch. 89, secs. 1-5, 7; G.S. 1935, ch. 68, secs. 102-107.
7. L. 1917, ch. 264, secs. 27, 28; L. 1919, ch. 245, sec. 8; G.S. 1935, ch. 68, secs. 520, 521.

specifications, bids, contracts, and contractors' bonds in the construction and repair of bridges costing more than $300 also are commissioners' records filed by the county clerk.[1] Claim vouchers for dragging township roads are filed with the county commissioners by the township road overseers.[2] The county engineer is required to file annually with the county board his report of work performed and funds expended on roads in the county during the current year.[3] The claims of property owners in benefit road districts for refund of taxes paid on special assessments were filed with the county commissioners until the refund function was taken over by the State Highway Department.[4]

Plans and specifications for the erection and repair of county buildings, and the bids and surety bonds of contractors must be filed for the county commissioners' approval.[5]

A variety of applications and petitions are filed with the county commissioners and preserved by the county clerk as clerk of the board. Applications for permits to retail cereal malt beverages outside incorporated cities are filed with the commissioners.[6] From the beginning of county government the commissioners have been authorized to grant ferry permits upon application,[7] though the law now is practically obsolete. Until 1881, when the prohibitory law was enacted, applications for licenses to operate dram shops were filed with the county commissioners.[8]

Petitions filed with the county board include petitions for township elections on the propositions of acquiring land for township parks and cemeteries,[9] establishing drainage districts,[10] for organization of townships and changes in township boundaries,[11] for orders vacating

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1. L. 1917, ch. 80, secs. 12-17; G.S. 1935, ch. 68, secs. 1112-1117.
2. L. 1917, ch. 264, sec. 41; G.S. 1935, ch. 68, sec. 534.
3. L. 1917, ch. 264, sec. 47; G.S. 1935, ch. 68, sec. 540.
4. L. 1921, ch. 217, sec. 8; L. 1923, ch. 175, sec. 7; L. 1925, ch. 213, sec. 1; ch. 214, sec. 5; L. 1927, ch. 255, secs. 9, 14; L. 1929, ch. 225, sec. 18; L. 1931, ch. 247, sec. 1; G.S. 1935, ch. 68, sec. 417.
5. L. 1864, ch. 38, secs. 1-3; G.S. 1868, ch. 25, secs. 21-23; G.S. 1935, ch. 19, secs. 214-216.
6. L. 1937, ch. 214, sec. 2.
7. Terr. L. 1855, ch. 71, secs. 2, 4, 6; Terr. L. 1859, ch. 69, secs. 1-8; G.S. 1868, ch. 41, secs. 1-6; G.S. 1935, ch. 30, sec. 101.
8. Terr. L. 1855, ch. 64, secs. 1-8; Terr. L. 1859, ch. 91, secs. 1, 2, 5; G.S. 1868, ch. 35, secs. 1, 2, 5.
9. L. 1887, ch. 235, sec. 4; L. 1909, ch. 260, sec. 2; L. 1921, ch. 295, sec. 2; L. 1923, ch. 240, sec. 2; G.S. 1935, ch. 80, sec. 904.
10. L. 1905, ch. 215, secs. 1-6; L. 1909, ch. 132, secs. 1, 2; G.S. 1935, ch. 24, secs. 401-406.
11. Terr. L. 1860, ch. 28, sec. 20; G.S. 1868, ch. 25, sec. 24; L. 1881, ch. 49, sec. 1; G.S. 1935, ch. 19, sec. 217.

streets and alleys and the exclusion of unplatted lands in cities and additions,[1] for findings as to the advisability of extension of boundaries of cities,[2] for the incorporation of third class cities,[3] for an election on the question of building a new courthouse[4] or the acquisition of a new courthouse site,[5] for changes in voting precincts,[6] for creation of taxing districts to provide fire protection and street lighting,[7] and to contract for the lighting of streets lying outside incorporated cities.[8] Applications of railroad companies for condemnation of land for right-of-way purposes are made to the county commissioners.[9]

The county clerk, as clerk of the county board, preserves the resignations of county and township officers whose resignations are required by law to be presented to the commissioners,[10] and copies of appointments of township trustees, clerks, treasurers, and constables to fill vacancies.[11]

Proceedings

1. COUNTY COMMISSIONERS' DOCKET, 1890-1931. 9 vols. (1-9)
Discontinued.

Docket of business to be considered by county commissioners at regular and special sessions, showing nature of business, names of interested persons, date of hearing, dates of continuances, and final disposition. Arr. chron. by dates of meetings. No index. Hdw. 100 pp. 18 x 11 1/2 x 1. Co. clk's. va.

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1. L. 1862, ch. 108, sec. 1; G.S. 1868, ch. 108, p. 1071, sec. 1; L. 1877, ch. 100, sec. 1; L. 1891, ch. 245, sec. 1; L. 1897, ch. 267, sec. 1; L. 1905, ch. 519, sec. 1; R.S. 1923, ch. 12, sec. 504; G.S. 1935, ch. 12, sec. 504.
2. L. 1886, ch. 66, sec. 4; L. 1905, ch. 118, sec. 1; R.S. 1923, ch. 12, sec. 501; L. 1929, ch. 109, sec. 1; G.S.1935, ch. 12, sec. 501.
3. L. 1886, ch. 66, sec. 2; L. 1905, ch. 123, sec. 1; L. 1923, ch. 101, sec. 1; L. 1929, ch. 134, sec. 1; G.S. 1935, ch. 15, sec. 102.
4. G.S. 1868, ch. 25, sec. 18; L. 1907, ch. 141, sec. 1; L. 1909, ch. 99, sec. 1; G.S. 1935, ch. 19, sec. 1503.
5. L. 1891, ch. 91, sec. 1; L. 1929, ch. 146, sec. 1; G.S. 1935, ch. 19, sec. 1502.
6. Terr. L. 1860, ch. 28, sec. 15; G.S. 1868, ch. 25, sec. 16; G.S. 1935, ch. 19, sec. 212.
7. L. 1927, ch. 170, secs. 1-3; G.S. 1935, ch. 19, sec. 2716-2718.
8. L. 1931, ch. 158, sec. 3; G.S. 1935, ch. 19, sec. 2723.
9. L. 1864, ch. 124, secs. 1-3; G.S. 1868, ch. 23, secs. 81-83; G.S. 1935, ch. 66, secs. 901-903.
10. Terr. L. 1858, ch. 13, sec. 103; Terr. L. 1860, ch. 28, sec. 130; G.S. 1868, ch. 25, sec. 177; G.S. 1935, ch. 19, sec. 2606.
11. Terr. L. 1860, ch. 128, secs. 5, 20; G.S. 1868, ch. 110, sec. 12; G.S. 1935, ch. 25, sec. 1606.

2. COMMISSIONERS' JOURNAL, 1855--. 22 vols. (one unlabeled; A, BC, D-V).
Journal of proceedings of all regular and special sessions of board of county commissioners, showing date, commissioners present; applications bids, petitions, protests, bills, reports, and resignations received; contracts awarded; claims allowed and disallowed; property acquired and disposed of; condemnation proceedings; boundaries changed; bonds issued, taxes levied; votes canvassed; township election contests decided, appointments made; resolutions adopted; orders issued; and all other transactions. Also contains: (Journal, Board of Equalization), entry 407; (Journal, Board of Health), 1885--, entry 496; (Journal, Social Welfare Board), 1937--, entry 508. Arr. chron. by dates of meetings. No index, 1855-57; separate index, 1858--, entry 3. Hdw., 1855-87; typed, 1887--. Aver. 300 pp. 18 x 12 x 2. 19 vols., 1855-1931, co. clk's. va.; 3 vols., 1932--, co. clk's. off.
For separate journal of road proceedings, 1886-91, see entry 31.

3. GENERAL INDEX BOOK, 1858--. 3 vols. Title varies: Index to Commissioners' Journal, 1868-71.
Index to Commissioners' Journal, entry 2, showing date of meeting, nature of proceedings, and names of interested persons, with reference to volume and page numbers where recorded. Arr. alph. by subjects. Hdw. on pr. fm., 1858-67, 1872--; hdw., 1868-71. Aver. 275 pp. 18 x 12 x 1 1/2. 2 vols., 1858-67, 1872--, co. clk's. off.; 1 vol., 1868-71, attic.

4. BOARD PROCEEDINGS, 1889--. 30 f. drs. (nineteen unlabeled; 51, 52, 63, 94, 96, 98, 101, 122, 194-196).
Miscellaneous original instruments and records of county commissioners and county clerk, including:

i. Appointments of county and township officers, 1920--, showing date of appointment, name of appointee, title of office, term of appointment, date of expiration, and signature of chairman of county commissioners.
ii. Budgets and financial statements of county farm bureau, 1921--, showing date, list of members, receipts and expenditures for current and preceding years, resources, estimates of receipts and expenditures for ensuing year, amount of levy required, and approval of extension division of Kansas State Agricultural College.
iii. Contracts with county depositories, and bonds given as security for county deposits, 1923--, showing date, name of bank, text of agreement and signatures, amount of bond, conditions, affidavits and signatures of sureties, and date of approval.
iv. Miscellaneous letters of request, showing date, nature of request, and signature of party making request.
v. Orders of county commissioners, pertaining to various subjects, showing date of order, nature and text of order,

to whom directed, and signature of chairman of county commissioners.

vi. Petitions in appeal from alteration of school district boundaries, 1900--, showing date, name and number of school district, reasons for and against proposal, and signatures and addresses of petitioners.

vii. Resignation of county and township officers, 1920--, showing date, reason for resigning, date effective, and signature of resigning officer.

viii. Resolutions of county commissioners, pertaining to various subjects, showing date, nature and text of resolution and signature of commissioners.

Also contains: Board Proceedings - No Action, 1901--, entry 5; Opinions of County Attorney, 1898--, entry 6; (Quarterly Reports of Inspection of County Jail), 1918--, entry 9; Bids, Contracts, and Bonds, 1929--, entry 33; (Contractors' Bonds), 1929--, entry 34; (Petitions to) Vacate Additions, 1928--, entry 44; Lands and Lots Leases, 1903--, entry 76; (Invoices of Office Supplies and Materials), 1927--, entry 88; (Quarterly Reports of County Superintendent), 1927--, entry 149; (Affidavits of Publication), 1910--, entry 150. Arr. chron. by dates of instruments. No index. Hdw. and typed on pr. fm. 10 x 5 x 14. Co. clk's. va.

5. BOARD PROCEEDINGS - NO ACTION, 1889-1901. 1 f. dr. 1901-- in Board Proceedings, entry 4.
Bids, requests, applications, recommendations, and other miscellaneous instruments presented to the board of county commissioners, and upon which no action was taken, showing date, nature of instrument, names of parties concerned, and in some cases, reasons for not being acted upon. No index. Hdw. and typed. 10 x 5 x 14. Co. clk's. va.

6. OPINIONS OF COUNTY ATTORNEY, 1889-97. 1 f. dr. 1898-- in Board Proceedings, entry 4.
Opinions and rulings of county attorney pertaining to liabilities and duties of county officials and various questions submitted by county commissioners on laws affecting the county, showing date, text of opinion, and county attorney's signature. No index. Typed. 10 x 5 x 14. Co. clk's. va.

County Property

7. DEEDS AND ABSTRACTS TO COUNTY PROPERTY, 1926--. 3 f. drs.
Deeds and abstracts of title to property real purchased by county, showing nature of instrument, date of indenture, names of grantee and grantor, description of property, consideration, and date recorded. Arr. chron. by dates of indenture. No index. Typed on pr. fms. 10 x 4 x 14. Co. clk's. va.

8. LEASES AND BONDS, 1909--. 1 f. dr. Last entry 1929.
Leases of county property to individuals and corporations for various purposes, showing date of instrument, name and address of lessee, location and description of property; nature, conditions, and period of lease; consideration, signatures of lessee and chairman of county commissioners, and date filed. Also contains: (Contractors' Bonds), 1909-29, entry 34. No index. Hdw. and typed on pr. fms. 10 x 5 x 14. Co. clk's. va.

9. (QUARTERLY REPORTS OF INSPECTION OF COUNTY JAIL), 1892--. 1892-1917 in Duplicate Reports to City and State (Miscellaneous Records), entry 152; 1918-- in Board Proceedings, entry 4.
Quarterly reports to county commissioners of inspection of county jail by county attorney and judge of district court, showing date of inspection, detail explanation of findings, recommendations, and signatures.

Taxation

10. SHAWNEE COUNTY BUDGET, 1930--. 1 cb. b., 1 f. dr.
Annual county budgets compiled by county auditor, showing receipts and expenditures for current and previous years and balances in each fund, estimate of requirements for ensuing year, estimates of amounts and sources of receipts by funds, and statement of warrants outstanding, and bonded indebtedness. Arr. chron. by years. No index. Typed. Cb. b. 14 x 16 x 18; f. dr. 12 x 14 x 20. 1 cb. b., 1930-35, attic; 1 f. dr., 1935--, co. clk's. off.
For budgets and financial statements certified to county clerk, 1931--, see entry 65.

11. (COMMISSIONERS' ANNUAL REPORTS OF DOUBLE AND ERRONEOUS TAX ASSESSMENTS), 1887, 1892-99, 1902-4, 1906-9, 1912-14, 1916--. In Duplicate Reports to City and State (Miscellaneous Records), entry 152.
Duplicate copies of annual reports of county commissioners to State Auditor of real estate doubly and erroneously assessed, and delinquent personal property tax warrants returned by sheriff unsatisfied, showing year of assessment, description and assessed value of property, amount of taxes to be charged back, distribution to each fund, remarks, and commissioners' signatures.
For county clerk's record, 1918--, see entry 80.

12. REFUNDING WARRANTS, 1920--. 7 vols. (two unlabeled; five labeled by contained warrant nos.)
Copies of warrants issued for refund of taxes paid on excessive and erroneous assessments, showing date, warrant number, to whom payable, description of property, amount of refund, to what funds distributed, and signature of chairman of county commissioners, attested by county clerk. Arr. num. by warrant nos. No index. Hdw. on pr. fm. Aver.

185 pp. 12 x 8 x 1 1/2. 1 vol., 1920-30, attic; 1 vol., 1930-33, co. clk's. va.; 5 vols., 1931--, co. clk's. off.

For original canceled county warrants, 1907--, see entry 19.

13. (APPLICATIONS FOR REFUND OF MOTOR VEHICLE FUEL TAXES), 1925-32. 7 bdls. Discontinued; law repealed.

Applications to county commissioners for refunds of State taxes paid on motor vehicle fuels purchased for non-road purposes, showing date, application number, number of gallons, type and size of motor, purpose for which used, amount of refund claimed, notarization, signature of applicant, notation of amount allowed, and date paid. Arr. chron. by dates of applications. No index. Hdw. on pr. fm. 6 x 6 x 8. Co. clk's. off.

For applications for permits to buy motor vehicle fuel tax exempt, 1933--, see entry 64.

General Accounts

Claims and Vouchers (See also entries 85-90, 445, 469)

14. (CLAIMS AND VOUCHERS), 1910--. 16 cb. bs., 170 f. drs. 1927-33 also in Canceled Warrants, entry 19.

Claims and vouchers for labor, services, materials and supplies furnished county, and for payment of bounty on destructive birds and animals, showing claim number, date filed, name of claimant, nature and amount of claim, amount and date allowed or disallowed, and approval of county commissioners, attested by county clerk. Also,

i. Record of children committed by juvenile court to county detention home, 1915--, showing name, address, age, sex, and color of child; date of admission; whether parents are deceased or divorced, reasons for commitment, number of days detained, condition of health, amount of costs to be paid by county, and remarks. For duplicate record, 1915--, see entry 334.

ii. Statements of fees due jurors in civil and criminal cases in district court, to be paid by county, showing date, name of juror, case number, title of cause, number of days in attendance, mileage, total fees due, and signature of clerk of district court. For clerk's monthly reports of fees certified, 1907-28, 1936--, see entry 246.

iii. Statement of fees due witnesses subpoenaed in district court cases in which county or State was a party, showing date, names of witnesses, case number, title and cause, disposition of case, number of days attended, mileage, amount of fees due, and signature of clerk of

district court. For affidavits of witness attendance, 1884--, see entry 248.
Also contains: Bill of Costs (in Criminal Cases), 1927--, entry 17; Certificate of Insanity, entry 18. No index. Hdw. and typed on pr. fms. Arr. num. by claim nos. Cb. bs. aver. 16 x 18 x 24; f. drs. 10 x 5 x 14. 16 cb. bs., 96 f. drs., 1910-35, attic; 74 f. drs., 1936--, co. clk's. va.

15. (STUBS OF CLAIMS), 1935-37. 1 cb. b. Discontinued.
Stubs of receipts for claims issued at time claim was filed, and later presented as identification and surrendered on payment of claim, showing voucher number, amount of claim, purpose, date filed, on what fund, and signature and address of claimant. Arr. num. by receipt nos. No index. Hdw. on pr. fms. 6 x 12 x 20. Attic.

16. LABOR PAYROLL VOUCHERS, 1933. 1 vol. Discontinued.
Labor payroll vouchers presented to county commissioners for approval, showing payroll period, payroll and project numbers, name of worker, number of man hours worked, rate per hour, total amount due, signatures of worker and county clerk, and date filed. Arr. chron. by filing dates. No index. Typed on pr. fms. 175 pp. 19 x 15 1/2 x 1. Co. clk's. va.

17. BILL OF COSTS (in Criminal Cases), 1892-1904, 1921-26. 1 f. dr. Title varies: Fee Bills, 1892-1904. 1927-- in (Claim and Vouchers), entry 14.
Statements of costs payable by county incurred in arrest and trial of defendants in criminal cases, showing names of witnesses and jurors and amount of fees, sheriff's fees and mileage, crime charged, signature of clerk of court, and date of filing. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

18. CERTIFICATE OF INSANITY, 1879-1908. 1 f. dr. 1910-- in (Claims and Vouchers), entry 14.
Original certificates of lunacy, showing name of court, name of patient, date of examination, findings of court, order of court for confinement of patient pending application for admission to insane asylum, amount of fees and costs to be paid by county, and signature of probate judge. No index. Hdw. and hdw. on pr. fms. 10 x 5 x 14. Co. clk's. va.

Warrants (See also entries 12, 91, 445-448)

19. CANCELED WARRANTS, 1907--. 29 cb. bs., 1 f. dr. 1910-- also in County Treasurer's Daily Statements to County Clerk, entry 92.
Original county warrants paid and returned by county treasurer, showing date of issue, warrant number, to whom payable, amount, purpose, on what fund drawn; signatures of chairman of county commissioners, county clerk, and county treasurer; and date paid and canceled. F. dr. also contains: (Claims and Vouchers), 1927-33, entry 14; (Miscellaneous

Receipts for Money Paid In), 1927-33, entry 97. Arr. chron. by dates and num. thereunder by warrant nos. No index. Hdw. on pr. fm. Cb. bs. aver. 5 1/2 x 11 x 20; f. dr. 10 x 5 x 14. 21 cb. bs., 1907-37, attic; 1 f. dr., 8 cb. bs., 1927--, co. clk's. va.

For copies of tax refunding warrants, 1920--, see entry 12; for county clerk's warrant register, 1874--, see entry 91; for treasurer's record of warrants paid, 1885--, see entry 446.

Reports (See also entry 380)

20. COUNTY AUDITOR'S ANNUAL REPORTS, 1890-1911, 1930--. 4 f. drs. (three unlabeled; 140), 1 cb. b.

County auditor's annual reports to county commissioners on financial condition of Shawnee County, showing general revenue; current assets and liabilities; warrants drawn and paid; permanent road fund; transfer of road fund to general fund; transfer of bond, interest, and sinking funds to general revenue; bond, interest, and sinking fund accounts; statement of true condition of funds; recapitulation of general revenue, amounts disbursed, rebates and penalties, deficit to be met, estimate of amount to be raised, and signature of county auditor. No obvious arr., 1890-1911; arr. chron. by dates of reports, 1930--. No index. Typed. F. drs. 10 x 5 x 14 to 14 x 12 x 20; cb. b. 14 x 16 x 18. 3 f. drs., 1890-1911, co. clk's. va.; 1 cb. b., 1930-35, attic; 1 f. dr., 1935--, co. clk's. off.

21. COUNTY AUDITOR'S REPORT OF COUNTY TREASURY, 1907--. 4 f. drs. (two unlabeled; 133, 141).

County auditor's monthly reports to county commissioners of examination of county treasurer's records, showing period of audit, amounts of receipts and disbursements, amount on deposit, amount of cash and underposited checks, total balance, reconciliation of bank balance, signature of auditor, and approval of commissioners. Arr. chron. by dates of reports. No index. Typed. 10 x 5 x 14. 3 f. drs., 1907-33, co. clk's. va.; 1 f. dr., 1934--, co. clk's. off.

22. QUARTERLY REPORTS OF COUNTY TREASURER TO COUNTY COMMISSIONERS, 1910--. 2 f. drs.

Treasurer's quarterly reports to county commissioners of condition of county treasury, showing balance in each fund at beginning of quarter, receipts and disbursements during quarter, dates and amounts of transfers, balance in each fund at end of period, and treasurer's signature. Arr. chron. by dates of reports. No index. Typed. 14 x 16 x 20. Co. clk's. off.

For treasurer's copies, see entry 441.

23. TOWNSHIP REPORTS, 1924--. 7 f. drs. (two unlabeled; 78, 88, 89, 99, 134).

Annual reports of township trustees to county commissioners of accounts audited and allowed, showing name of township, date of report, nature of account, items audited and allowed, to whom, approval of county

commissioners, and date filed; and duplicates of reports of township treasurers, showing receipts, disbursements, and balances for each fund, and oath and signature of treasurer. Also contains: Claims of Townships (Road Drag and Patrol Vouchers), 1929--, entry 35. Arr. chron. by dates of reports and by names of twps. thereunder. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

Public Welfare

24. (MONTHLY REPORTS OF POOR COMMISSIONER), 1933-37. In Reports of County Officials (of Fees Collected), entry 470.

Monthly reports of poor commissioner to county commissioners, showing date; names of persons furnished aid outside of poorhouse; amount and kind of aid; number in family, ages, addresses, state of health, aid extended from other relief agencies; names and number of days residence of poorhouse inmates during preceding month, and condition of health; total expense incurred for poorhouse, total of all expense incurred by county for care of poor during month, and amounts received from donations and sources other than taxation.

For county welfare director's monthly reports to county commissioners, 1937--, see entry 530.

25. NOTICE TO LANDLORD (of Rent Allowed Relief Clients), 1934--. 1 cb. b., 1 f. dr.

Copies of notices from poor commissioner to landlords of rent allowed relief clients by county commissioners, showing date, name and address of landlord, amount of rent, for what period, location of property, and name of client. Arr. chron. by dates of notices. No index. Typed on pr. fm. Cb. b. 18 x 24 x 30; f. dr. 10 x 5 x 14. 1 cb. b., 1934-38, attic; 1 f. dr., 1939--, co. clk's. off.

For county welfare director's copies, 1935--, see entry 518.

26. (REPORTS OF FARMERS RENDERED DESTITUTE BY GRASSHOPPER INVASION), 1875. In Duplicate Reports to City and State (Miscellaneous Records), entry 152.

Township trustees' reports to county commissioners of farmers applying for relief who were rendered destitute by ravages of grasshoppers, showing name of township, date of application, name of applicant, number in family, items of clothing requested, remarks, signature of township trustee, and date of filing.

27. (REPORTS OF TOPEKA ORPHANS' HOME), 1892-1917. In Duplicate Reports To City and State (Miscellaneous Records), entry 152. Discontinued.

Reports of Topeka Orphans' Home to county commissioners, showing date of report; name, age, color, and sex of child; date admitted, from whom received, date released, to whom, remarks, and signature of superintendent.

28. (MONTHLY REPORTS OF COUNTY HEALTH OFFICER), 1930--. In Reports of County Officials (of Fees Collected), entry 470.
Monthly reports of county health officer and health nurse to county commissioners, showing date, statement of expenditures for each purpose, resume of activities and results accomplished, statistics of disease, signature, date filed, and approval of commissioners.

29. (MONTHLY REPORTS OF COUNTY PHYSICIAN), 1933--. In Reports of County Officials (of Fees Collected), entry 470.
Monthly reports of county physician to county commissioners, showing month, number of patients under supervision, names and addresses of persons visited, number of office calls, and total number of cases treated.

30. (QUARTERLY REPORTS OF EXPENDITURES FOR MAINTENANCE AND CARE OF INSANE), 1902-4, 1907, 1913, 1915, 1917. In Duplicate Reports to City and State (Miscellaneous Records), entry 152. Discontinued.
Duplicate copies of county clerk's quarterly reports to State Board of Administration of county expenditures for maintenance and care of destitute insane persons refused admission to State hospitals from Shawnee County, showing date of report, name of patient, number days care, daily cost, total due from State, certification by county clerk, and date filed.

Public Works

31. ROAD JOURNAL, 1886-91. 1 vol. Discontinued as separate record.
Journal of proceedings of county commissioners pertaining to opening, closing, establishing, repair, and maintenance of county roads, showing date of meeting, nature of petition, name of main petitioner; name, number, and location of road; township; names of viewers appointed, date of report, decisions and orders of county commissioners, and signature of chairman. Arr. chron. by dates of proceedings. Indexed alph. by names of roads. Hdw. on pr. fms. 360 pp. 16 x 12 x 2. Co. clk's. va.
For related record, 1855--, see entry 2; for county clerk's road record, 1867--, see entry 125.

32. ROAD PETITIONS, 1856--. 39 f. drs. (A-Y, 25-36, 39, 40). 1896-1900 also in Nomination Papers, entry 109.
Original instruments pertaining to opening, closing, establishing, repair, and maintenance of county roads, including original petitions of freeholders, bonds for costs, notices of hearing, appointments and reports of viewers, reports of engineers and surveyors sketches of proposed routes, survey data, claims for damages, detail estimates of costs, notices to landowners, and resolutions and orders of county board. Arr. alph. by names of roads. No index. Hdw. and hdw. on pr. fms. 10 x 5 x 14. Co. clk's. va.

33. BIDS, CONTRACTS, AND BONDS, 1864-1929. 5 f. drs. (67-70, 230). Title varies: Kansas Avenue and Quincy Street Bridges - Fair Ground, 1864-71, 1890. 1929-- in Board Proceedings, entry 4.
Plans, specifications, proposals, bids, and contracts for construction, maintenance, and repair of county roads and bridges, detention home, jail, courthouse, office vaults and filing system, elevators, furnishing county with coal, oil, and gasoline and improvement of fair grounds, showing character of improvement; location of road, bridge, or other project; specifications and summary of materials to be used; name and address of bidder, amount of bid; amount, date, and terms of contract, date for completion, and date filed. Also contains: (Contractors' Bonds), 1868-1929, entry 34. Arr. chron. by filing dates. No index. Hdw. and typed, and hdw. on pr. fms. 10 x 5 x 14. Co. clk's. va.

34. (CONTRACTORS' BONDS), 1868--. 1868-1929 in Bids, Contracts, an and Bonds, entry 33; 1909-29 also in Leases and Bonds, entry 8; 1923 also in Duplicate Reports to City and State (Miscellaneous Records), entry 152; 1929-- in Board Proceedings, entry 4.
Surety bonds executed by firms and individuals holding contracts for construction and repair of roads and bridges, detention home, county jail, improvements at fair grounds, and other work for county, showing date and nature of contract, name and address of contractor, amount and conditions of bond, affidavits and signatures of sureties, and date filed.

35. CLAIMS OF TOWNSHIPS (Road Drag and Patrol Vouchers), 1896-1900, 1917-29. 9 f. drs. (two unlabeled; 93, 131, 132, 136, 137, 221, 222). 1929-- in Township Reports, entry 23.
Township road drag and road patrol claim vouchers, showing name of township, date, voucher number, name of claimant, itemized statement of materials furnished or service rendered, total amount claimed, signatures of road overseer and township clerk, and date approved. Arr. chron. by dates of vouchers. No index. Hdw. on pr. fms. 10 x 5 x 14. Co. clk's. va.

36. (MONTHLY REPORTS OF COUNTY ENGINEER), 1919--. In Reports of County Officials (of Fees Collected), entry 470.
County engineer's monthly reports to county commissioners of work performed and funds expended on all roads and bridges in county, showing work in progress, unfilled orders and contracts, accounts receivable, date of filing, and approval of commissioners.

37. (Benefit District) ROAD REFUNDS, 1929-31. 1 f. dr. Discontinued, subsequent refunds made by State Highway Commission.
Claims of property owners in benefit road districts for refunds of special tax payments, showing date, name of claimant, date of filing, description of property, amount of claim, amounts allowed and disallowed, and signatures of chairman of county commissioners and county clerk. Arr. chron. by filing dates. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

Applications and Petitions

38. APPLICATION FOR LICENSE TO RETAIL CEREAL MALT BEVERAGES, 1936--. 1 f. dr.

Applications to county commissioners for permits to retail cereal malt beverages in county, showing date; name, age, and residence of applicant; citizenship, prior record and character; location of business establishment, name of manager or agent; amount of fee, agreement and oath of licensee, and approval of commissioners. Arr. chron. by dates of applications. No index. Hdw. on pr. fm. 12 x 10 x 16. Co. clk's. off.

39. (APPLICATIONS FOR FERRY PERMITS), 1860--. In Duplicate Reports to City and State (Miscellaneous Records), entry 152. Last entry 1874.

Applications to county commissioners for permits to operate ferries across Kansas River, showing date of application, location of proposed ferry, description and carrying capacity of equipment, rate of ferriage, signature of applicant, orders of commissioners; and surety bond, showing date, amount, conditions, and affidavits and signatures of sureties.

40. (APPLICATIONS FOR PERMISSION TO OPERATE DRAM SHOPS), 1856. In Duplicate Reports to City and State (Miscellaneous Records), entry 152. Discontinued.

Applications for permission to operate dram shops and sell intoxicating liquor, showing date of application; name, address, age, and nativity of applicant; place of business, description of building, name of owner, signature of applicant, approval of commissioners, and date filed.

41. (Drainage District and Cemetery) PETITIONS, 1915-18, 1921-24, 1926-28. 1 f. dr.

Original petitions filed with county commissioners, requesting establishment of cemeteries, 1921, 1924, 1927, and extension of drainage districts, 1915, 1922, 1928. Cemetery petitions show date, location and description of proposed tract, reasons supporting request, signatures and addresses of petitioners, and date filed. Drainage petitions show date, descriptions of original district and proposed extension, reasons for request signatures and addresses of petitioners, and date filed. Also contains: (Petitions to Organize Townships), 1917-18, 1921--, entry 42; Petitions for Rural High Schools, 1915-16, 1923, entry 43; (Petitions to) Vacate Additions, 1922-23, 1926, entry 44. No index. Hdw., and hdw. on pr. fm. 10 x 5 x 4. Co. clk's. va.

42. (PETITIONS TO ORGANIZE TOWNSHIPS), 1877, 1917-18, 1921--. 1877 in Duplicate Reports to City and State (Miscellaneous Records), entry 152; 1917-18, 1921-- in (Drainage District and Cemetery) Petitions, entry 41.

Original petitions to county commissioners requesting organization of new townships and changes in township boundaries, and counter petitions protesting changes, showing date, name of township, description of proposed boundaries or changes, reason for request, names and addresses of petitioners, date filed, and action taken by board.

43. PETITIONS FOR RURAL HIGH SCHOOLS, 1915, 1917-20, 1925--. 1 f. dr. Last entry 1925. 1915-16, 1923 in (Drainage District and Cemetery) Petitions, entry 41.

Petitions to county commissioners requesting special election to vote on question of establishing rural high schools; notices of special election; proofs of publication and certificates of appointment and oaths of judges and clerks of election, showing names and addresses of petitioners, date filed, reasons for request, district affected, date of election, names of judges and clerks, and election results. No index. Hdw., and hdw. on pr. fms. 10 x 5 x 14. Co. clk's. va.

44. (Petitions to) VACATE ADDITIONS, 1888-1928. 2 f. drs. (180, 210). 1922-23, 1926 also in (Drainage District and Cemetery) Petitions, entry 41; 1928-- in Board Proceedings, entry 4.

Original petitions requesting vacation of streets, alleys, and additions, showing date, name of city, location of addition, streets, or alleys; plats of additions, reasons for request, signature and addresses of petitioners, and date filed. No index. Hdw. 10 x 5 x 14. Co. clk's. va.

45. RAILROAD CONDEMNATION, 1882--. 2 f. drs. (65, 66). Last entry 1929.

Petitions to county commissioners to condemn land for railroad purposes; appointments and reports of appraisers, proclamations of commissioners, notices to landowners, and other original instruments, showing name of railroad, descriptions of right-of-way and land taken, appraised value of land taken, damages to land not taken, remarks, signatures of condemnation commissioners, and proofs of publication. No index. Pr., and hdw. on pr. fms. 10 x 5 x 14. Co. clk's. va.

Miscellaneous

46. (REPORTS OF SUPERINTENDENT OF FAIR), 1892-1917. In Duplicate Reports to City and State (Miscellaneous Records), entry 152. Discontinued.

Monthly reports of superintendent of county fair to county commissioners, showing date of report, amount of rent collected, from whom, for what period, description of property, remarks, and signature of superintendent.

47. (REPORTS OF SUPERINTENDENT OF STONE QUARRY), 1892-1917. In Duplicate Reports to City and State (Miscellaneous Records), entry 152. Discontinued.

Annaul reports of superintendent of stone quarry to county commissioners, showing date of report, quantity of stone quarried, cost per cord, total payroll, total cost, quantity sold, amount received, remarks, and signature of superintendent.

(Next entry 48, p. 243)

II. COUNTY CLERK

Structural Organization and Evolution

Selection and Term. The present office of county clerk originated as the office of clerk of the board of county commissioners, created by the first Territorial legislative assembly in 1855. The assembly authorized the county board to appoint its own clerk, who was commissioned by the Governor. In addition to his duties as clerk of the board he was required to act as ex officio clerk of the probate court and perform all the duties of the probate judge in the latter's absence, but subject to the judge's confirmation or rejection when he returned.[1] In turn, the statutes provided that the clerk of the probate court should be ex officio county recorder,[2] the three offices thus being filled by the same incumbent.

The first clerk of the board of county commissioners of Shawnee County was John Martin, commissioned by Governor Wilson Shannon on October 10, 1855.[3]

The Free-State assembly of 1858, which created a board of county supervisors in place of the board of county commissioners, by an act approved February 12 made the office of clerk of the board of supervisors elective for a 2-year term, and specified that the officer should continue as ex officio clerk of the probate court until provision for election or appointment of a probate court clerk should be made by law. The office of register of deeds was created in each county and made elective for a 2-year term in place of the ex officio office of recorder. However, the assembly specified that the persons then holding the offices of probate judge, sheriff, coroner, county surveyor, and clerk of the board of commissioners in certain counties, including Shawnee, should continue to hold office until the election of November 1859, and that the clerk of the board should continue until that time as ex officio recorder. All other officers provided for, however, were to be chosen at an election set for the fourth Monday in March 1858.[4] The same assembly, by an act also approved February 12, created the office of county auditor, to be elective on the second Tuesday in October biennially, and specified that in addition to his regular duties the auditor should serve as ex officio clerk of the board of county commissioners.[5] However, there is no record that a county auditor ever was elected under this law in Shawnee County.

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1. Terr. L. 1855, ch. 44, secs. 33, 41.
2. Ibid., ch. 134, sec. 4.
3. Recorder's Book, pp. 50, 51; see entry 123.
4. Terr. L. 1858, ch. 13, secs. 26, 37, 40, 110, 111.
5. Ibid., ch. 5, secs. 1, 9.

County Clerk - Structural Organization and Evolution (Next entry 38, p. 243)

The assembly of 1859 repealed the laws of 1858 pertaining to county officers and enacted a new one, omitting the office of county auditor, but creating the office of county clerk, making it elective for a 2-year term in each county, and providing that the county clerk should be clerk of the county board, ex officio clerk of the probate court, and ex officio clerk of the district court of his county.[1] The next assembly also designated him as ex officio county auditor.[2] When Kansas was admitted to the Union in 1861 the office as it then existed was continued under the terms of the Constitution, except that the office of clerk of the district court was established and made elective in each county organized for judicial purposes, and the probate judge was required to act as his own clerk.[3] The general statutes of 1868 in enumerating the county clerk's duties made no mention of duties as ex officio auditor, nor has any such provision been made in subsequent laws.

Qualifications - Oath - Bond. There are no specific provisions in the statutes concerning eligibility for the office of county clerk, except that he may not at the same time hold the office of county treasurer.[4] Before entering upon the duties of his office he must execute to the State and file with the county treasurer a bond in the penal sum of not less than $2,000, conditioned for faithful performance of duties, and that he will pay over to proper authority all moneys coming into his hands by virtue of his office, and deliver his books and records to his successor.[5] He also must subscribe the oath of office and deposit it with his official bond.[6]

Compensation, Deputies. The county clerk may appoint, in writing a chief deputy, which appointment must be filed in his office, and also may appoint other deputies for whose acts he is responsible under his bond.[7] The salaries of county clerks vary with the population of their respective counties. In Shawnee County the officer's salary is fixed at $3,250 per year and that of his first deputy at $2,100. For additional clerk hire the county commissioners may allow up to $7,500 per year, but not more than $2,100 per year may be paid to any one person.[8]

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1. Terr. L. 1859, ch. 42, secs. 39, 40.
2. Terr. L. 1860, ch. 28, sec. 43.
3. Const., schedule, secs. 3, 4; art. 3, secs. 7, 8.
4. G.S. 1868, ch. 25, sec. 41; G.S. 1935, ch. 19, sec. 302.
5. Terr. L. 1855, ch. 44, sec. 33; Terr. L. 1858, ch. 13, sec. 26; Terr. L. 1859, ch. 42, sec. 39; Terr. L. 1860, ch. 28, sec. 42; G.S. 1868, ch. 25, sec. 40; G.S. 1935, ch. 19, sec. 301.
6. Terr. L. 1855, ch. 44, sec. 33; Terr. L. 1858, ch. 13, sec. 99; Terr. L. 1860, ch. 28, sec. 125; G.S. 1868, ch. 25, sec. 173; G.S. 1935, ch. 19, sec. 2602.
7. Terr. L. 1859, ch. 42, sec. 41; Terr. L. 1860, ch. 28, sec. 44; G.S. 1868, ch. 25, sec. 41; G.S. 1935, ch. 19, sec. 302.
8. L. 1937, ch. 233, sec. 3.

County Clerk - Functions (Next entry 48, p. 243)

Removal - Vacancies. The assembly of 1858 gave the board of county supervisors (county commissioners) specific authority to remove the clerk of the board.[1] Since 1868 he may be removed for cause under a general law by civil action in the manner provided in the code of civil procedure.[2] In case of the absence or disability of the county clerk, or of a vacancy in the office, the chief deputy is required to perform the duties of the office until the clerk returns or the vacancy is filled. If a vacancy occurs in the office because of death, resignation, or otherwise, the county commissioners must appoint a suitable person as county clerk until the next ensuing regular election.[3]

Functions

Land Records. Since 1877 the county clerk has been required to keep a record of all real estate transfers in the county. Upon presentation to him of the conveyance he must record it in a book kept by him for that purpose and called the "Transfer Record." County commissioners were authorized to require the county clerk to make an abstract of all real estate conveyances of record in the office of the register of deeds. The law specifies that the register of deeds shall not record any such conveyance until it has been entered on the county clerk's transfer record.[4]

When the State school lands were brought into the market in 1864 it was provided that the reports of the appraisers should be filed with the county clerk; that he should issue certificates of purchase for such lands sold by the county treasurer, approve the bonds given by purchasers as surety against committing waste, keep a record of the sales and the payments made thereon, and transmit to the State Auditor semiannually an abstract of the land upon which he had issued certificates of purchase.[5] The last payments on school lands in Shawnee County were made in 1901.[6]

Judicial Duties. In counties of less than 90,000 inhabitants it has been the duty of the county clerk since Territorial times to draw the jurors for each term of the district court. The names of taxpayers

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1. Terr. L. 1858, ch. 13, sec. 107.
2. G.S. 1868, ch. 25, sec. 180; G.S. 1935, ch. 19, sec. 2609.
3. Terr. L. 1859, ch. 42, secs. 41, 42; G.S. 1868, ch. 25, secs. 41, 42; G.S. 1935, ch. 19, secs. 302, 303.
4. L. 1877, ch. 145, secs. 1-4; L. 1915, ch. 173, sec. 1; G.S. 1935, ch. 67, secs. 239-242.
5. L. 1864, ch. 102, secs. 2, 3, 8-11; L. 1866, ch. 112, sec. 4; G.S. 1868, ch. 94, secs. 2, 3, 8-11.
6. County Treasurer, School Land Sales, see entry 442.

eligible to serve as jurors, certified to him by the county commissioners until 1876 and thereafter by the trustees of townships and mayors of cities, are filed by the county clerk in his office. He writes each name on a separate slip of paper which is placed in a "jury box." At least 30 days before any term of court at which a petit jury is required by law or a grand jury is ordered, the clerk draws from the box the names of 15 persons to serve as grand jurors and 12 to serve as petit jurors. He must notify the sheriff and two justices of the peace at least 3 days prior to the drawing and it is their duty to attend as witnesses. The clerk must certify to the sheriff, who summons them to appear for jury duty, separate lists of the persons drawn to serve as petit and grand jurors. Minutes of the drawing must be kept and filed in the clerk's office. If the judge of the district court believes more than 12 petit jurors shall be needed he may issue an order to the clerk for such additional number as he believes may be necessary.[1] Shawnee County, by virtue of population, operated under this law until 1936, since which time jurors have been drawn by the judges of the district court.[2]

In all legal proceedings against the county, process must be served on the county clerk as clerk of the board of county commissioners. When a suit is begun it is his duty to notify the county attorney and to lay before the county board all the information he may have regarding the matter.[3] In garnishment proceedings against the county, process must be served on the county clerk and it is his duty to answer the summons, but he may do so by an answer in writing mailed to the clerk of the court and cannot be compelled to appear in court, or answer interrogatories.[4]

The inquisition, the written evidence, and a list of the witnesses who testify to material matter in inquests must be filed with the county clerk by the county coroner.[5]

Taxation. The county clerk performs some of the most important functions in the taxation system. In counties with less than 65,000 inhabitants he is ex officio county assessor, but by reason of population

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1. Terr. L. 1859, ch. 84, secs. 1-15, 22, 23; L. 1866, ch. 60, sec. 1; G.S. 1868, ch. 54, secs. 1-15, 21, 22; L. 1876, ch. 104, secs. 1, 2; G.S. 1935, ch. 43, secs. 101-113, 120, 121.
2. L. 1907, ch. 232, secs. 1-4; L. 1921, ch. 167, sec. 1; G.S. 1935, ch. 43, secs. 135-138.
3. Terr. L. 1860, ch. 28, sec. 6; G.S. 1868, ch. 25, sec. 6; G.S. 1935, ch. 19, sec. 106.
4. L. 1919, ch. 237, sec. 2; G.S. 1935, ch. 60, sec. 963.
5. G.S. 1868, ch. 25, sec. 131; G.S. 1935, ch. 19, sec. 1014.

the office of county assessor has been a separate one in Shawnee County at all periods of its existence.[1]

The county clerk makes up the real estate assessment rolls required for the several assessment districts of the county. They must contain a pertinent description of each tract and parcel of real property, arranged in numerical order by lots and blocks, sections and subdivisions in each township and city as shown by the transfer record in his office, the records and plats of the register of deeds, and the reports from the United States land office, and he also may require the owner of any real estate to furnish him a description thereof. This assessment roll he must deliver to the county assessor not later than February 15. When the assessment has been completed, the rolls must be returned to the county clerk not later than the last business day in May.[2]

When the county clerk discovers that a parcel of land has not been assessed or has escaped assessment in previous years it is his duty to add it to the assessment roll. Should an owner of real property refuse to give the clerk a description thereof when requested, the county surveyor may obtain the description and furnish it to the county clerk, who adds the cost of the survey to the taxes on the property. The clerk of the district court must certify to the county clerk a description of lots or lands which have been partitioned. Up to the time the tax roll is delivered to the county treasurer, the county clerk may correct any errors he finds in description or quantity on the assessment roll but may not change any valuation.[3] To the assessment roll as returned by the assessor, the county clerk must add the list of railroad property in his county taxable under the law, as certified to him by the State Commission of Revenue and Taxation,[4] and similar returns made by the State Commission of the property of telephone, telegraph, pipe line, and electric power companies.[5] At the time the assessors are required to

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1. L. 1907, ch. 408, sec. 18; L. 1909, ch. 251, sec. 3; L. 1913, ch. 321, sec. 1; L. 1925, ch. 131, sec. 1; L. 1931, ch. 156, sec. 1; G.S. 1935, ch. 19, sec. 401.

2. Terr. L. 1855, ch. 137, art. 2, secs. 22, 30; Terr. L. 1860, ch. 114, secs. 20-22, 24; L. 1866, ch. 118, sec. 54; G.S. 1868, ch. 107, sec. 41; L. 1876, ch. 34, sec. 57; L. 1911, ch. 316, sec. 8; G.S. 1935, ch. 79, sec. 408.

3. Terr. L. 1860, ch. 114, sec. 23; L. 1866, ch. 118, secs. 22, 47, 48, 53; G.S. 1868, ch. 107, secs. 32, 38-40; L. 1875, ch. 147, sec. 1; L. 1876, ch. 34, secs. 45, 53, 54, 56; L. 1911, ch. 316, sec. 9, 16, 17, 19; ch. 325, sec. 1; G.S. 1935, ch. 79, secs. 409, 416, 417, 419.

4. L. 1876, ch. 34, secs. 33-38; L. 1907, ch. 408, secs. 34-38; L. 1909, ch. 243, secs. 5-7; L. 1933, ch. 306, sec. 1; G.S. 1935, ch. 79, secs. 605-609.

5. L. 1897, ch. 245, sec. 5; L. 1905, ch. 502, sec. 11; L. 1909, ch. 255, sec. 11; L. 1919, ch. 304, sec. 10; G.S. 1935, ch. 79, sec. 710.

make their returns to the county clerk they must deliver to him the original tangible personal property statements,[1] and the statements of intangible property, or moneys and credits, both of which the clerk must preserve.[2]

It is the duty of the county clerk to add 50 percent to the valuation of any personal property returned by the assessors which the owner refused to list, or to the correctness of which he refused to swear. If the county clerk has reason to believe that any person has given the assessor a false statement or has made no statement whatever regarding personal property owned by him, he may proceed at any time before settlement with the county treasurer to correct the assessor's returns and for this purpose may issue compulsory process to the sheriff to require the attendance of anyone he believes to have knowledge of the property. He must, however, give the owner 5 days notice of his intention to question him. In such cases it is the duty of the county attorney to appear and examine the witnesses.[3]

The law designates the county clerk as clerk of the county board of equalization, which is composed of the board of county commissioners, and he must publish notice during the last week in April and first 2 weeks in May of its annual meeting, which must be held in his office on the third Monday in May. When the county board has completed its work the clerk must prepare and forward to the State Commission of Revenue and Taxation an abstract of the assessment rolls of his county not later than July 1.[4] Until November 1, when the tax roll goes to the treasurer for collection, the county clerk has authority to correct errors in assessments but may not change valuations fixed by the assessor or county board of equalization except at the direction of the State Commission.[5]

The board of county commissioners and the governing bodies of all the taxing subdivisions of the county are required by law to certify to the county clerk annually, not later than August 25, the percentage

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1. L. 1866, ch. 118, sec. 44; G.S. 1868, ch. 107, sec. 62; L. 1876, ch. 34, sec. 66; G.S. 1935, ch. 79, sec. 1430.

2. L. 1925, ch. 277, sec. 5; L. 1927, ch. 326, sec. 5; L. 1931, ch. 311, sec. 5; G.S. 1935, ch. 79, sec. 3113.

3. L. 1866, ch. 118, secs. 46, 49, 50; G.S. 1868, ch. 107, secs. 64, 65, 67; L. 1876, ch. 34, secs. 68, 70, 71; L. 1877, ch. 43, sec. 1; G.S. 1935, ch. 79, secs. 1431-1433.

4. Terr. L. 1855, ch. 137, art. 2, secs. 31-33, 37; Terr. L. 1860, ch. 114, secs. 25, 26; L. 1866, ch. 118, secs. 27-30; G.S. 1868, ch. 107, secs. 42-45; L. 1876, ch. 34, secs. 73-76; L. 1877, ch. 40, sec. 1; L. 1909, ch. 243, sec. 8; L. 1911, ch. 317, sec. 2; L. 1913, ch. 323, secs. 1, 2; G.S. 1935, ch. 79, secs. 1601-1604.

5. L. 1913, ch. 322, sec. 1; L. 1917, ch. 321, sec. 1; G.S. 1935, ch. 79, sec. 1701; L. 1939, ch. 319, sec. 1.

by them levied on the real and personal property within their corporate boundaries. As soon as the State Commission of Revenue and Taxation, acting as the State Board of Equalization, reports its action to the county clerk, that officer must compute the percentage of increase or decrease authorized, determine the sums to be levied upon each lot or parcel of real estate and upon all personal property in the name of each owner, and make up the tax roll and certify it on or before November 1 to the county treasurer, whom he charges with the full amount. Before November 15 he must transmit to the State Commission a statement of all taxes levied in his county for all purposes, and the rate.[1] As soon as all levies for the current year are determined the county clerk must notify each bank and trust company of the valuation, rate of levy, and amount of tax assessed against each share, and to be paid by the bank or company. Should they or any shareholder feel aggrieved they may within 30 days appeal to the State Commission by filing notice of such intention with the county clerk, who must transfer to the State Commission a statement and all papers in connection with the case. The clerk then enters upon the tax roll any change in valuation ordered by the commission.[2] The treasurer's tax receipts must be countersigned by the county clerk before delivery to the taxpayer.[3] Immediately after the annual settlement of the county commissioners with the county treasurer in October, the county clerk must prepare and forward to the State Auditor and State Treasurer a statement showing the total amount of State taxes collected for the year, the amount remitted by the county treasurer to the State Treasurer, and the amount remaining in the county treasury.[4]

All real estate upon which the tax has not been paid by June 20 of each year is subject to sale. The county treasurer is required to keep in his book of tax sales a record of all property so sold and the county clerk must keep a duplicate thereof. All affidavits and notices regarding such tax sales must be filed with the clerk. Anyone paying into the treasury a sum equal to the redemption cost of property which has been bid in by the county for delinquent taxes receives from the treasurer a redemption certificate which must be assigned by the county clerk. Certificates of redemption of property which has been

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1. Terr. L. 1860, ch. 114, secs. 28-31; L. 1866, ch. 118, secs. 55-58; G.S. 1868, ch. 107, secs. 69-73; L. 1876, ch. 34, secs. 82-84, 87; L. 1909, ch. 243, sec. 3; ch. 244, sec. 1; G.S. 1935, ch. 79, secs. 1801, 1802, 1803, 1806.
2. L. 1931, ch. 304, sec. 2; G.S. 1935, ch. 79, sec. 1101c.
3. L. 1876, ch. 78, sec. 8; G.S. 1935, ch. 19, sec. 536.
4. Terr. L. 1860, ch. 114, sec. 63; L. 1866, ch. 118, sec. 105; G.S. 1868, ch. 107, sec. 129; L. 1876, ch. 34, sec. 99; L. 1891, ch. 41, sec. 1; L. 1905, ch. 471, sec. 1; L. 1923, ch. 224, sec. 1; G.S. 1935, ch. 79, sec. 2201.

sold for taxes also must be signed by the county clerk.[1] When any land sold for taxes is not redeemed within 4 years, the county clerk, upon presentation of the tax sale certificate, issues to the purchaser a deed vesting the grantee with absolute estate in fee simple to the property and which is evidence of the regularity of all proceedings from the valuation of the land by the assessor to the execution of the deed, and which may be recorded the same as other conveyances.[2]

Finance. The county clerk keeps account with the county treasurer of all receipts and expenditures of county moneys. He charges the treasurer with the amount of the tax roll and all fees and penalties as they become due; the amount of redemption money and of the State school fund received; and the amount of fines and forfeitures and all other items payable to the treasurer. Upon presentation of the proper vouchers he credits him with all tax moneys paid over to the proper authorities and all other moneys paid out according to law. In making these charges and credits the clerk must state each fund and each item thereof separately. The treasurer's receipts, to be valid, must be countersigned by the clerk.[3] The banks in which county funds are deposited by the county treasurer are charged therewith by the county clerk, who also credits the treasurer with money remitted to fiscal agents. A bank may not pay a check drawn upon it by the treasurer unless it is countersigned by the county clerk.[4]

In Shawnee County it is the duty of the county clerk to certify to the county auditor on or before the first Monday of each month all claims or demands against the county on file in his office. It is the auditor's duty to audit all such claims and on or before the first Monday of the succeeding month to certify his report to the county clerk, stating the specific amounts allowed, to whom, and under what law. This report the clerk presents to the county commissioners at their next meeting.[5] The county clerk must attest all warrants issued by the county commissioners in payment of claims and preserve and file all

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1. Terr. L. 1855, ch. 137, art. 5, secs. 5-9; Terr. L. 1860, ch. 114, secs. 35, 46, 47, 52; L. 1862, ch. 198, sec. 8; L. 1866, ch. 118, secs. 65, 74, 76, 77, 87; G.S. 1868, ch. 107, secs. 80, 91, 94, 95, 102; L. 1874, ch. 131, sec. 2; L. 1876, ch. 34, secs. 117, 120, 121, 129; L. 1933, ch. 312, sec. 3; G.S. 1935, ch. 79, secs. 2301, 2314, 2317, 2318, 2403.

2. Terr. L. 1860, ch. 114, sec. 56; L. 1862, ch. 198, sec. 10; L. 1866, ch. 118, sec. 89; G.S. 1868, ch. 107, sec. 112; L. 1876, ch. 34, sec. 138; L. 1933, ch. 312, sec. 7; G.S. 1935, ch. 79, sec. 2501.

3. L. 1864, ch. 37, secs. 2, 3, 6; G.S. 1868, ch. 25, secs. 51, 52, 54; G.S. 1935, ch. 19, secs. 312, 313, 316.

4. L. 1876, ch. 78, secs. 4, 6.

5. L. 1872, ch. 67, secs. 5, 6; L. 1876, ch. 67, sec. 3; L. 1915, ch. 172, secs. 3, 4; G.S. 1935, ch. 19, secs. 605, 606, 622, 623.

accounts acted upon by them. All warrants issued must be numbered and recorded by him in a book kept for that purpose. In event of an appeal from the decision of the county board the clerk must immediately notify the county attorney and file with the clerk of the district court a brief return of all proceedings in the case, the decision of the commissioners, and the bond for costs filed with him by the appellant.[1]

Funding bonds issued by the county must be signed by the chairman of the board of commissioners and attested by the county clerk, who must also register them in his office and certify to the State Auditor a transcript of the proceedings leading up to their issuance. He must also register in his office all bonds issued by any taxing subdivision of the county, excepting cities and boards of education.[2] On or before July 15 of each year the county clerk must forward to the State Auditor a complete financial exhibit for the county and its subdivisions.[3]

The statutes provide that certain licenses be issued by the county clerk. From 1887 until 1909, when the law was repealed, the county clerk issued blank books of affidavits of liquor purchases to druggists for a fee of 25 cents per book.[4] He issues licenses to itinerant vendors of medicines, drugs, and appliances,[5] and to peddlers outside the corporate limits of cities.[6] A merchant giving away trading stamps not redeemable at their face value in cash or from the stock of the merchant must obtain a license from the county clerk and pay a $7,000 fee.[7] A law enacted in 1927 provided the county clerk should receive applications for licenses to retail cigarettes but beginning in 1940 such applications must be made to the State Director of Revenue.[8] He also issues hunting, fishing, and trapping licenses,[9] receives applications

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1. Terr. L. 1858, ch. 5, sec. 12; ch. 13, sec. 18; Terr. L. 1860, ch. 28, secs. 25-27, 33, 35; G.S. 1868, ch. 25, secs. 29-31, 44, 46; G.S. 1935, ch. 19, secs. 222-224, 305, 307.
2. R.S. 1923, ch. 10, secs. 105, 107, 108; G.S. 1935, ch. 10, sec. 105, 107, 108.
3. G.S. 1868, ch. 25, sec. 56; L. 1877, ch. 90, sec. 2; G.S. 1935, ch. 19, sec. 317.
4. L. 1887, ch. 165, sec. 2; L. 1909, ch. 164, sec. 9.
5. L. 1907, ch. 246, sec. 1; G.S. 1935, ch. 19, sec. 2201.
6. L. 1915, ch. 372, sec. 2; G.S. 1935, ch. 19, sec. 2206.
7. L. 1917, ch. 331, secs. 1, 2; G.S. 1935, ch. 19, secs. 2210, 2211.
8. L. 1927, ch. 171, sec. 7 as amended by ch. 173, sec. 1; L. 1933, ch. 122, secs. 3, 4 (Special Session); G.S. 1935, ch. 79, secs. 3303, 3304; L. 1939, ch. 329, sec. 4.
9. L. 1905, ch. 267, sec. 8; L. 1911, ch. 198, sec. 8; L. 1915, ch. 227, sec. 1; L. 1921, ch. 196, sec. 2; L. 1927, ch. 221, sec. 16; L. 1931, ch. 191, sec. 2; L. 1933, ch. 187, sec. 2; L. 1935, ch. 181, sec. 1; G.S. 1935, ch. 32, sec. 104a.

for permits to buy motor vehicle fuel exempt from State tax,[1] and issues permits to move houses or other structures of a height of 16 feet or more across public highways along which telephone, telegraph, or electric light and power wires are strung.[2]

Elections. Upon the county clerk devolves the duty of supervising elections in his county for National, State, district, county, and township officers. The legislature of 1927 passed an act providing that the voter's choice of a party ballot at the next primary election should constitute his declaration of political party affiliation and that he could obtain the ballot of no other political party at any succeeding primary election unless he filed a declaration of change with the county clerk. The clerk is required to prepare and deliver to each voting precinct a list of the voters, taken from the poll books of the preceding primary election, and which books must be returned to him following the primary. He also must keep a record of all new voters at each primary and all changes in the political party affiliations of voters.[3]

The county clerk must receive and file all nomination petitions and all declarations of intention by candidates for county and subdistrict offices, and for county and precinct committeemen in primary elections; and also for district offices when a district comprises but one county. The Secretary of State certifies to him the names of candidates for National, State, and district offices to be placed on the official ballot in his county.[4] Since 1917 the county clerk is required to give notice by publication of the time of holding any election and the officers then to be chosen, a duty formerly devolving upon the sheriff.[5] He supervises the printing of the ballots and their distribution to the various polling places. He must deliver the ballots to the judges in sealed packages and take a receipt for them.[6] The election boards must return to the county clerk all ballots, poll books and tally sheets and their certificates of the votes cast in their precincts. If there is no contest of any office the clerk may, after keeping them on file for 6 months, destroy the ballots by burning them in the presence of two persons selected by the county commissioners from the ranks of

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1. L. 1933, ch. 317, sec. 18; L. 1935, ch. 311, sec. 1; G.S. 1935, ch. 79, sec. 3418.
2. L. 1917, ch. 251, sec. 2; G.S. 1935, ch. 17, sec. 1915.
3. L. 1927, ch. 203, secs. 1, 3; G.S. 1935, ch. 25, secs. 225, 227.
4. L. 1893, ch. 78, secs. 7; L. 1908, ch. 54, secs. 6, 7; L. 1915, ch. 204, secs. 2, 3; R.S. 1923, ch. 25, secs. 208, 209; G.S. 1935, ch. 25, secs. 208, 209.
5. L. 1861, ch. 28, sec. 5; G.S. 1868, ch. 36, sec. 5; L. 1917, ch. 178, sec. 1; R.S. 1923, ch. 25, sec. 105; G.S. 1935, ch. 25, sec. 105.
6. L. 1893, ch. 78, sec. 15; L. 1897, ch. 129, sec. 15; L. 1903, ch. 229, sec. 1; L. 1909, ch. 134, secs. 1-8; L. 1921, ch. 183, sec. 1; G.S. 1935, ch. 25, sec. 604.

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the two leading political parties.[1] On the Friday following the election the county commissioners meet with the county clerk in his office and canvass the votes. The clerk must make an abstract of the votes cast for each candidate in each precinct and file it for record in his office, and send to the Secretary of State and abstract of the votes cast in his county for National, State, and district officers. To each successful candidate for county and township offices he delivers a certificate of election.[2]

In the trial of contested elections the county clerk serves as clerk of the court unless his own office is contested, in which case a clerk of the court is appointed.[3] The expenses of each election as apportioned by the county commissioners must be charged by the county clerk to the various townships and cities.[4] Within 30 days after an election the county central committees and other political organizations must file with the county clerk statements of their receipts and expenses.[5] Candidates also must file statements of their campaign expenditures with the county clerk within 30 days and if they have not done so within 20 days it is the duty of the county clerk to notify them of their failure to file.[6]

Within 25 days of any primary or general election the county clerk must purchase or prepare a sufficient number of ballots for voters who expect to be absent from their home precincts on election day. Such voters may file an affidavit with the county clerk to the effect that they will be absent and stating the address where they will be at the time of the election, and it is the clerk's duty to mail a ballot to that address.[7] A certified abstract of the votes cast for county

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1. Terr. L. 1855, ch. 66, sec. 14; Terr. L. 1859, ch. 65, secs. 47, 50-52; L. 1861, ch. 28, sec. 19; G.S. 1868, ch. 36, sec. 20; L. 1893, ch. 78, sec. 25; L. 1897, ch. 129, sec. 25; L. 1901, ch. 177, sec. 11; L. 1903, ch. 228, sec. 4; L. 1905, ch. 222, sec. 3; L. 1913, ch. 189, sec. 4; G.S. 1935, ch. 25, sec. 419.

2. Terr. L. 1859, ch. 65, secs. 53-57; L. 1861, ch. 28, secs. 27, 30, 31; G.S. 1868, ch. 36, secs. 28, 31, 32; R.S. 1923, ch. 25, secs. 701, 704; G.S. 1935, ch. 25, secs. 701, 704, 705.

3. Terr. L. 1859, ch. 66, secs. 6, 37; L. 1861, ch. 34, secs. 14, 32; G.S. 1868, ch. 36, secs. 88, 106; G.S. 1935, ch. 25, secs. 1414, 1432.

4. L. 1893, ch. 78, sec. 1; L. 1897, ch. 129, sec. 1; L. 1909, ch. 133, sec. 1; R.S. 1923, ch. 25, sec. 109; G.S. 1935, ch. 25, sec. 109; L. 1939, ch. 187, sec. 1.

5. L. 1893, ch. 77, sec. 8; L. 1909, ch. 135, sec. 1; G.S. 1935, ch. 25, sec. 901.

6. L. 1893, ch. 77, sec. 7; L. 1915, ch. 211, secs. 2, 3; L. 1921, ch. 184, sec. 1; G.S. 1935, ch. 25, secs. 904, 905.

7. L. 1919, ch. 189, secs. 2-5; R.S. 1923, ch. 25, secs. 1102-1105; L. 1929, ch. 179, secs. 2-5; G.S. 1935, ch. 25, secs. 1102-1105.

officers by residents absent in the military service or who are inmates of any State soldiers' home, hospital, or training school, is certified to the county clerk by the Secretary of State.[1] On the fourth Monday in January each year the county clerk must prepare and file with the Secretary of State a list of all county officers elected at the last preceding election, together with their signatures and an imprint of the seal of each officer required by law to keep a seal. In event of an appointment to fill a vacancy, such signature and seal must be forwarded immediately.[2]

When a new township is organized or the boundaries of a township changed it is the duty of the county clerk to make out and transmit to the Secretary of State a certified statement of the organization or alteration.[3] As county sealer, the county clerk has custody of the county standards and tests weights and measures upon request, placing a seal upon those which conform to law and a condemnation mark upon those which he judges to be inaccurate or of an unapproved type.[4]

Roads. Since 1865 it has been the duty of the county clerk to keep in a book called "Road Record" a record of all proceedings in the laying out and establishing of roads in the county.[5] It is the clerk's duty under numerous laws to file maps, plats, and surveys for roads, as well as the reports of viewers, appraisers, surveyors, and engineers.

Registration. The statutes make it the duty of the county clerk to record certificates issued by State examining boards to various professional practitioners if they are practicing in the county. He must record the certificates of medical doctors and surgeons, who may not exercise their right to practice until their certificates have been so recorded. The county clerk between December 1 and 20 each year must transmit to the secretary of the State Board of Medical Registration and Examination a list of certificates so recorded by him, together with the names of those whose certificates have been revoked or who have died or removed from the county.[6] He also must record the certificates of

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1. L. 1864, ch. 59, secs. 1-12; G.S. 1868, ch. 36, secs. 54-55; L. 1899, ch. 140, sec. 1; R.S. 1923, ch. 25, secs. 1202, 1213; G.S. 1935, ch. 25, secs. 1201-1213.
2. L. 1885, ch. 108, sec. 1; G.S. 1935, ch. 19, sec. 323.
3. Terr. L. 1860, ch. 28, sec. 36; G.S. 1868, ch. 25, sec. 48; G.S. 1935, ch. 19, sec. 309.
4. L. 1877, ch. 208, secs. 3-5; G.S. 1935, ch. 83, secs. 122, 126.
5. L. 1865, ch. 24, secs. 1, 2; G.S. 1868, ch. 25, sec. 49; G.S. 1935, ch. 19, sec. 310.
6. L. 1901, ch. 254, sec. 4; L. 1913, ch. 290, sec. 9; G.S. 1935, ch. 65, sec. 1003.

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registered nurses,[1] osteopathic physicians,[2] optometrists,[3] and embalmers.[4]

The first assembly required persons performing the marriage ceremony to make return to the county recorder, whose duty it was to keep a record of such returns, but the assembly of 1859 transferred this duty to the county clerk. In 1867 the county clerk was required to turn over his marriage record to the probate judge, by whom it has been kept since.[5]

Beginning in 1860 the legislature authorized formation of limited partnerships for the transaction of mercantile, mechanical, or manufacturing business and required that certificates of such partnerships should be filed with the county clerk, who should record them at length in a book kept for that purpose.[6] From the beginning of county government the clerk also has been required to record in a book kept for that purpose the certifications of justices of the peace of stray animals taken up, and proofs of their ownership.[7] Farm owners may register the names of their farms with the county clerk and obtain from him a certificate of such registration.[8] Beginning in 1864 it was the county clerk's duty to record in a book kept for that purpose a description of the marks or brands of livestock as presented to him by the owner and issue a certificate of registration to the owner, but the legislature of 1939 transferred this duty to the newly created office of State Brand Commissioner.[9] Officers, persons, or firms possessing machine guns or submachine guns are required to report them to the county clerk, whose duty it is to keep an accurate register of such weapons.[10]

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1. L. 1913, ch. 231, sec. 4; L. 1921, ch. 267, sec. 3; L. 1933, ch. 223, sec. 1; G.S. 1935, ch. 65, sec. 1102.
2. L. 1913, ch. 290, sec. 6; G.S. 1935, ch. 65, sec. 1205.
3. L. 1923, ch. 220, sec. 3; G.S. 1935, ch. 65, sec. 1503.
4. L. 1907, ch. 387, sec. 5; L. 1909, ch. 225, sec. 3; G.S. 1935, ch. 65, sec. 1701.
5. Terr. L. 1855, ch. 108, secs. 9, 10; Terr. L. 1859, ch. 93, secs. 7, 8; L. 1867, ch. 84, sec. 6; G.S. 1868, ch. 61, sec. 6; G.S. 1935, ch. 23, sec. 112.
6. Terr. L. 1860, ch. 94, secs. 1-8; G.S. 1868, ch. 74, secs. 1-8; G.S. 1935, ch. 56, secs. 101-108.
7. Terr. L. 1855, ch. 153, secs. 7, 10, 12, 14; L. 1861, ch. 83, secs. 4, 8, 9, 11, 12; L. 1866, ch. 106, sec. 1; G.S. 1868, ch. 105, secs. 8, 12, 13, 15, 16; L. 1874, ch. 127, sec. 4; L. 1887, ch. 229, sec. 1; L. 1927, ch. 236, sec. 1; G.S. 1935, ch. 47, secs. 204, 208, 209, 212.
8. L. 1911, ch. 143, sec. 1; G.S. 1935, ch. 19, sec. 322.
9. L. 1864, ch. 82, sec. 1; L. 1866, ch. 67, sec. 1; G.S. 1868, ch. 105, sec. 55; G.S. 1935, ch. 47, sec. 401; L. 1939, ch. 222, sec. 2.
10. L. 1933, ch. 62, sec. 7 (Special Session); G.S. 1935, ch. 21, sec. 2607.

County Clerk - Functions (Next entry 48, p. 243)

Statistics. Beginning in 1863 the assessors at the time of making their annual property assessments were required to obtain from each person in their respective districts a statement as to the kinds of grains and crops produced the preceding year, and the number and kinds of livestock more than 6 months old on hand at the time of the assessment; and also to obtain data relative to deaf, dumb, blind, and idiotic persons in the district and file the returns with the county clerk.[1] The legislature of 1865 made provision for a census of the State to be taken that year and once each 10 years thereafter, placing upon the county assessors the duty of enumerating the inhabitants, obtaining statistics regarding livestock, agriculture, manufacturing, and other subjects. They were required to make their returns to the Secretary of State and file a copy with the county clerk.[2] In 1867 a law was enacted requiring the assessors to annually make a list of all persons over 21 years old in their respective districts and file it with the county clerk, and providing that whenever it was necessary to ascertain the number of adults in any county, township, or city ward as a basis for any action by the county commissioners or other officers, the assessors' lists should be taken as conclusive. This law was repealed in 1923.[3]

An act of the legislature in 1868 made the collection of agricultural and livestock statistics by the county assessors an annual affair. The county clerk was required to furnish the proper blanks to the assessors and upon receiving their returns, make out and forward a tabular statement to the State Auditor, until 1873, after which it was sent to the State Board of Agriculture.[4] A law enacted in 1873 also provided that the assessors make an annual enumeration of the inhabitants in each township and city and make return to the county clerk, who was required to report the aggregate population of the county to the State Auditor.[5]

The decennial census law of 1865 was repealed in 1875 and a new law enacted requiring the returns to be made to the State Board of Agriculture rather than the county clerk. Two years later the legislature specified that the statistics provided for in the decennial census law pertaining to agriculture and manufactures, and blind, deaf and dumb, insane, and idiotic persons be taken annually and filed with the county clerk.[6] In 1933 the legislature repealed the former census laws, including the provision for a decennial census, and enacted another which eliminates the county clerk from duties in connection with these statistics.[7] The law of 1873 provided that the assessors obtain data relative to

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1. L. 1863, ch. 9, secs. 1, 4.
2. L. 1865, ch. 20, secs. 4, 8; G.S. 1868, ch. 17, secs. 4, 8.
3. L. 1867, ch. 113, secs. 1, 2; G.S. 1868, ch. 86, secs. 1, 2; L. 1923, ch. 78, sec. 1.
4. G.S. 1868, ch. 25, secs. 80-82; L. 1873, ch. 137, sec. 1.
5. L. 1873, ch. 75, secs. 1, 2; G.S. 1935, ch. 11, sec. 113.
6. L. 1875, ch. 67, secs. 1-7, 10; L. 1877, ch. 182, sec. 1.
7. L. 1933, ch. 114, secs. 1-9; G.S. 1935, ch. 11, secs. 101-114.

horticulture and include with the agricultural and other statistics but in 1903 it was provided that the State Horticultural Society supply the assessors with blanks for this purpose and that the returns be aggregated by the county clerk and forwarded, together with the original compilation, to the State society.[1]

From 1861 until repealed of the law in 1885 assessors were required, when listing property for taxation, to obtain the names of all persons eligible for militia duty and report them to the county clerk, whose duty it was to send a list to the Adjutant General.[2] A law of 1883 required enrollment of resident veterans of all wars of the United States, including Indian wars, or their widows and orphans, return being made to the county clerk and thence to the Adjutant General.[3] The decennial census law of 1875 was supplemented in 1885 by the requirement that all honorably discharged volunteer Union soldiers be listed. This law was repealed in 1933.[4] An act of 1889, repealed by revision of the statutes in 1923, required enrollment of all persons, or their widows and orphans, who had served in the armed forces of the United States in the Civil War. The Adjutant General furnished the proper blanks to the county clerks, who distributed them to the assessors. Returns were filed with the county clerks, who forwarded duplicates to the Adjutant General.[5]

Records

The records which the statutes specify or imply that the county clerk shall keep include not only those which he makes in his capacity as clerk of the county and copies of reports and statements which he makes for other officers and governmental divisions, but a large variety of records and documents which the law requires to be filed with him for record and preservation.

Since 1877 the county clerk has been required to keep a record of all transfers of title to real property in the county. The law specifies that the register of deeds may not record any conveyance until it is presented to the county clerk for registration.[6] When the State school lands were placed on the market, it was required that the reports of

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1. L. 1873, ch. 137, sec. 1; L. 1903, ch. 404, secs. 1-3; G.S. 1935, ch. 2, secs. 802-804.
2. L. 1861, ch. 49, sec. 6; G.S. 1868, ch. 64, sec. 8; L. 1885, ch. 142, sec. 37.
3. L. 1883, ch. 109, secs. 1-4.
4. L. 1885, ch. 93, sec. 1; L. 1933, ch. 114, sec. 9.
5. L. 1889, ch. 233, secs. 1-4; Report of Commission to Revise the General Statutes, p. 148.
6. L. 1877, ch. 145, secs. 1-4; L. 1915, ch. 173, sec. 1; G.S. 1935, ch. 67, secs. 239-242.

the appraisers and the surety bonds of purchasers be filed with the county clerk, who also was required to keep a record of the land sold and the payments thereon. The clerk usually kept copies of his semi-annual reports to the State Auditor of school land sales and payments.[1]

Lists of taxpayers eligible to serve as jurors, certified to him by the county commissioners till 1876 and afterward by the township trustees, and lists of the names drawn by him for jury duty are preserved by the county clerk in counties with less than 90,000 inhabitants.[2] Since 1936, however, jurors in Shawnee County are drawn by the judges of the district court.[3] Summonses served on him in garnishment proceedings against county officers and employees are filed by the county clerk,[4] and the county coroner is required to return to him the inquisition, the written evidence, and the names of witnesses in inquests.[5]

Tax records kept by the county clerk include the real estate assessment rolls;[6] statements of personal property;[7] the returns made to him by the State Commission of Revenue and Taxation of the valuation of the property of railroads,[8] and of telephone, telegraph, pipe line, and electric power companies[9] and the assessments of the property and shares of stock of banks and trust companies,[10] and of insurance companies.[11] Although the law does not require it, some county clerks keep a separate personal property assessment roll but in Shawnee County the original personal property statements are bound and used for an assessment roll. The statutes do not require that bank and insurance company assessments

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1. L. 1864, ch. 102, secs. 2, 7, 8, 11; G.S. 1868, ch. 94, secs. 2, 3.
2. Terr. L. 1859, ch. 84, secs. 1-6, 14; L. 1866, ch. 60, secs. 3, 6, 14; G.S. 1868, ch. 54, secs. 3, 6, 14; G.S. 1935, ch. 43, secs. 103, 104, 112.
3. L. 1907, ch. 232, sec. 2; G.S. 1935, ch. 43, sec. 136.
4. L. 1919, ch. 237, sec. 2; G.S. 1935, ch. 60, sec. 963.
5. G.S. 1868, ch. 25, sec. 131; G.S. 1935, ch. 19, sec. 1014.
6. Terr. L. 1855, ch. 137, art. 2, secs. 22, 30; Terr. L. 1860, ch. 114, secs. 20-22, 24; L. 1866, ch. 118, sec. 54; G.S. 1868, ch. 107, sec. 41; L. 1876, ch. 34, sec. 57; L. 1911, ch. 316, sec. 8; G.S. 1935, ch. 79, sec. 408.
7. L. 1866, ch. 118, sec. 44; G.S. 1868, ch. 107, sec. 62; L. 1876, ch. 34, sec. 66; G.S. 1935, ch. 79, sec. 1430.
8. L. 1876, ch. 34, sec. 33; L. 1907, ch. 408, sec. 34; L. 1909, ch. 243, sec. 5; G.S. 1935, ch. 79, sec. 605.
9. L. 1897, ch. 245, sec. 5; L. 1905, ch. 502, sec. 11; L. 1909, ch. 255, sec. 11; L. 1919, ch. 304, sec. 10; G.S. 1935, ch. 79, sec. 710.
10. L. 1866, ch. 118, sec. 51; G.S. 1868, ch. 107, secs. 23, 24; L. 1876, ch. 34, sec. 22; L. 1919, ch. 306, sec. 1; L. 1925, ch. 276, sec. 1; L. 1930, ch. 16, sec. 1 (Special Session); L. 1931, ch. 304, sec. 1; G.S. 1935, ch. 79, sec. 1101.
11. L. 1919, ch. 306, sec. 2; G.S. 1935, ch. 79, sec. 1201.

be kept separately but they specify that the assessors shall deliver statements of moneys and credits to the county clerk "for filing and preservation," the amounts to be included on the personal property lists.[1] The clerk of Shawnee County preserves copies of the abstracts of the assessment rolls he is required to send to the State Commission of Revenue and Taxation on or before July 1 of each year.[2] In Shawnee County the clerk preserves the orders of the county commissioners directing correction of specific assessments, though not required by law. He also keeps stubs of applications for permits to buy motor vehicle fuel exempt from the State tax.[3]

The county clerk files the budgets and financial statements of all taxing subdivisions of the county certified to him annually, together with the proof of the publication thereof and the rate or amount of the levy determined upon.[4] The governing body of each such subdivision must also certify to the clerk the percentage levied by it on the taxable property within its boundaries.[5] The county clerk's statements and computations of tax levies, made on the basis of the required certifications and the reports of the State Board of Equalization;[6] duplicates of the annual reports he is required to make to the State Commission of Revenue and Taxation as to taxes levied in his county for all purposes;[7] and abstracts of the tax roll as charged to the county treasurer are kept by the county clerk of Shawnee County. When roads were being constructed in the county under the benefit district plan he kept a record of taxes levied for that purpose.[8] He also preserves the certificates of tax

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1. L. 1925, ch. 277, sec. 5, 6; L. 1927, ch. 326, secs. 5, 6; L. 1931, ch. 311, secs. 5, 6; G.S. 1935, ch. 79, secs. 3113, 3114.

2. Terr. L. 1855, ch. 137, art. 3, sec. 14; Terr. L. 1860, ch. 114, sec. 26; L. 1866, ch. 118, sec. 30; G.S. 1868, ch. 107, sec. 45; L. 1876, ch. 34, sec. 76; L. 1877, ch. 40, sec. 1; L. 1909, ch. 243, sec. 8; G.S. 1935, ch. 79, sec. 1604.

3. L. 1933, ch. 317, sec. 18; L. 1935, ch. 311, sec. 1; G.S. 1935, ch. 79, sec. 3418.

4. L. 1933, ch. 316, secs. 6, 7; G.S. 1935, ch. 79, secs. 2930, 2931.

5. Terr. L. 1860, ch. 114, sec. 29; L. 1866, ch. 118, secs. 55, 56; G.S. 1868, ch. 107, secs. 69, 70, 71; L. 1876, ch. 34, sec. 82; G.S. 1935, ch. 79, sec. 1801.

6. Terr. L. 1860, ch. 114, sec. 31; L. 1866, ch. 118, sec. 58; G.S. 1868, ch. 107, sec. 73; L. 1876, ch. 34, sec. 84; L. 1909, ch. 244, sec. 1; G.S. 1935, ch. 79, sec. 1803.

7. L. 1866, ch. 118, sec. 63; G.S. 1868, ch. 107, sec. 75; L. 1876, ch. 34, sec. 87; L. 1909, ch. 243, sec. 11; G.S. 1935, ch. 79, sec. 1806; L. 1937, ch. 359, sec. 2.

8. L. 1909, ch. 201, sec. 6; L. 1911, ch. 249, sec. 1; L. 1917, ch. 265, sec. 6; L. 1919, ch. 246, sec. 5; L. 1921, ch. 218, sec. 2; L. 1927, ch. 252, sec. 1; G.S. 1935, ch. 68, sec. 706.

levies made by incorporated cities for special improvements,[1] and by drainage districts within the county.[2]

The county clerk is required to keep a duplicate of the county treasurer's record of real estate sold for delinquent taxes[3] and enter therein a record of assignments by him of certificates of property sold for delinquent taxes and bid in by the county.[4] This latter record was kept separate in Shawnee County from 1869 to 1880. Since 1888 the Shawnee County clerk also has kept a separate record of lands and lots held by the county for unpaid taxes and leased to others.[5] Tax sales certificates surrendered to him upon issuance of tax deeds[6] are preserved by the county clerk, who also must make a record in his book of tax sales of all real estate redeemed from tax sales.[7] The Shawnee County clerk also keeps a record of refunded and uncollected taxes for which the county commissioners have claimed credit under the State levy.[8]

When the legislature of 1905 made it the duty of the county clerk to issue hunting licenses it specified that he should keep a record thereof, but this provision was omitted from the revision of the law in 1927.[9] However, the county clerk of Shawnee County keeps the stubs of hunting, fishing, and trapping licenses issued by him, and a record of such licenses placed with local firms for sale. He also preserved the stubs of applications for licenses to sell cigarettes during the period the law required that they be made to him,[10] and stubs of licenses issued to patent medicine vendors.[11]

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1. R.S. 1923, ch. 10, sec. 114; G.S. 1935, ch. 10, sec. 114.
2. L. 1879, ch. 100, sec. 11; L. 1905, ch. 215, sec. 23; L. 1911, ch. 170, sec. 18; L. 1919, ch. 186, sec. 1; G.S. 1935, ch. 24, secs. 211, 213, 215, 424, 518.
3. Terr. L. 1860, ch. 114, sec. 46; L. 1866, ch. 118, sec. 76; G.S. 1868, ch. 107, sec. 94; G.S. 1935, ch. 79, sec. 2317.
4. L. 1866, ch. 118, sec. 74; G.S. 1868, ch. 107, sec. 91; L. 1876, ch. 34, sec. 117; G.S. 1935, ch. 79, sec. 2314.
5. L. 1901, ch. 391, sec. 2; G.S. 1935, ch. 79, sec. 2702.
6. L. 1862, ch. 198, sec. 10; L. 1866, ch. 118, sec. 89; G.S. 1868, ch. 107, sec. 112; L. 1876, ch. 34, sec. 138; L. 1933, ch. 312, sec. 7; G.S. 1935, ch. 79, sec. 2501.
7. L. 1862, ch. 198, sec. 8; L. 1866, ch. 118, sec. 87; G.S. 1868, ch. 107, sec. 102; L. 1876, ch. 34, sec. 129; L. 1933, ch. 312, sec. 3; G.S. 1935, ch. 79, sec. 2403.
8. L. 1866, ch. 118, sec. 108; G.S. 1868, ch. 107, sec. 132; L. 1876, ch. 34, sec. 102; G.S. 1935, ch. 79, sec. 2203.
9. L. 1905, ch. 267, sec. 8; L. 1911, ch. 198, sec. 8; L. 1915, ch. 227, sec. 1; L. 1921, ch. 196, sec. 2; L. 1927, ch. 221, sec. 16; L. 1931, ch. 191, sec. 2; L. 1933, ch. 187, sec. 2; L. 1935, ch. 181, sec. 1; G.S. 1935, ch. 32, sec. 104a.
10. L. 1927, ch. 171 as amended by ch. 173, sec. 1; L. 1933, ch. 122, secs. 3, 4 (Special Session); G.S. 1935, ch. 79, sec. 3303; L. 1939, ch. 329, sec. 4.
11. L. 1907, ch. 246, sec. 1; G.S. 1935, ch. 19, sec. 2201.

County Clerk - Records (Next entry 48, p. 243)

In keeping the accounts of his county with the county treasurer the county clerk makes a number of records and preserves many kinds filed with him by other officers. In Shawnee County a record of the monthly budgets of county officers was kept in 1935-36. The clerk kept duplicate copies of requisitions for office supplies, 1910-14, and a record of materials and supplies ordered for county offices, 1927-35, but these have been supplanted by the original invoices which he preserves in his files. He preserves the county auditor's monthly reports of claims allowed and disallowed[1] and a record of claims presented to the county commissioners and the amounts allowed by them.[2]

The statutes require the county clerk to keep a record, in a book provided for that purpose, of all county warrants issued.[3] The treasurer keeps a statement sheet of daily cash receipts and disbursements and at the end of each day's business files a copy with the county clerk, accompanied by receipts, paid warrants, and other supporting documents. The statutes require that the county clerk "shall keep a book in which he shall keep the receipts and expenditures of his county and all accounts of his county with the different county, township, districts, and other officers."[4] The Shawnee County clerk also keeps a daily record of receipts and disbursements of county moneys, including tax collections and distributions. He also keeps a record of fees charged and collected by him in his capacity as county clerk.[5] Justices of the peace must file with him their certificates of convictions and payments of fines in misdemeanor cases.[6] The county treasurer is required to take receipts in duplicate for money paid out by him in his official capacity and "forthwith file one such duplicate with the county clerk.[7] When he makes his annual settlement of the financial affairs of the taxing subdivisions of the county in October he must file with the county clerk all receipts and vouchers for such funds paid out by him.[8]

The county clerk keeps a record of the county treasurer's accounts with the county depositories. The statutes require the county treasurer

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1. L. 1915, ch. 172, sec. 4; G.S. 1935, ch. 19, sec. 623.
2. Terr. L. 1858, ch. 13, sec. 30; Terr. L. 1860, ch. 28, sec. 34; G.S. 1868, ch. 25, sec. 45; G.S. 1935, ch. 19, sec. 306.
3. Terr. L. 1860, ch. 28, sec. 35; G.S. 1868, ch. 25, sec. 46; G.S. 1935, ch. 19, sec. 307.
4. G.S. 1868, ch. 25, sec. 50; G.S. 1935, ch. 19, sec. 311.
5. L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1909, ch. 145, sec. 17; L. 1911, ch. 190, sec. 17; L. 1913, ch. 197, sec. 16; R.S. 1923, ch. 28, sec. 123; G.S. 1935, ch. 28, secs. 123, 316.
6. Terr. L. 1855, ch. 94, sec. 23; Terr. L. 1859, ch. 86, sec. 23; G.S. 1868, ch. 83, sec. 25; G.S. 1935, ch. 63, sec. 502.
7. L. 1864, ch. 37, sec. 4; G.S. 1868, ch. 25, sec. 71; G.S. 1935, ch. 19, sec. 511.
8. G.S. 1868, ch. 25, sec. 68; L. 1891, ch. 101, sec. 2; G.S. 1935, ch. 19, sec. 508.

to file with the county clerk duplicate tickets of deposits of funds in banks and statements of money remitted to any fiscal agent outside the county, and the fiscal agent must transmit to the county clerk monthly a statement of the amount received from the treasurer. Checks drawn on county depositories by the treasurer must be countersigned by the clerk, who makes the proper charges and credits to the banks, the treasurer, and the fiscal agents.[1] The clerk of Shawnee County keeps a separate record of all the treasurer's checks which he countersigns. Banks handling county funds must file with the county clerk a monthly statement of county funds on hand at the close of business each day during the previous month, and the amount of interest accrued.[2]

The legislature of 1866, authorizing counties generally to issue bonds for constructing bridges and public buildings, required that they be registered by the county clerk.[3] Beginning in 1872 it was required that all bonds issued by school districts be registered with the county clerk.[4] In 1879 the same requirement was made with regard to bonds of townships, cities, and boards of education. All original bonds of these subdivisions as well as of the county and school districts were required to be marked "Paid in full" across the face of the bond when retired, and preserved in the office of the county clerk or destroyed by the county commissioners, the clerk having first made a register of the number, amount, and date of issue of the instrument.[5] The legislature of 1919 provided that drainage district bonds should be registered but exempted those of cities and boards of education.[6] An amendment in 1921 made no mention of drainage districts but again included those of cities and boards of education.[7] The revised bond law of 1923 infers that all fiscal bonds of the county and all its subdivisions be registered by the county clerk.[8]

The clerk preserves the annual statements certified to him of the bonded and floating indebtedness of all taxing subdivisions of the county, including cities and boards of education,[9] and usually keeps copies of the annual financial statement and exhibits of his county and subdivisions which he forwards in July of each year to the State Auditor.[10]

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1. L. 1876, ch. 78, secs. 3-7; G.S. 1935, ch. 19, secs. 531-535.
2. L. 1887, ch. 131, sec. 1; L. 1889, ch. 189, sec. 1; L. 1891, ch. 102, sec. 1; L. 1895, ch. 116, sec. 1; L. 1897, ch. 94, sec. 1; L. 1901, ch. 130, sec. 1; L. 1909, ch. 101 sec. 1; L. 1933, ch. 159, sec. 1; ch. 160, sec. 1; G.S. 1935, ch. 19, sec. 530; L. 1937, ch. 82, sec. 2.
3. L. 1866, ch. 23, sec. 10.
4. L. 1872, ch. 94, secs. 1, 2.
5. L. 1879, ch. 50, secs. 1, 4; L. 1891, ch. 163, sec. 3.
6. L. 1919, ch. 93, sec. 2.
7. L. 1921, ch. 76, sec. 3.
8. R.S. 1923, ch. 10, sec. 107; G.S. 1935, ch. 10, sec. 107.
9. L. 1877, ch. 90, sec. 1; G.S. 1935, ch. 10, sec. 1007.
10. G.S. 1868, ch. 25, sec. 56; L. 1877, ch. 90, sec. 2; G.S. 1935, ch. 19, sec. 317.

County Clerk - Records (Next entry 48, p. 243)

All records and documents pertaining to elections in the county for National, State, district, county, and township officers are kept by the county clerk by provisions of the statutes. He must keep a record of the political party affiliations of voters and record their changes in party affiliations.[1] The Secretary of State certifies to him the names of National, State, and district officers to be placed on the official ballots, and he must file the declarations of intention and nomination petitions of candidates in primary elections for county and subdistrict offices and for county and precinct committeeman.[2] Though not specifically required by law, the county clerk usually files certificates of appointments of judges and clerks of election boards and keeps a record of such appointments.[3] He keeps a record of official ballots delivered to and returned by the election boards and in some cases files the receipts of the judges for the ballots.[4] He is required to keep the ballots for 6 months, after which he may destroy them unless there is a contest.[5] The poll books also must be returned to the county clerk for preservation.[6] He must preserve in his office a copy of his abstract of votes cast for each candidate in each precinct. He must certify the abstract of votes cast for National, State, and district officers to the Secretary of State and must issue certificates of election to successful candidates for county and township offices; and though not specifically required, he often keeps copies or stubs of both documents.[7] Political clubs, organizations, and committees promoting the interests of any candidate in an election must file with the county clerk an itemized statement of receipts and expenditures, and candidates must file with him a statement of their expenses in the campaign.[8]

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1. L. 1927, ch. 203, secs. 1, 3; G.S. 1935, ch. 25, secs. 225, 227.
2. L. 1893, ch. 78, sec. 7; L. 1908, ch. 54, secs. 6, 7; L. 1915, ch. 204, secs. 2, 3; R.S. 1923, ch. 25, secs. 208, 209; G.S. 1935, ch. 25, secs. 208, 209.
3. Terr. L. 1855, ch. 66, sec. 5; Terr. L. 1859, ch. 65, sec. 34; L. 1861, ch. 28, sec. 3; G.S. 1868, ch. 36, sec. 3; L. 1893, ch. 78, sec. 19; L. 1897, ch. 129, sec. 19; L. 1901, ch. 177, sec. 8; G.S. 1935, ch. 25, sec. 401.
4. L. 1893, ch. 78, sec. 15; L. 1897, ch. 129, sec. 15; L. 1903, ch. 299, sec. 1; L. 1909, ch. 134, secs. 1-8; L. 1921, ch. 183, sec. 1; G.S. 1935, ch. 25, sec. 604.
5. L. 1893, ch. 78, sec. 25; L. 1897, ch. 129, sec. 25; L. 1901, ch. 177, sec. 11; L. 1903, ch. 228, sec. 4; L. 1905, ch. 222, sec. 3; L. 1913, ch. 189, sec. 4; G.S. 1935, ch. 25, sec. 419.
6. Terr. L. 1855, ch. 66, sec. 14; Terr. L. 1859, ch. 65, sec. 51; L. 1861, ch. 28, sec. 25; G.S. 1868, ch. 36, sec. 26; G.S. 1935, ch. 25, sec. 426.
7. Terr. L. 1859, ch. 65, secs. 53-57; L. 1861, ch. 28, secs. 30, 31; ch. 32, sec. 5; G.S. 1868, ch. 36, secs. 31, 32; ch. 110, sec. 10; G.S. 1935, ch. 25, secs. 704, 705, 1604.
8. L. 1893, ch. 77, secs. 7, 8; L. 1909, ch. 135, sec. 1; L. 1915, ch. 211, sec. 2; L. 1921, ch. 184, sec. 1; R.S. 1923, ch. 25, sec. 904; G.S. 1935, ch. 25, secs. 901, 904.

County Clerk - Records (Next entry 48, p. 243)

The following officers must file their surety bonds and oaths with the county clerk: Register of deeds,[1] clerk of the district court,[2] probate judge,[3] sheriff,[4] coroner,[5] county attorney,[6] county and deputy assessors,[7] county treasurer,[8] county surveyor,[9] township clerk,[10] township treasurer,[11] justices of the peace,[12] and constables.[13] Deputies appointed by the foregoing county officers also must file their oaths with the county clerk.[14] Surety bonds of persons engaged in abstracting public records also are filed with the county clerk.[15] Appointments of deputy sheriffs must be in writing and filed with the clerk.[16] As ex officio county recorder the county clerk during the Territorial period kept a record of official bonds, but since 1868 this record has been kept by the register of deeds.[17]

The county clerk is required to keep a book called "Road Record" in which he records proceedings in the laying out, establishment, construction, and vacation of roads in the county.[18] Maps of roads of the various townships in the county, made by the county engineer and filed

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1. G.S. 1868, ch. 25, sec. 87; G.S. 1935, ch. 19, sec. 1201.
2. L. 1861, ch. 24, sec. 1; G.S. 1868, ch. 25, sec. 147.
3. L. 1861, ch. 25, sec. 2; G.S. 1868, ch. 25, sec. 84; L. 1897, ch. 96, sec. 1; G.S. 1935, ch. 19, sec. 1101; L. 1939, ch. 80, sec. 3.
4. Terr. L. 1860, ch. 28, sec. 68; G.S. 1868, ch. 25, sec. 99; L. 1897, ch. 96, sec. 2; G.S. 1935, ch. 19, sec. 801.
5. Terr. L. 1860, ch. 28, sec. 85; G.S. 1868, ch. 25, sec. 116; G.S. 1935, ch. 19, sec. 1001.
6. L. 1864, ch. 31, secs. 1, 2, 3, 9; G.S. 1868, ch. 25, sec. 135; L. 1907, ch. 163, sec. 1; G.S. 1935, ch. 19, sec. 701.
7. L. 1876, ch. 34, sec. 41; L. 1907, ch. 408, sec. 20; L. 1911, ch. 320, sec. 2; L. 1933, ch. 308, sec. 1; G.S. 1935, ch. 79, sec. 1414.
8. Terr. L. 1860, ch. 28, sec. 104; G.S. 1868, ch. 25, sec. 61; L. 1875, ch. 77, sec. 1; G.S. 1935, ch. 19, sec. 501.
9. Terr. L. 1860, ch. 28, sec. 116; L. 1862, ch. 196, sec. 1; G.S. 1868, ch. 25, sec. 153; L. 1913, ch. 157, sec. 1; G.S. 1935, ch. 19, sec. 1401.
10. L. 1872, ch. 203, sec. 1; G.S. 1935, ch. 80, sec. 504.
11. G.S. 1868, ch. 110, sec. 17; G.S. 1935, ch. 80, sec. 203.
12. G.S. 1868, ch. 110, sec. 19; L. 1933, ch. 328, sec. 1; G.S. 1935, ch. 80, sec. 205.
13. L. 1864, ch. 121, sec. 1; G.S. 1868, ch. 110, sec. 18; G.S. 1935, ch. 80, sec. 204.
14. Terr. L. 1860, ch. 28, sec. 126; G.S. 1868, ch. 25, sec. 175; G.S. 1935, ch. 19, sec. 2604.
15. L. 1889, ch. 1, sec. 1; L. 1903, ch. 1, sec. 1; G.S. 1935, ch. 67, sec. 243.
16. G.S. 1868, ch. 25, sec. 104; G.S. 1935, ch. 19, sec. 810.
17. Terr. L. 1855, ch. 134, sec. 10; G.S. 1868, ch. 25, sec. 174; G.S. 1935, ch. 19, sec. 2605.
18. L. 1865, ch. 24, secs. 1, 2; G.S. 1868, ch. 25, sec. 49; G.S. 1935, ch. 19, sec. 310.

in the office of the county clerk under the law of 1917, after approval and adoption by the county commissioners constitute records of such roads where there are no other records, and supplemental records where the existing records are incomplete.[1] Numerous original instruments pertaining to roads and bridges, filed with the county clerk under various laws, are regarded as records of the county commissioners.

In books kept for that purpose the county clerk registers certificates granted by State examining boards to various professional practitioners in the county. These include medical doctors and surgeons,[2] registered nurses,[3] osteopathic physicians,[4] optometrists,[5] and embalmers.[6] He also files and registers certificates of limited partnerships and the accompanying affidavits.[7] He keeps a register of farm names for which he has issued certificates[8] and from 1864 until 1940 recorded marks and brands for livestock registered with him by the owners.[9] It always has been his duty to record in a separate book the certifications of justices of the peace of stray animals taken up, together with proof of their ownership and a statement of their disposal.[10]

Since 1933 he has kept a register of machine guns, submachine guns, and machine rifles reported to him by officers, firms, and individuals.[11]

A law enacted in 1917 and repealed in 1939 required common carriers delivering alcohol or intoxicating liquors to hospitals, wholesale druggists, and churches for medical, scientific, or sacremental purposes to file statements thereof with the county clerk.[12] From 1887 until 1909

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1. L. 1917, ch. 264, sec. 9; G.S. 1935, ch. 68, sec. 502.
2. L. 1901, ch. 254, sec. 4; L. 1913, ch. 290, sec. 9; G.S. 1935, ch. 65, sec. 1003.
3. L. 1913, ch. 231, sec. 4; L. 1921, ch. 267, sec. 3; L. 1933, ch. 223, sec. 1; G.S. 1935, ch. 65, sec. 1102.
4. L. 1913, ch. 290, sec. 6; G.S. 1935, ch. 65, sec. 1205.
5. L. 1923, ch. 220, sec. 3; G.S. 1935, ch. 65, sec. 1503.
6. L. 1907, ch. 387, sec. 5; L. 1909, ch. 225, sec. 3; G.S. 1935, ch. 65, sec. 1701.
7. Terr. L. 1860, ch. 94, secs. 1-8; G.S. 1868, ch. 74, secs. 1-8; G.S. 1935, ch. 56, secs. 101-108.
8. L. 1911, ch. 143, sec. 1; G.S. 1935, ch. 19, sec. 322.
9. L. 1864, ch. 82, sec. 1; L. 1866, ch. 67, sec. 1; G.S. 1868, ch. 105, sec. 55; G.S. 1935, ch. 47, sec. 401; L. 1939, ch. 222, sec. 2.
10. Terr. L. 1855, ch. 153, secs. 7, 10, 12, 14; L. 1861, ch. 83, secs. 4, 8, 9, 11, 12; L. 1866, ch. 106, sec. 1; G.S. 1868, ch. 105, secs. 8, 12, 13, 15, 16; L. 1874, ch. 127, sec. 4; L. 1887, ch. 229, sec. 1; L. 1927, ch. 236, sec. 1; G.S. 1935, ch. 47, secs. 204, 208, 209, 212.
11. L. 1933, ch. 62, sec. 7 (Special Session); G.S. 1935, ch. 21, sec. 2607.
12. L. 1917, ch. 215, secs. 4-6; G.S. 1935, ch. 21, secs. 2104-2106; L. 1939, ch. 179, sec. 7.

the county clerk kept a record of blank books of liquor purchase affidavits issued to druggists.[1]

From 1859 to 1867 the county clerk kept a record of marriages in his county, a duty incumbent upon the county recorder prior to that time. In 1867 however, the county clerk was required to turn his marriage record over to the probate judge, by whom it has since been kept.[2]

Under the laws of 1863 and 1868 the assessors made their annual returns of agricultural and livestock statistics to the county clerk.[3] The decennial census returns of 1865 and 1875 were required to be filed with the county clerk and thereafter the statistics gathered annually by the assessors concerning agriculture, manufactures, and blind, deaf dumb, and idiotic persons were required to be filed with the county clerk until 1933, after which they were sent to the State Board of Agriculture and a duplicate retained by the county assessor.[4] From 1867 until 1923 the law specified that the assessors file with the county clerk their annual enumeration of persons over 21 years old in their respective assessment districts.[5] From 1873 to 1933 the assessors have been required to file with the county clerk an annual enumeration of the inhabitants of each township and city,[6] and since 1933 the population statistics also have been included with the agricultural statistics.[7] From 1861 to 1885 the assessors filed with the county clerk the names of persons eligible for militia service.[8] From 1889 until it was repealed by the revision of the statutes in 1923 there was a law requiring assessors to enroll all persons who had served in the armed forces of the United States in the Civil War, and file the returns with the county clerk.[9]

The county superintendent is required to file with the county clerk a copy of his quarterly report to the State Superintendent of Public

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1. L. 1887, ch. 165, sec. 2; L. 1909, ch. 164.
2. Terr. L. 1855, ch. 108, secs. 9, 10; Terr. L. 1859, ch. 93, secs. 7, 8; L. 1867, ch. 84, sec. 6; G.S. 1868, ch. 61, sec. 6; G.S. 1935, ch. 23, sec. 112.
3. L. 1863, ch. 9, secs. 1, 4; G.S. 1868, ch. 25, secs. 80-82; L. 1873, ch. 137, sec. 1.
4. L. 1865, ch. 20, secs. 4, 8; G.S. 1868, ch. 17, secs. 4, 8; L. 1875, ch. 67, secs. 1-7, 10; L. 1877, ch. 182, sec. 1; L. 1933, ch. 114, secs. 1-9; G.S. 1935, ch. 11, secs. 101-114.
5. L. 1867, ch. 113, secs. 1, 2; L. 1923, ch. 78, sec. 1.
6. L. 1873, ch. 75, secs. 1, 2.
7. L. 1933, ch. 114, sec. 2; G.S. 1935, ch. 11, sec. 102.
8. L. 1861, ch. 49, sec. 6; G.S. 1868, ch. 64, sec. 8; L. 1885, ch. 142, sec. 37.
9. L. 1889, ch. 233, secs. 1-4.

instruction,[1] and also to furnish him annually with a copy of the boundaries of each school district.[2] Petitions, claims, orders to determine costs, appeal notices and bonds, and other instruments in proceedings in the drainage of swamps and lowlands in the county must be filed with the county clerk.[3] When the county commissioners join with the State livestock sanitary commissioner in the appraisal of domestic animals to be killed because of disease,[4] the papers are filed in the county clerk's office. Notices and affidavits of sales of property to satisfy artisans' and feed and storage liens must be filed with the clerk of the county.[5] The statutes specify that the sheriff and county attorney shall file a copy of their annual inventory of county property with the county clerk, who must keep a record thereof.[6] Since 1925 the trustees of the property of certain aliens have been required to report annually to the county clerk all property owned in the county by their wards.[7]

Land Records

48. TRANSFER RECORD (of Lands and Lots), 1877--. 30 vols. (four unlabeled; A-Z).

Record of transfers of title to farm lands and city lots, showing nature of instrument, date of transfer, names of grantor and grantee, location and legal description of real estate, consideration, date of recording, remarks, and memoranda of county clerk. Arr. num. by sec., twp., range, lot, and block nos. and chron. thereunder by dates of transfers. No index. Hdw. on pr. fms. 600 pp. 18 x 13 x 4. 28 vols., 1877-1933, co. clk's. va.; 2 vols., 1935--, co. clk's. off.

For table of market and assessed valuations of property transferred, 1923-27, see entry 404.

49. RECORD OF SCHOOL LAND SALES, 1866-1909. 3 vols. Discontinued.

Record of sales of State school land in county, showing date of sale, location and description of tract, appraised value, name and address of purchaser, purchase price, amounts of installments, dates due, rate of

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1. L. 1861, ch. 76, art. 2, sec. 4; G.S. 1868, ch. 92, sec. 12; L. 1869, ch. 86, sec. 3; L. 1875, ch. 95, sec. 3; L. 1876, ch. 122, art. 2, sec. 3; L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
2. L. 1867, ch. 123, sec. 9; G.S. 1868, ch. 92, p. 936, sec. 9; G.S. 1935, ch. 72, sec. 218.
3. L. 1886, ch. 161, secs. 2, 3, 7, 11, 13, 15; G.S. 1935, ch. 24, secs. 303, 304, 308, 312, 314, 316.
4. L. 1911, ch. 312, sec. 6; G.S. 1935, ch. 47, sec. 615.
5. G.S. 1868, ch. 58, sec. 9; L. 1872, ch. 142, sec. 9; G.S. 1935, ch. 58, sec. 214.
6. L. 1925, ch. 138, sec. 1; G.S. 1935, ch. 19, sec. 2624.
7. L. 1925, ch. 209, sec. 5; G.S. 1935, ch. 67, sec. 705.

interest, date patent due, date and amount of bond, and remarks. Arr. chron. by dates of sales. Indexed alph. by names of purchasers. Hdw. on pr. fm. 300 pp. 18 x 12 x 1 3/4. Co. clk's. va.

For clerk's reports of State school land sales and payments, 1882-1901, 1903-10, see entry 152-iv; for treasurer's record of payments, 1868--, see entry 442.

Judicial Records

50. JURY (Certification) LIST, 1886-1916, 1930-36. 2 f. drs. (197, 199). Discontinued.
List of taxpayers eligible to serve as jurors, certified by township trustees to county clerk, showing name of township or city, name and address of juror, date certified, and signature of trustee or mayor. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

51. JURY LIST (Jurors Drawn for Service), 1930--. 2 f. drs.
List of taxpayers drawn by county clerk to serve as jurors in district court, 1930-36, showing date, term of court, name and address of juror, from what township or city, and signature of county clerk. Also contains: Deputy Sheriffs' (Appointments and Oaths), 1935--, entry 121. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

For subsequent record of jurors drawn, 1936--, see entry 244; for judges' orders to draw jurors, 1884-1936, see entry 266-iv; for sheriff's list of jurors to be notified, 1905--, see entry 359.

52. GARNISHMENT SUMMONS, 1935--. 1 f. dr.
Summonses served on county clerk in garnishment proceedings against county officers and employees, showing name of court, case number, date of filing, names of plaintiff and defendant, amount claimed, and signatures of judge and marshal. Arr. chron. by dates of service. No index. Typed on pr. fm. 12 x 14 x 20. Co. clk's. off.

53. CORONER'S INQUEST, 1889--. 3 f. drs. (77, 201, 288).
Coroner's returns of inquests held, showing date of inquest, name of deceased, conditions surrounding death, names of jurors and witnesses, transcript of evidence, findings of jury, orders of coroner, record of fees and costs, remarks, signature of coroner, and date filed. Arr. chron. by filing dates. No index. Hdw. on pr. fm. and typed. 10 x 5 x 14. Co. clk's. va.

For coroner's record, 1922--, see entry 392.

Taxation

Assessment

54. REAL ESTATE ASSESSMENT ROLL, 1861--. 330 vols. Title varies: Assessment Roll, 1861-1921.

Record of real estate assessed for taxation, showing name and address of owner; school district number; legal description of tract or lot; number of acres cultivated; meadows, forests, and uncultivated land; average value per acre with improvements, value without improvements, total value as fixed by assessor and equalized by board of equalization; value of improvements not included in previous assessment, and those removed since last assessment. Also contains: Personal Property Statements, 1861-88, entry 56. Arr. num. by sec., twp., range, lot, and block nos. No index. Hdw. on pr. fm. Aver. 155 pp. 19 x 16 x 1 1/4. 275 vols., 1861-1921, attic; 50 vols., 1902-33, co. clk's. va.; 5 vols., 1934--, co. clk's. off.

For assessor's field books, 1889--, see entry 403.

55. ABSTRACT OF (Real Estate) Assessment, 1862--. 4 f. drs. (two unlabeled; 211, 212). 1925-28 also in Duplicate Reports to City and State (Miscellaneous Records), entry 152.

Duplicates of abstracts of real estate assessment rolls prepared by county clerk for State Tax Commission, showing year of assessment, name and number of taxing unit, number of acres cultivated and uncultivated, value of land and lots with improvements, value without improvements, and total taxable value as fixed by assessor and equalized by county board of equalization. Also contains: Abstract of Personal Property Assessment Rolls, 1862-1908, entry 57. Arr. chron. by dates of assessments. No index. Hdw. on pr. fm. 10 x 5 x 14. 3 f. drs., 1862-1928, co. clk's va.; 1 f. dr., 1929--, co. clk's. off.

56. PERSONAL PROPERTY STATEMENTS, 1889--. 1,588 vols. (labeled by names of twps. and cities and alph. A-Z thereunder). 1861-88 in Real Estate Assessment Roll, entry 54.

Statements of personal property assessed for taxation, showing name of city or township, school and drainage district numbers, name and address of taxpayer, itemized statement of property, classification and value, amount of exemption, and total taxable value. Includes merchants' and manufacturers' statements, showing number of shares of stock, par value, value of personal property, nature of business, statement of receipts and expenditures, assets and liabilities, and signatures of taxpayer and deputy assessor. Arr. by names of twps. or cities and alph. thereunder by names of taxpayers. No index. Hdw. on pr. fms. Aver. 400 pp. 17 x 11 x 3. 1,299 vols., 1889-1935, attic; 289 vols., 1936--, co. clk's. va.

57. ABSTRACT OF PERSONAL PROPERTY ASSESSMENT ROLLS, 1908--. 240 vols., 7 bdls. 1862-1908 in Abstract of (Real Estate) Assessment, entry 55.
Duplicate copies of abstracts of personal property assessment rolls, prepared by county clerk for State Tax Commission, showing year of assessment, name of township, description and classification of property, total aggregate value, amount of exemptions, and total taxable value as fixed by assessor and equalized by county board of equalization. Arr. chron. by years of assessment. No index. Hdw. on pr. fm. Vols. aver. 50 pp. 16 1/2 x 14 x 1/4; bdls. 4 x 16 x 18. 230 vols., 7 bdls., 1908-37, attic; 1 vol., 1910, co. clk's. va.; 9 vols., 1931--, co. clk's. off.

58. PERSONAL PROPERTY STATEMENTS (of Money and Credits), 1927--. 139 vols. (labeled by years and alph. A-Z thereunder).
Statements of moneys and credits assessed for taxation, showing name and address of taxpayer, school district number; value of time deposits and annuities; number and value of shares of stock; value of notes, bills, mortgages, judgments, accounts receivable, and other circulating medium; amount of debts, and total taxable valuation as fixed by assessor and equalized by county board of equalization. Arr. by names of cities and twps. and alph. thereunder by names of taxpayers. No index. Hdw. on pr. fm. Aver. 200 pp. 17 x 11 x 2. 97 vols., 1927-35, attic; 42 vols., 1936--, co. clk's. va.

59. REPORT COUNTY ASSESSOR TO STATE TAX COMMISSION (Abstract of Assessment Roll of Moneys and Credits), 1927--. 12 vols., 10 bdls.
Abstracts of assessment rolls of moneys and credits, showing name of city or township, assessment number, items classified, certification by county assessor, and total actual value as fixed by assessor and equalized by county board of equalization. Arr. chron. by years of assessment. No index. Hdw. on pr. fm. Vols. 50 pp. 16 x 12 x 1/4; bdls. 1 x 2 x 20. Attic.

60. CORPORATION ASSESSMENT ROLL, 1920--. 2 f. drs.
State Tax Commission's certifications to county clerk of valuation of property of railroads and other public utility corporations in county showing date, name of corporation, name of township or city, school district number, schedule and valuation of property, amounts of general and special taxes, total, and signature of Tax Commission secretary. Arr. chron. by years of assessment. No index. Typed on pr. fm. 14 x 16 x 20. Co. clk's. off.

61. ASSESSMENTS (of Banks and Insurance Companies), 1892-94, 1896-1903, 1926, 1928, 1930, 1933--. 11 vols. Title varies: Bank Assessment Roll, 1892-94; Bank Property Assessment Roll, City of Topeka, 1896-1903, 1926, 1928, 1930.
Assessment roll of property and shares of stock of banks and insurance companies, showing name of bank or company, rate and amount of dividends

paid in last 5 years, amount carried to surplus, number shares of stock sold, salaries paid officers and employes, detail statement of resources and liabilities, true value of all shares as fixed by taxpayer and assessor and equalized by county board, description and assessed value of real estate owned, total assessed value of real estate shown in resources, kind and value of personal property, amount to be prorated among shares of stock, and list of moneys and credits. Arr. chron. by years of assessment and alph. thereunder by names of banks or insurance companies. No index. Hdw. on pr. fm. Aver. 105 pp. 18 x 14 x 1. 3 vols., 1892-94, attic; 8 vols., 1896-1903, 1926, 1928, 1930, 1933--, co. clk's. va.

62. ASSESSMENT ROLL OF JUDGMENTS, 1898. 1 vol. Discontinued. Roll of judgments assessed for taxation, showing case number, names of judgment plaintiff and defendant, description of judgment, when and where rendered, gross amount, rate of interest, dates and amounts of credits, net amount, and taxable value as fixed by assessor and equalized by county board. Arr. chron. by dates of assessment. No index. Hdw. on pr. fm. 200 pp. 17 x 11 x 2. Attic.

63. ORDER TO CORRECT TAX ROLLS, 1931--. 10 vols.
Orders of county commissioners sitting as board of equalization to county clerk to correct tax rolls, showing date, order number, name and address of property owner, name of township or city, school district number, description of property, original valuation and assessment, amount of correction, assessment as corrected, signature of chairman of commissioners, and approval of county auditor. Arr. num. by order nos. No index. Hdw. on pr. fm. 200 pp. 12 x 6 x 1. 8 vols., 1931-37, attic; 2 vols., 1938--, co. clk's. off.

For tax protests and applications for tax reduction, 1892-1916, 1932--, see entry 408.

64. (APPLICATIONS FOR PERMITS TO BUY MOTOR FUEL TAX EXEMPT), 1933--. 2 bdls.
Stubs of applications for permits to purchase motor vehicle fuel exempt from State tax for non-road purposes, showing date, application number, quantity wanted, type and size of motor, specific purpose, and signature of applicant, attested by county clerk. Arr. chron. No index. Hdw. on pr. fm. 6 x 8 x 12. 1 bdl., 1933-35, attic; 1 bdl., 1935--, co. clk's. off.

For applications for refund of motor vehicle fuel tax payments, 1925-32, see entry 13.

Budgets and Levies

65. BUDGETS (and Financial Statements), 1931--. 7 vols.
Budgets and financial statements of county, townships, cities, and school and drainage districts in county, showing date, name and number of taxing unit, receipts and disbursements of current and preceding years, floating and bonded indebtedness, estimates of receipts and expenditures for

ensuing year, valuation of all taxable property, rate and amount voted, and signature of clerk. Arr. chron. by tax years. No index. Hdw. on pr. fm. 200 pp. 16 x 13 x 1 1/2. 5 vols., 1931-35, co. clk's. va.; 2 vols., 1935--, co. clk's. off.

For auditor's county budgets submitted to county commissioners, 1930--, see entry 10; for certificates of amounts voted by school districts, 1929--, see entry 70.

66. TAX LEVY SHEETS, 1862--. 35 f. drs.
County clerk's annual statement of taxes levied for State, county, township, city, board of education, and school and drainage district funds, showing name of city or township, school and drainage district numbers, name of fund, rate of levy on each $100 valuation, total rate for each taxing district, and signature of county clerk. Arr. chron. by tax years. No index. Pr. 13 x 5 1/2 x 16. Co. clk's. off.

67. (REPORTS OF TAXES LEVIED), 1914--. 1 f. dr. 1874, 1877-79, 1881, 1884-87, 1889, 1891-96, 1899-1905, 1907-8, 1911-13 in Duplicate Reports to City and State (Miscellaneous Records), entry 152.
Duplicate copies of county clerk's annual reports to State Tax Commission of county, township, city, school district, drainage district, and special tax levies, showing date, name and number of taxing unit, rate and amount of levy for each fund, and total. Arr. chron. by tax years. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

For reports of taxes levied on public utilities property, 1896-97, 1900, 1904-8, 1913-14, 1916, 1924--, see entry 152-vi.

68. ABSTRACT OF TAX ROLL, 1873--. 65 vols.
Abstract of taxes levied by county and subdivisions, showing name and number of taxing district; valuation of each class of property, totals, and grand total for county; rate of tax for each purpose, and total tax for each district and county. Arr. by names of cities and twps., 1873-75; arr. chron. by tax years, 1876--. No index. Hdw. on pr. fm. Avor. 250 pp. 18 x 13 x 1 1/2. 23 vols., 1873-89, 1919-24, attic; 42 vols., 1890-1918, 1925--, co. clk's. va.

For tax roll, 1861--, see entry 411.

69. (CERTIFICATE OF FINAL VALUATION), 1915--. 1 f. dr. 1890-97, 1905-7, 1913-14 in Duplicate Reports to City and State (Miscellaneous Records), entry 152.
Duplicate copies of annual reports of valuation of taxable property as shown on county tax roll, compiled for use of city of Topeka and city board of education, showing date, total valuation of city property as returned by assessor, rate and amount of taxes levied for each fund, total amount for city, school districts, county, and State, certification of county clerk, and date filed. Arr. chron. by years of assessment. No index. Hdw. and typed on pr. fm. 10 x 5 x 14. Co. clk's. off.

70. (School District) LEVIES VOTED, 1929--. 4 f. drs. (three unlabeled; 225). 1933 in Duplicate Reports to City and State (Miscellaneous Records), entry 152.
Certificates of amounts voted by school districts, showing district number, date of annual meeting, amount voted for each purpose, total assessed valuation of property and rate of levy. Arr. num. by school dist. nos., 1929-30; arr. chron. by tax years, 1931--. No index. Hdw. and typed, and hdw. on pr. fm. 10 x 5 x 14. 2 f. drs., 1929-32, co. clk's. va.; 2 f. drs., 1933--, co. clk's. off.
For budgets and financial statements, 1931--, see entry 65; for record of school district levies, 1866, see entry 489.

71. (Record of Levies for Benefit District) ROADS, 1916, 1919, 1921, 1924, 1931. 13 vols. Discontinued.
Record of taxes levied on adjacent property to pay cost of construction of benefit district roads, showing township, name and number of road, location and zone number, legal description of property, name of owner, number of acres, assessed valuation, rate and amount of taxes, dates and amounts of payments, and remarks. Arr. num. by zone nos. Hdw. Aver. 225 pp. 10 x 8 x 1 1/2. Co. clk's. va.

72. ASSESSMENT ROLL OF LEVEE DRAINAGE (Special Assessments), 1911--. 28 vols.
Special assessments levied by cities and townships for construction of levees, sewers, public parks, street lighting, and paving of streets and alleys, showing name of taxing unit, ordinance number, nature of improvement, date of approval, name and address of property owner, description of property, number of acres or lot and block numbers, assessed valuation, rate and amount of special taxes, due dates and amounts of installments, and remarks. Arr. chron. by years of assessment. No index. Hdw. on pr. fm. Aver. 500 pp. 17 1/2 x 13 1/2 x 2. Co. clk's. va.

73. NOTICE OF SPECIAL ASSESSMENTS - DRAINAGE DISTRICT, 1910. 1 vol. Discontinued.
Duplicate copies of notices of drainage district special assessments, showing date of notice, drainage district number, name and address of property, owner, description of property, assessed valuation, and rate and amount of assessment. Arr. chron. No index. Hdw. on pr. fm. 500 pp. 11 x 11 x 4. Co. clk's. va.
For proceedings of drainage districts, 1904--, see entry 151.

Delinquency

74. RECORD OF DELINQUENT TAX SALES, 1859-1915, 1920--. 30 vols.
Record of sales of real estate for delinquent taxes, showing date of sale, legal description of property, to whom assessed; certificate number, name of purchaser; amount of taxes, fees, penalties, and costs; period of delinquency; by whom and date redeemed, and amount of redemption, or date and to whom deeded or assigned. Arr. chron. by dates of sales, 1859-95; arr. num. by certificate nos., 1892-1915, 1920--. No

index. Hdw. on pr. fm. Aver. 450 pp. 20 x 16 x 2. 11 vols., 1859-95, attic; 16 vols., 1892-1915, 1920-34, co. clk's. va.; 3 vols., 1935--, co. clk's. off.

For county treasurer's record, 1860--, see entry 423.

75. LAND BID IN BY COUNTY, 1869-80. 3 vols. Discontinued. List of lands and lots offered for sale for delinquent taxes and bid in by county, showing date of sale, location and legal description of property; amount of delinquent taxes, costs, and penalties; period of delinquency, and remarks. Arr. chron. No index. Hdw. on pr. fm. 300 pp. 16 x 12 x 2. Co. clk's. va.

76. LANDS AND LOTS LEASES, 1888-1902. 1 vol. 1903-- in Board Proceedings, entry 4.
Record of lands and lots held on delinquent tax sales subject to lease by county, showing date of sale, certificate number, description of property, period of delinquency, delinquent taxes due, amount for current year, date of lease, to whom, consideration, and terms. Arr. num. by certificate nos. No index. Hdw. on pr. fm. 400 pp. 17 x 17 x 2 1/2. Co. clk's. va.

77. CERTIFICATES DEEDED (Tax Sale Certificates and Assignments), 1859--. 22 f. drs. (one unlabeled; 1-21).
Tax sale certificates and assignments surrendered for tax deeds or on redemption of property, showing certificate number, date of sale; location and description of property; period of delinquency; amount of taxes, fees, penalties, and costs, total; name and address of purchaser, amount paid; to whom assigned, signature of county treasurer, and date surrendered. File box number 19 also contains a list of properties on which taxes have become delinquent, 1922--, showing date, name and address of delinquent; number of acres; section, township, range, lot, and block numbers; amount of taxes, date of sale, and date filed. Arr. chron. by filing dates. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

For stubs of tax sales certificates issued, 1873--, see entry 424.

78. VOID TAX SALE CERTIFICATES, 1862, 1875, 1886, 1892, 1894, 1908. 1 f. dr.
Certificates issued for real estate sold for delinquent taxes and voided for non-payment or other reasons, showing certificate number, date of sale, description of property; amount of delinquent taxes, fees, costs, and penalties; name of purchaser, amount paid, and signature of county treasurer. Arr. chron. by sale dates. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

79. (Delinquent) POLL TAX (Reports), 1931. 1 f. dr. Discontinued; law repealed.
Delinquent poll tax reports from township trustees to county clerk, showing name of township, date of report, name and address of delinquent, period and amount of delinquency, signature of trustee, and date filed.

Arr. chron. by filing dates. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

For delinquent poll tax roll, 1927-31, see entry 429.

80. DOUBLE ERRONEOUS REPORT AND SUBSEQUENTS, 1918--. 6 vols.
Record of refunded and uncollected taxes for which county claims credit on State levy, showing total taxable valuation of property, total taxes, amount refunded because of excessive or erroneous assessment, numbers and amounts of personal property tax warrants returned uncollected by sheriff, uncollected taxes on real estate, volume and page numbers on tax book where recorded, and total amount of credit claimed. Arr. chron. by tax years. No index. Hdw. on pr. fm. 60 pp. 18 x 14 x 1/2. 5 vols., 1918-36, attic; 1 vol., 1937--, co. clk's. va.

For county commissioners' annual reports to State Auditor, 1887, 1892-99, 1902-4, 1906-9, 1912-14, 1916--, see entry 11; for orders for abatement and refund of taxes, 1932--, see entry 433.

Licenses

81. (STUBS OF HUNTING, FISHING, AND TRAPPING LICENSES), 1930--. 2 cb. bs.
Stubs of original resident hunting, fishing, and trapping licenses issued by county clerk, showing date of issue, license number; name, address, age, color, and physical description of licensee; date of expiration, amount of fee paid, and signature of county clerk. Arr. num. by license nos., 1930-36; no obvious arr. 1938--. Hdw. on pr. fm. Aver. 8 1/2 x 13 1/2 x 19. 1 cb. b., 1930-36, attic; 1 cb. b., 1937--, co. clk's. va.

For county clerks reports to State Forestry, Fish, and Game Commission, 1917--, see entry 152-i

82. (Record of) HUNTING, FISHING, TRAPPING (Licenses Placed with Stores), 1928--. 6 vols.
Record of hunting, fishing, and trapping licenses placed with local firms to be issued, showing name and address of firm, date, serial number of each license, date of return of stubs, and amount of deposit. Arr. alph. by names of firms and num. thereunder by license nos. No index. Hdw. on pr. fm. 200 pp. 14 x 9 x 1. 5 vols., 1928-33, co. clk's. va.; 1 vol., 1934--, co. clk's. off.

83. (CIGARETTE LICENSE STUBS), 1927--. 10 vols.
Stubs of licenses to sell cigarettes, issued by county clerk to retail merchants or firms, showing date of issue, license number, name and address of dealer, place of business, date of expiration, amount of fees charged, and signature of county clerk. Arr. num. by license nos. No index. Hdw. on pr. fm. 300 pp. 16 x 8 x 2. Co. clk's. off.

84. VENDOR'S LICENSE (to Sell Patent Medicine), 1928--. 2 vols.
Stubs of licenses issued to vendors of patent medicines, showing date,

name and address of vendor, date of expiration, and amount paid. Arr. chron. by dates of issue. No index. Hdw. on pr. fm. 100 pp. 10 x 5 x 1. Co. clk's. off.

General Accounts

Claims

85. MONTHLY BUDGET ACCOUNTS, 1935-36. 1 vol. Discontinued.
Clerk's record of county officers' monthly budgets, showing date, name of office, budget allowed, salaries of official and deputies, expenditures for clerk hire and office supplies, and remarks. Arr. chron. by months. No index. Typed on pr. fm. 250 pp. 16 x 14 1/2 x 2 1/2. Co. clk's. va.

86. REQUISITIONS (for Office Supplies), 1910-14. 1 vol. Discontinued.
Duplicate copies of requisitions for office supplies, showing date, requisition number, name of firm or merchant, items, quantity and price, total amount of order, name of office ordering, date for delivery, signature of county clerk, and date filed. Arr. num. by requisition nos. No index. Hdw. on pr. fm. 500 pp. 14 x 11 x 2 1/2. Co. clk's. va.

87. (RECORD OF SUPPLIES ORDERED), 1927-35. 1 vol. Discontinued.
County clerk's record of materials and supplies ordered for county offices, showing date of order, name of vendor or firm; items, quantity, and price; amount of order, date received, date of audit, and date paid. Arr. alph. by names of firms and chron. thereunder by dates of orders. Hdw. on pr. fm. 200 pp. 14 x 11 1/2 x 2. Co. clk's. va.

88. (INVOICES OF OFFICE SUPPLIES AND MATERIALS), 1927--. In Board Proceedings, entry 4.
Invoices of supplies and materials purchased for county offices, showing date, name of firm, description of items, quantity, price, total amount and signature of seller.

89. COUNTY AUDITOR'S REPORTS, 1880--. 55 vols. (fifteen unlabeled; A-Z, 1-14). Title varies: Auditor's Record of Claims, 1880-98.
County auditor's original monthly reports to county clerk of claims audited, showing date, claim number, name of claimant, nature of claim, amount, amount allowed or disallowed, and recapitulation by funds. Arr. num. by claim nos. No index. Hdw. on pr. fm., 1880-1932; typed on pr. fm. 1933--. Aver. 527 pp. 17 1/2 x 12 1/2 x 2 1/2. 20 vols., 1880-98, 1922, 1924-29, 1931-34, co. clk's. va.; 32 vols., 1899-1932, attic; 3 vols., 1935--, co. clk's. off.
For auditor's reports to treasurer of claims allowed, 1880-84, see entry 445.

90. CLAIM AND CONTRACT REGISTER, 1912, 1933--. 3 vols.
Record of claims presented to county commissioners for approval, showing date, claim number, amount, name and address of claimant, nature of claim, date due, amount allowed, date paid, warrant number, and remarks. Arr. chron. by dates of claims. No index. Hdw. Aver. 200 pp. 17 1/2 x 15 x 2. 2 vols., 1912, 1933-36, co. clk's. va.; 1 vol., 1936--, co. clk's. off.

For county clerks reports to county auditor of claims presented to county commissioners, 1880-86, see entry 469.

Warrants

91. WARRANT REGISTER, 1874--. 30 vols. (seven unlabeled; A, B, 1-21).
County clerk's register of warrants issued by order of county commissioners, showing date, claim and warrant numbers, to whom payable, amount, purpose, on what fund drawn, and date paid and canceled. Arr. num. by claim nos. No index. Hdw. 1874-1903; typed, 1903--. 500 pp. 18 x 12 x 3. 23 vols., 1874-1930, co. clk's. va.; 7 vols., 1931--, co. clk's. off.

For copies of tax refunding warrants, 1920--, see entry 12; for original canceled county warrants, 1907--, see entry 19; for treasurer's record of warrants paid, 1885--, see entry 446.

Ledgers

92. COUNTY TREASURER'S DAILY STATEMENTS TO COUNTY CLERK, 1910--. 44 cb. bs., 31 f. drs.
Duplicate copies of county treasurer's daily statement sheets of cash receipts and disbursements, showing information as in entry 423. Each statement is enclosed in an envelope together with receipts, canceled checks, bank deposit slips, and other supporting documents. Also contains: Canceled Warrants, entry 19. Arr. chron. by dates of statements. No index. Hdw. on pr. fms. Cb. bs. aver. 16 x 17 x 24; f. drs. 10 x 5 x 14. 22 cb. bs., 1910-31, attic; 22 cb. bs., 31 f. drs., 1932--, co. clk's. va.

For other bank deposit slips, 1925--, see entry 102; for treasurer's check stubs, 1885--, see entry 460.

93. GENERAL CLASSIFICATION LEDGER, 1865--. 25 vols. (four unlabeled; D-Q, 2, 2, 3, 5, 6-8).
County clerk's record of accounts with State, county, township, city, school district, drainage district, and other funds, showing date, name of fund, amounts of credits and debits, and balance in each fund. Arr. chron. by dates of entries. No index. Hdw. and typed on pr. fm. Aver. 360 pp. 19 1/2 x 11 1/2 x 2. 24 vols., 1865-1934, co. clk's. va.; 1 vol., 1935--, co. clk's. off.

For county treasurer's ledgers of accounts with funds, see entries 438, 439.

94. DISTRIBUTION LEDGER, 1886--. 17 vols. (eight unlabeled; 1-4, 2, 3, 5-7). Title varies: County Treasurer's Daily Account With County Clerk, Distribution Ledger, 1886-99.
County clerk's daily record of receipts and disbursements of county money by funds, including tax collections and distributions, showing date, name of fund, balance on hand, items and amounts received and disbursed, and evening balance. Arr. chron. by dates of entries. No index. Hdw. on pr. fm. 350 pp. 16 x 11 x 2. 16 vols., 1886-1936, co. clk's. va.; 1 vol., 1936--, co. clk's. off.
For county treasurer's tax collection and distribution records, see entries 434, 435.

95. CERTIFICATES OF CONVICTION, 1869--. 1 f. dr. Last entry 1912.
Certificates of conviction and payment of fines in justice of peace courts, showing name of defendant, offense charged, date of conviction, term of imprisonment, amounts of fine and costs, amount collected, amount uncollected, signature of justice of peace, and date of filing. Arr. chron. by filing dates. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

96. FEE BOOK, 1898--. 14 vols. (one unlabeled; 1-13).
Record of fees charged and collected by county clerk, showing date, nature of service rendered, dates and amounts paid, by whom, total, amounts unpaid and remarks. Arr. chron. by dates of services. No index. Hdw. on pr. fm. 400 pp. 16 x 11 x 2. 13 vols., 1898-1935, co. clk's. va.; 1 vol., 1935--, co. clk's. off.
For quarterly reports of fees collected, 1880--, see entry 470.

Receipts

97. (MISCELLANEOUS RECEIPTS FOR MONEY PAID IN), 1927--. 1927-33 in Canceled Warrants, entry 19; 1934-- in Reports of County Officials (of Fees Collected), entry 470.
Duplicate copies of county treasurer's miscellaneous receipts for money paid in, showing date, receipt number, amount, from whom, purpose, fund credited, and treasurer's signature.
For county treasurer's copies, 1898--, see entry 449.

98. LEDGER VOUCHERS (School District Treasurer's Receipts), 1901--. 17 f. drs. (176-192).
Duplicate copies of receipts from school district treasurers for funds received from county treasurer, showing information as in entry 453. Arr. num. by school dist. nos. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

99. CHECK BOOK (Record of Checks Remitted to County Treasurer), 1935-37. 1 vol. Discontinued.
County clerk's record of checks received and remitted to county treasurer, showing date, receipt number, name of payee, amount, purpose, and

name of payer. Arr. num. by check nos. No index. Hdw. on pr. fm. 100 pp. 12 x 10 x 1/2. Co. clk's. va.

Bank Accounts

100. DEPOSIT CHECK AND BALANCE BOOK, 1900--. 5 vols. (four unlabeled; 5).
Record of accounts with county depositories, showing name of bank, date, balance brought forward, check number, on what account, in whose favor, amount, amounts of deposits, and balance. Arr. by names of banks and chron. thereunder. No index. Hdw. on pr. fm. Aver. 400 pp. 16 x 9 x 2 1/2. 1 vol., 1900-1903, attic; 2 vols., 1903--, co. clk's. va.; 2 vols., 1932--, co. clk's. off.
For county treasurer's record, 1883--, see entry 458.

101. CHECK REGISTER, 1914--. 8 vols.
Record of checks drawn by county treasurer and countersigned by county clerk, showing date, name of bank, check number, to whom payable, amount, purpose, from what fund drawn, dates and amounts of deposits, and balance. Arr. num. by check nos. No index. Hdw. on pr. fm. 200 pp. 16 x 11 x 1. 1 vol., 1914-15, attic; 5 vols., 1915-31, co. clk's. va.; 2 vols., 1932--, co. clk's. off.
For treasurer's record, 1903--, see entry 459.

102. DUPLICATES OF COUNTY TREASURER'S BANK DEPOSIT SLIPS, 1925--. 2 f. drs.
Duplicate copies of treasurer's bank deposit slips, showing date, name of treasurer, name and location of bank, and amount of deposit. Arr. chron. by dates of deposits. No index. Typed on pr. fm. 10 x 4 x 14. Co. clk's. va.
For other bank deposit slips, 1910--, see entry 92.

103. STATEMENT OF COUNTY DEPOSITORIES OF INTEREST ACCRUED, 1925--. 1 f. dr.
Monthly statements by banks handling county funds of interest accrued on deposits of county moneys, showing date, name of bank, amounts of deposit, daily average, and amount of interest credited. Arr. chron. by dates of statements. No index. Typed on pr. fm. 10 x 4 x 14. Co. clk's. va.
For county treasurer's bank statements, 1905--, see entry 461.

Fiscal Bonds
(See also entries 436, 437)

104. BOND REGISTRY, 1866--. 4 vols.
Record of funding and refunding bonds issued by county and subdivisions, showing name of subdivision; date, amount, and purpose of issue; denominations, serial numbers of bonds and coupons, rate of interest; to whom,

when, and where payable; and dates canceled and paid. Arr. chron. by dates of issue. No index. Hdw. on pr. fm. Aver. 300 pp. 17 x 17 x 2, 3 vols., 1866-1935, co. clk's. va.; 1 vol., 1935--, co. clk's. off.

105. (Report of) BONDED INDEBTEDNESS, 1872--. 3 f. drs. (21, 49, 214).
Copies of county clerk's reports to State Auditor of indebtedness of county and subdivisions, showing date; expenditures for county purposes, amount of warrants outstanding, aggregate indebtedness of county, total taxable property valuation, amountof levy; floating and bonded indebtedness of each city, township, and school district; dates of issue and maturity of all outstanding bonds, amounts in sinking funds, and remarks. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

Elections

Registration and Nomination

106. RECORD OF POLITICAL PARTY AFFILIATIONS (of Voters), 1930--. 200 vols. (labeled by ward and precinct nos.).
Register of political party affiliations of electors residing in unincorporated cities, showing numbers of ward and precinct of residence, name of elector, political party affiliation, and year of registration. Arr. num. by ward and precinct nos. and alph. thereunder by names of electors. No index. Typed on pr. fm. 100 pp. 14 x 8 x 1. Bsmt. supply room.

107. CHANGE OF PARTY AFFILIATIONS, 1932--. 3 f. drs. (two unlabeled; 73).
Qualified electors' affidavits of change of political party affiliation, showing name and address of elector, name of township or city, ward and precinct numbers, political party affiliation, party to which change is requested, and date filed. Arr. chron. by dates of affidavits. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

108. VOTING DISTRICTS REGISTRATION, 1885. 1 vol. Discontinued.
List of qualified electors in county as compiled by assessor, showing name, address, age, and occupation of elector, name of township; district, ward, and precinct numbers; check mark to show if voted in previous election, and remarks. Arr. alph. by names of voters. No index. Hdw. on pr. fm. 100 pp. 14 x 10 x 1. Attic.

109. NOMINATION PAPERS, 1896-1900, 1917--. 11 f. drs.
Petitions for nomination of candidates for township and county offices in primary elections, 1930--, showing name and address of candidate, for what office, political party affiliation, date of primary, names and addresses of petitioners, and date of filing. Also contains: Road

Petitions, 1896-1900, entry 32; Election, Drainage District (Declaration of Intention to Become a Candidate), 1932--, entry 110; (Record of Appointments of Judges and Clerks of Election Boards), 1930--, entry 111; Absentee Ballots, 1936--, entry 114; Election Returns, 1930--, entry 115; (Certification of Votes to Secretary of State), 1932--, entry 116; Equalization (Tax Protests), 1917-32, entry 408. Arr. chron. by dates of instruments. No index. Hdw. and typed on pr. fm. 10 x 5 x 14. Co. clk's. va.

For record of candidates nominated by political party conventions, 1894-96, see entry 112.

110. ELECTION, DRAINAGE DISTRICT (Declaration of Intention to Become a Candidate), 1911-32. 1 f. dr. 1932-- in Nomination Papers, entry 109.

Declarations of intention to become candidate for drainage district office, showing name and address of candidate, political party affiliation, for what office, amount of fees, oath, and signature of candidate, attested by county clerk. Arr. chron. by declaration dates. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

111. (RECORD OF APPOINTMENTS OF JUDGES AND CLERKS OF ELECTION BOARDS), 1894-96, 1930--. 1894-96 in Election Record (of Official Ballots and Nominations), entry 112; 1930-- in Nomination Papers, entry 109.

Record of appointments of judges and clerks of election boards, showing township, name or number of precinct, date and kind of election, names and addresses of judges and clerks, and dates of appointment and qualification.

Ballots and Poll Books

112. ELECTION RECORD (of Official Ballots and Nominations), 1894--. 5 vols., 2 cb. bs.

Record of official ballots delivered by county clerk to judges and clerks of election boards, showing name of city and ward and precinct numbers, or names of township and precinct, date, number of ballots delivered, by whom received, number returned, by whom, date of destruction, and names of witnesses. Also, record of nomination of candidates for public office by political party conventions, 1894-96, showing date, name of party, name of candidate, for what office nominated, and place of convention. Also contains: (Record of Appointments of Judges and Clerks of Election Boards), 1894-96, entry 111. Ballot record arr. by cities and twps., wards and precincts, and chron. thereunder by dates of elections; nomination record arr. chron. by dates of elections. No index. Hdw. on pr. fm. Vols. 350 pp. 9 x 5 x 3/4 to 300 pp. 16 x 10 x 2; cb. bs. 8 x 16 x 20. 1 vol., 2 cb. bs., 1894-1935, attic; 4 vols., 1936--, co. clk's. off.

For nomination papers, 1896-1900, 1930--, see entry 109.

113. POLL BOOK AND TALLY SHEET, 1928--. 1,752 vols. (372 unlabeled; 1,380 labeled by ward and precinct nos.).
Poll books and tally sheets of primary and general elections, showing name of city or township, name or number of ward and voting precinct, date of election, names and addresses of voters, names and address of candidates, for what office, political party affiliation, number of votes received, majority or plurality, names and addresses of non-resident voters, return of absentee vote, total votes cast in precinct, and certification and signatures of judges and clerks of election board. Poll book arr. alph. by names of voters; tally sheet arr. by names of offices and alph. thereunder by names of candidates to be voted on. No index. Hdw. on pr. fm. Aver. 50 pp. 19 x 15 x 1/4. 1,580 vols., 1928-34, attic; 372 vols., 1936--, co. clk's. va.

114. ABSENTEE BALLOTS, 1936. 1 wooden b. 1936-- in Nomination Papers, entry 109.
Ballots of electors absent from county at time of election and who voted in another county or State, showing date, county, ward and precinct, name of precinct and ward of residence, names of candidates, political party affiliations, affidavit of voter, and signature of judge of election board. Arr. chron. by dates of elections. No index. Hdw. on pr. fm. 3 x 12 x 16. Attic.

Election Results

115. ELECTION RETURNS, 1862--. 7 vols. (two unlabeled; B-F). 1930-- also in Nomination Papers, entry 109.
Abstract of votes cast in primary and general elections, showing date of election, name of township and precinct, name of candidate, political party affiliation, for what office, number of votes received in each precinct and county, majority or plurality, and signatures of county commissioners. Arr. chron. by dates of elections. No index. Hdw. on pr. fm. Aver. 600 pp. 22 x 14 x 3. Co. clk's. va.

116. (CERTIFICATION OF VOTES TO SECRETARY OF STATE), 1877-78, 1880, 1884, 1886, 1888-89, 1892, 1894, 1908, 1932--. 1877-78, 1880 1884, 1886, 1888-89, 1892, 1894, 1908 in Duplicate Reports to City and State (Miscellaneous Records), entry 152; 1932-- in Nomination Papers, entry 109.
Duplicates of county clerk's certifications to Secretary of State of votes cast in county for National, State, and district officers and constitutional amendments in regular and special elections, showing date and nature of election, ward and precinct numbers, names of offices and candidates, votes received by each, votes for and against special questions, and signature of clerk.

117. CERTIFICATE OF ELECTION (and Nomination), 1930--. 6 vols.
Stubs of certificates issued by county clerk to successful candidates in primary and general elections, showing date, name of candidate, for what office, date of election, and signature of county clerk. Arr.

chron. by dates of certificates. No index. Hdw. on pr. fm. 100 pp. 9 x 16 x 3/4. Co. clk's. off.

118. CAMPAIGN EXPENSE, 1928--. 2 f. drs.
Candidates' statements of expenses incurred, and statements by county central committees of receipts and expenditures in political campaigns. Candidates' statements show name and address of candidate, political party affiliation, date of election, items and amount of expense, to whom paid, total expense, and notarization and signature of candidate, and date filed. County central committees' statements show date of statement, date and nature of election, amount of receipts, names of contributors, items and amount of disbursements, name of committee, and signature of chairman. Arr. chron. by dates of statements. No index. Hdw. and typed on pr. fm. 10 x 5 x 4. Co. clk's. va.

Appointments, Oaths, and Bonds
(See also entries 186, 187, 261, 467)

119. (OATHS AND BONDS OF COUNTY AND TOWNSHIP OFFICERS), 1858--. 2 f. drs.
Surety bonds of county and township officers, except county commissioners, county clerk, and county auditor, conditioned for faithful performance of duty, and oaths of office, showing name of official, to what office elected or appointed; amount and conditions of bond, dates of execution and expiration, and affidavits and signatures of sureties; oath and signature of officer, and date approved anf filed. Arr. chron. by filing dates. No index. Hdw. and typed on pr. fms. 10 x 5 x 14. Co. clk's. va.

120. APPOINTMENT OF COUNTY OFFICERS' DEPUTIES, 1865--. 2 f. drs. 1907-27 also in Bonds of Abstractors and Treasurers of Drainage Districts, entry 124.
Appointments and oaths of deputies of elected county officers, showing date and term of appointment, name and address of deputy, dates of qualification and oath, signature of official, and date filed. Arr. chron. by filing dates. No index. Hdw. and typed. 10 x 3 x 14. 1 f. dr., 1865-1930, co. clk's. va.; 1 f. dr., 1931--, co. clk's. off.

121. DEPUTY SHERIFFS (Appointments and Oaths), 1907--. 3 f. drs. 1935-- also in Jury List (Jurors Drawn for Service), entry 51.
Appointments and oaths of deputies appointed by sheriffs, showing name, and address of appointee, date of appointment, signature of sheriff, dates of qualification and oath, date of filing, date revoked, and signature of county clerk. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.
For original commissions of deputy sheriffs, 1925--, see entry 388.

122. DEPUTY ASSESSORS' APPOINTMENTS, OATHS, AND BONDS, 1918--. 8 f. drs. 1892-1917 in Duplicate Reports to City and State (Miscellaneous Records), entry 152.
Appointments, bonds, and oaths of deputies appointed by county assessors, showing name of assessor, name and address of appointee, date of appointment, amount and conditions of bond, affidavits and signatures of sureties, approval of county commissioners, date of oath, and date filed. Arr. chron. by filing dates. No index. Hdw. on pr. fm. Condition fair. 10 x 4 x 14. Co. clk's. off.

123. RECORDER'S BOOK, 1855-61. 1 vol. Discontinued.
Record kept by clerk to board of county commissioners of appointments, oaths, and bonds of county officers, showing name of officer, to what office appointed, copy of oath and bond, signature of officer, and certification of clerk, with occasional notations of agreements entered into by county commissioners. Arr. chron. by dates of transactions. Indexed alph. by names of officers. Hdw. 200 pp. 12 x 6 x 1. Co. clk's. va.

124. BONDS OF ABSTRACTORS AND TREASURERS OF DRAINAGE DISTRICTS, 1889--. 3 f. drs.
Surety bonds executed by abstractors for safe handling of county records, showing date of bond, name and address of abstractor, amount and conditions of bond, affidavits and signatures of sureties, and dates approved and filed. Also contains: Appointment of County Officers' Deputies, 1907-27, entry 120. Arr. chron. by filing dates. No index. Hdw. and typed on pr. fm. 10 x 5 x 14. Co. clk's. va.

Roads

125. ROAD RECORD, 1867--. 6 vols. (A-F).
Record of proceedings in establishment and construction of county and township roads, showing name of township, date of petition, names and addresses of principal petitioners, action taken by county commissioners, appointments of viewers, summary of viewers' and surveyors' reports, approval of commissioners, date notice published and sent to land owners, and remarks. Arr. num. by road nos. Indexed alph. by names of principal petitioners. Hdw., 1867-83; hdw. on pr. fm., 1884--. 640 pp. 18 x 12 x 2 1/2. 5 vols., 1867-1930, co. clk's. va.; 1 vol., 1930--, co. clk's. off.
For commissioners' road journal, 1886-91, see entry 31.

Registration
(See also entry 191)

126. PHYSICIANS' RECORD, 1879-1900. 2 vols. 1901-- in Optometrists' Registration Book, entry 129; 1879-80 also in Duplicate Reports to City and State (Miscellaneous Records), entry 152.
Register and copies of certificates issued by State Board of Medical Examiners to physicians and surgeons practicing in county, showing dates of issue and registration; name, address, age, and place of birth of practitioner, schools attended, date diploma granted, proof of right to certificate, names of State board members, and acknowledgment of county clerk. Arr. chron. by registration dates. Indexed alph. by names of physicians or surgeons. Hdw. 290 pp. 15 x 11 x 2. Co. clk's. va.

127. REGISTER OF OSTEOPATHS, 1913--. 1 vol.
Register of certificates issued by State Board of Osteopathic Examiners to practitioners in county, showing certificate number, name and address of practitioner, qualifications, dates of issue and registration, names of State board members, amount of fee, and signature of county clerk. Arr. chron. by registration dates. No index. Hdw. on pr. fm. 250 pp. 12 x 8 x 1. Co. clk's. va.

128. NURSES' REGISTRATION RECORD, 1913--. 2 vols.
Register and copies of certificates issued to graduate nurses by State Board of Examiners, showing certificate number, dates of issuance and registration, name and address of nurse, hospitals of schools in which training was received, names of State board members, and acknowledgment of county clerk. Arr. chron. by registration dates. Indexed alph. by names of nurses. Hdw. on pr. fm. Aver. 240 pp. 16 x 10 1/2 x 1 1/2. Co. clk's. va.

129. OPTOMETRISTS' REGISTRATION BOOK, 1901--. 2 vols.
Register and copies of certificates issued by State Board of Examiners to optometrists practicing in county, 1923-34, showing certificate number, date of issue and registration; name, age, and birthplace of practitioner; school attended, proof of right to certificate, signature of optometrist, and acknowledgment of county clerk. Also contains: Physicians' Record, entry 126. Arr. chron. by registration dates. Indexed alph. by names of optometrists. Hdw. on pr. fm. Aver. 225 pp. 14 1/2 x 10 x 1 1/2. Co. clk's. va.

130. REGISTER OF EMBALMERS, 1909--. 1 vol.
Register of certificates issued by State Board of Embalmers to practitioners in county, showing certificate number, dates of issue and registration, name and address of embalmer, school attended, and amount of filing fee. Arr. chron. by registration dates. No index. Hdw. on pr. fm. 300 pp. 14 x 8 x 1. Co. clk's. va.

131. (Certificates of Limited) PARTNERSHIP (Agreements), 1871--. 1 vol. 1865, 1868, 1871, 1886 in Duplicate Reports to City and State (Miscellaneous Records), entry 152.

Copies of certificates of limited partnership agreements, showing name of partnership, date formed, nature of business, amount of capital stock, names of stockholders or partners, number of shares held by each, place of business, notarization, and date filed. Arr. chron. by filing dates. Indexed alph. by names of partnerships. Hdw. and typed. 450 pp. 18 x 12 x 2. Co. clk's. va.

132. REGISTER OF PERSONS POSSESSING FIREARMS AND MACHINE GUNS, 1933--. 1 vol.

Register of machine rifles, machine guns, and submachine guns owned by firms and individuals in county, showing date of registration, kind of weapon, caliber, name of manufacturer, and serial number. Arr. chron. by registration dates. No index. Hdw. on pr. fm. 18 x 12 x 2. Co. clk's. off.

133. (REGISTER OF FARM NAMES), 1911--. 1 vol. Last entry 1912.

Register of farm names, showing date of registration, application number, name of farm, name and address of owner, legal description of property, amount of registration fees paid, and remarks. Arr. num. by application nos. No index. Hdw. on pr. fm. 50 pp. 12 x 9 x 1/2. Co. clk's. va.

134. MARKS AND BRANDS (for Livestock), 1864-1939. 2 vols. Discontinued; subsequent register kept by State Brand Commissioner.

Register of marks and brands for livestock, showing address of owner, description and diagram of mark or brand, amount of fees paid, date registered, and remarks. Arr. chron. by registration dates. Indexed alph. by names of owners. Hdw. on pr. fm. Condition poor, 1864-68. 350 pp. 16 x 11 x 2. Co. clk's. va.

135. FINE AND ESTRAY CERTIFICATES, 1856--. 3 f. drs. (42-44). Last entry 1918.

Certificates of justices of peace of stray animals taken up, showing name and address of person taking up, description of animal, names of appraisers, estimated value, date notice published; amount of fines, fees and costs; names of principal and sureties and bond, signature of justice, and date filed. No index. Hdw. on pr. fm. 10 x 5 x 14. Co. clk's. va.

136. ESTRAY (Animals) RECORD, 1862--. 2 vols. Last entry 1925.

Record of stray animals reported taken up, showing kind of animal, description of mark or brand, by whom taken up, where and when taken, names of appraisers, appraised value, expense of keeping, benefits derived, name and address of owner, and final disposition. Arr. chron. by dates reported. Indexed alph. by names of parties taking up animals. Hdw. Aver. 325 pp. 18 x 12 x 2. Co. clk's. va.

Liquor Records

137. LIQUOR REPORTS, 1913-15, 1930--. 6 f. drs. (two unlabeled; 23, 24, 47, 48).
Original semimonthly reports of intoxicating liquors delivered in county by railroads and express companies, showing date of report; names of consignor, consignee, and common carrier; kind and quantity of liquor, shipping point, date shipped, date delivered, signature of agent of common carrier, and date filed. Arr. chron. by filing dates. No index. Typed. 10 x 5 x 14. Co. clk's. va.

138. RECORD OF BLANK LIQUOR AFFIDAVITS ISSUED TO DRUGGISTS, 1887-1903, 1905-9. 3 vols. Discontinued.
Record of blank liquor affidavits issued to druggists to be used in sales of intoxicating liquor for medical, mechanical, religious, and scientific purpose, showing date, name and address of druggist, number of books, number of affidavits, serial numbers, and remarks. Arr. chron. by dates of issue. Indexed alph. by names of druggists. Hdw. on pr. fm. 250 pp. 15 x 9 1/2 x 1 1/2. 1 vol., 1887-1903, attic; 2 vols., 1905-9, co. clk's. va.
For record of druggists' permits to sell liquor, 1881-1909, see entry 329.

Maps and Plats
(See also entries 174-180, 548-560)

139. MAP OF SHAWNEE COUNTY, 1934. 2 maps.
Political maps of Shawnee County, showing boundary lines, location and names of roads and highways, railways, streams, cities, churches, schools and cemeteries; and township, section, and range lines and numbers. Columbian Abstract Company, Topeka, Kansas, publishers. Scale, 1 inch equals 1 mile. Blueprint. 40 x 35. 1 map, co. clk's. va.; 1 map, co. clk's. off.

140. STANDARD ATLAS OF SHAWNEE COUNTY, 1890. 1 vol.
Standard atlas of Shawnee County with maps and plats of townships, cities, and villages, showing State, county, and township roads and highways; railways, rivers, and streams; township, section, and range lines and numbers; boundaries of land tracts with names of owners; boundary lines of communities and corporations; location, names, and numbers of streets and drives; lot and block numbers; location of parks, lakes, ponds, and public buildings; summary of industrial pursuits of each township and city; analysis of system of United States land surveys, and digest of system of civil government. Arr. alph. by names of twps. and cities. No index. Pr. 150 pp. 17 1/2 x 15 x 2. Co. clk's. va.

141. PLAT BOOK (of Cities and Additions), 1914-34. 1 vol.
Plat book of cities and additions, showing name of city or addition; boundary lines; names, numbers, and location of streets and alleys; lot and block numbers; certification of correctness by county surveyor, and date of filing. Aver. scale, 1 inch equals 100 feet. Arr. chron. by filing dates. Indexed alph. by names of cities and additions. Blueprint. 64 pp. 36 x 28 x 1. Co. clk's. va.

142. CITY OF TOPEKA, 1909, 1914, 1916, 1937. 13 maps.
Political maps of city of Topeka, showing boundaries of additions and subdivisions; location, names, and numbers of streets and drives; parks, lakes, public buildings, and railway depots; lot and block numbers, and elevation at various points. Grant Smith, county surveyor, artist. Scale, 1 inch equals 25 to 600 feet. Blueprints. Aver. 36 x 26 to 72 x 72. 12 maps, 1909, 1914, 1916, co. clk's. va.; 1 map, 1937, co. clk's. off.

143. MAP OF NORTH TOPEKA AND KAW RIVER DRAINAGE DISTRICT, 1929. 1 map.
Political map of North Topeka and Kaw River Drainage District, showing boundary lines; township, section, and range numbers; location, names, and numbers of streets and drives; course of river, and high and low water marks. M. E. McCoy, Topeka, Kansas, artist. Scale, 2 inches equals 1 mile. Blueprint. 29 x 21. Co. clk's. va.

144. (SCHOOL DISTRICT MAP), 1934. 1 map.
Political map of school districts of county, showing school and rural high school district boundaries and numbers; township, section, and range lines and numbers; location of cities, towns, roads, railways, and school houses. Grant Smith, county surveyor, artist. Scale, 2 inches equals 1 mile. Blueprint. 60 x 60. Co. clk's. va.

145. (MAPS OF FEDERAL AID ROAD PROJECTS), 1936--. 180 maps.
Profiles, plans, and specifications of proposed State highway Federal aid projects, showing project number, gross length, exceptions, additions, net length, typical sections, cross section and intersection plans, type of surfacing and summary of quantities used, and approval of State Highway Department. R. A. Finney and Stuart G. Hazard, artists. Scale, 1 inch equals 500 to 2000 feet. Blueprint. 36 x 26. Co. clk's. va.

146. (BENEFIT DISTRICT ROAD MAPS), 1919-21. 5 maps.
Political maps of benefit districts of Upper Silver Lake and East Sixth Avenue roads, showing location; name, number, and description of road; boundaries of tracts of land in district, names of landowners, and number of acres in each tract. A. C. Lagerwall, county engineer, artist. Scale, 1 inch equals 100 to 1000 feet. Blueprint. 40 x 36. Co. clk's. va.

Miscellaneous

147. ABSTRACT OF HORTICULTURE, 1900--. 40 vols. Title varies: Abstract of Total of Horticulture Statistics, 1917, 1923.
Abstract of horticultural statistics by townships, showing year of assessment, name of township, number of acres, number of fruit trees of bearing age, total number; estimate of fruit grown the preceding year; number and estimate of value of vegetable gardens; number of forest trees, public parks, and private ornamental grounds, and statistics pertaining to ponds, lakes, and cemeteries. Arr. chron. No index. Hdw. on pr. fm. Aver. 100 pp. 12 1/2 x 9 1/2 x 1. 38 vols., 1900--, attic; 2 vols., 1917-23, co. clk's. va.
For abstract of agricultural statistics, 1876--, see entry 405.

148. (CENSUS OF INHABITANTS), 1875. 1 vol. Discontinued.
Record of inhabitants by townships and cities, showing year, name of township, or city; name, address, age, color, sex, nationality, nativity, and occupation of inhabitant; number in family, their names, ages, and sexes, and remarks. Arr. alph. by names of twps. or cities and alph. thereunder by names of inhabitants. No index. Hdw. on pr. fm. 450 pp. 20 x 16 x 2. Attic.
For population statistics, 1876--, see entry 405.

149. (QUARTERLY REPORTS OF COUNTY SUPERINTENDENT), 1927--. In Board Proceedings, entry 4.
Copies of quarterly reports of county superintendent of public instruction to State Superintendent, showing date, number of schools visited, number of conferences with school officers, number of days office kept open, number of district clerks' and treasurers' records examined, number of teachers' meetings attended and lectures delivered, and superintendent's signature.
For county superintendent's annual reports, 1884--, see entry 486.

150. (AFFIDAVITS OF PUBLICATION), 1864, 1867-95, 1910--. 1864, 1867-95 in Duplicate Reports to City and State (Miscellaneous Records), entry 152; 1910-- in Board Proceedings, entry 4.
Publishers' affidavits of publishing legal notices for Shawnee County, showing names of publisher and publication, nature of notice, dates and period of publication, amount of fees, and oath and signature of publisher, with newspaper clippings attached.

151. LEVEES AND DRAINAGE, 1904--. 3 f. drs. (230-232).
Original instruments in proceedings of drainage districts, including orders to determine cost of construction of dikes and levees, contracts, contractors' bonds, claims for service and supplies, and canceled warrants, showing name and number of district, dates of orders, surveyor's reports, estimates of cost, names of contractors, amounts and terms of contracts, amount and conditions of bonds, signatures of sureties, claim and warrant numbers, names of claimants, amounts, dates

paid, and dates filed with county clerk. Arr. chron. by filing dates. No index. Hdw., typed, and hdw. and typed on pr. fms. 10 x 5 x 14. Co. clk's. va.

For notices of drainage district special assessments, 1910, see entry 73.

152. DUPLICATE REPORTS TO CITY AND STATE (Miscellaneous Records), 1856, 1860--. 4 f. drs. (two unlabeled; 213, 229). Title varies: Freight County Ferries, Physicians, Partnerships, 1856, 1860-95.

Miscellaneous documents and records filed with county commissioners and county clerk, including:

i. Hunting, fishing, and trapping license reports to State Forestry, Fish, and Game Commission of game licenses issued 1917--. Duplicate copies of county clerk's annual reports, showing date of report, serial number of all licenses received from commission, number issued, serial numbers of licenses spoiled and returned, amount of fees collected, amounts remitted to county and State Treasurer, and signature of clerk. For stubs of licenses issued, 1930--, see entry 81.

ii. Indian lands in Shawnee County list of, sold by United States Department of Interior, 1867, 1874, and certified by State Auditor to county clerk for taxation, showing date, certificate number, name and address of purchaser, legal description of tract; section, township, and range numbers, number of acres, date certified by State Auditor, and date filed.

iii. Reports of sale of unclaimed freight by railway companies, 1872-95, showing date of report, name of railway company, date and place of sale, items, sale price, total amount received, date notice published, signature of company official, and date filed.

iv. Reports of State school land sales and payments of installments, 1882-1901, 1903-10; duplicate copies of county clerk's semiannual reports, showing date of sale, name and address of purchaser, description of tract, number of acres, price per acre, total amount, amount paid, amounts of installments, rate of interest, dates due, and signature of county clerk. For record of sales and payments, 1866-1909, see entry 49; for treasurer's record of payments, 1868--, see entry 442.

v. Reports of taxes collected and due State, 1906-7, 1912--; duplicate copies of county clerk's semiannual reports, showing date of report, previous balance, amount collected during current year, amount remitted, balance on hand, affidavit and signature of county clerk. For treasurer's semiannual reports, 1936--, see entry 421.

vi. Statement of taxes levied on public utility corporations, 1896-97, 1900, 1904-8, 1913-14, 1916, 1924--, duplicate copies of county clerk's annual reports to State Tax Commission, showing date, name of company, tangible and intangible valuation; amount of intangible, general and special taxes; total for each company, grand total for county, certification, and signature of county clerk. For reports of levies on other property, 1874, 1877-79, 1881, 1884-87, 1889, 1891-96, 1899-1905, 1907-8, 1911--, see entry 67.

Also contains: (Quarterly Reports of Inspection of County Jail), 1892-1917, entry 9; (Commissioner's Annual Reports of Double and Erroneous Tax Assessments), 1887, 1892-99, 1902-4, 1906-9, 1912-14, 1916--, entry 11; (Reports of Farmers Rendered Destitute by Grasshopper Invasion), 1875, entry 26; (Reports of Topeka Orphans' Home), 1892-1917, entry 27; (Quarterly Reports of Expenditures for Maintenance and Care of Insane), 1902-4, 1907, 1913, 1915, 1917, entry 30; (Contractors' Bonds), 1923, entry 34; (Applications for Ferry Permits), 1860--, entry 39; (Applications for Permission to Operate Dram Shops), 1856, entry 40; (Petitions to Organize Townships), 1877, entry 42; (Reports of Superintendent of Fair), 1892-1917, entry 46; (Reports of Superintendent of Stone Quarry), 1892-1917, entry 47; Abstract of (Real Estate) Assessment, 1925-28, entry 55; (Reports of Taxes Levied), 1874, 1877-79, 1881, 1884-87, 1889, 1891-96, 1899-1905, 1907-8, 1911-13, entry 67; (Certificate of Final Valuation), 1890-97, 1905-7, 1913-14, entry 69; (School District) Levies Voted, 1933, entry 70; (Certification of Votes to Secretary of State), 1877-78, 1880, 1884, 1886, 1888-89, 1892, 1894, 1908, entry 116; Deputy Assessors' Appointments, Oaths, and Bonds, 1892-1917, entry 122; Physicians' Record, 1879-80, entry 126; (Certificates of Limited) Partnership (Agreements), 1865, 1868, 1871, 1886, entry 131; (Affidavits of Publication), 1864, 1867-95, entry 150; Appeals and Decisions of State Tax Commission, 1933, entry 409; (Orders of State Tax Commission), 1931-32, entry 410; Reports of County Officials (of Fees Collected), 1892-1917, entry 470. Arr. alph. by subjects and chron. thereunder by date of instruments. 2 f. drs., 1856, 1860--; arr. chron. by dates of instruments, 1 f. dr., 1892-1917; no obvious arr., 1 f. dr., 1923-33. No index. Hdw. and typed on pr. fm. 10 x 5 x 14. Co. clk's. va.

III. REGISTER OF DEEDS

Structural Organization and Evolution

Selection and Term. The present office of register of deeds had its origin in the office of county recorder, established by the first Territorial assembly in 1855 for the recording of deeds, mortgages, conveyances, commissions, bonds, and other written instruments.

Register of Deeds - Structural Organization and Evolution

(Next entry 153, p. 283)

The assembly specified that the clerk of the probate court should be ex officio recorder and that the office of clerk of the probate court should be filled ex officio by the clerk of the board of county commissioners, the same incumbent thus performing the duties of all three offices.[1]

The Free-State assembly of 1858 changed the name of the office to register of deeds and made it elective for a 2-year term, but specified that in certain counties, including Shawnee County, the clerks of the board of commissioners then in office should continue to serve as county recorders until the election of November 1859. There has been no subsequent change in the legal status of the office.[2]

The office of land district recorder was created in each Federal land district of the Territory by the assembly of 1858, which provided that deeds and conveyances might be recorded therein with the same effect as in the county recorder's offices. The district recorders were required to make out monthly abstracts of the conveyances recorded with them and send them to the recorders of the various counties in which the land was situated. These offices were abolished by the legislature of 1862, which required that transcripts of their records be made and transmitted to the recorders of the various counties in which the land affected was situated.[3]

Qualifications - Oath - Bond. There are no specific provisions of law respecting qualifications for the office of register of deeds. However, before entering upon the duties of his office the officer must execute to the State and file with the county clerk a bond in the penal sum of $2,000 conditioned for faithful performance of duty,[4] and under the general law must subscribe an oath of office and file it with his bond.[5]

Removal and Vacancy. Under a general law a register of deeds may be removed from office by civil action in the manner provided in the code of civil procedure for neglecting or refusing to perform any duty incumbent upon him, or for "corruptly or oppressively" performing such duty.[6] The assembly of 1860 provided that in event of a vacancy in the office or the absence of the register of deeds that the deputy should

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1. Terr. L. 1855, ch. 44, sec. 41; ch. 134, secs. 1, 4, 10.
2. Terr. L. 1858, ch. 13, secs. 40, 110; G.S. 1868, ch. 25, sec. 87; G.S. 1935, ch. 19, sec. 1201.
3. Terr. L. 1858, ch. 59, secs. 1, 7, 13; L. 1862, ch. 174, secs. 1-10.
4. Terr. L. 1858, ch. 13, sec. 40; Terr. L. 1860, ch. 28, sec. 47; G.S. 1868, ch. 25, sec. 87; G.S. 1935, ch. 19, sec. 1201.
5. Terr. L. 1858, ch. 13, sec. 100; Terr. L. 1860, ch. 28, sec. 125; G.S. 1868, ch. 25, sec. 173; G.S. 1935, ch. 19, sec. 2602.
6. G.S. 1868, ch. 25, sec. 180; G.S. 1935, ch. 19, sec. 2609.

perform the register's duties so long as the vacancy or absence continued. Since 1868 vacancies in the office are filled by appointment by the county commissioners until the next election, although the deputy continues to perform the duties in case of the register's temporary absence or disability.[1]

Deputies and Compensation. The register of deeds may appoint in writing a deputy to hold office during his pleasure and for whose acts he is responsible on his bond, which appointment must be filed in the register's office.[2] Salaries vary from $900 to $3,600 per year, depending upon the population of the county. In Shawnee County the officer's salary is fixed at $3,000 per year. The sum of $1,620 per year is allowed for one deputy and $1,380 for another. The county commissioners may allow such additional sum for clerk hire as they deem necessary.[3]

Functions

The register of deeds is the chief recording officer of the county and his duties consist almost entirely of filing and transcribing into permanent record books the documents and papers left with him for that purpose. The first Territorial assembly made it the duty of the county recorder to record all deeds, mortgages, conveyances, deeds of trust, bonds, covenants, defeasances, or other instruments in writing concerning lands, tenements, goods, and chattels legally proved and acknowledged and authorized by law to be recorded in his office; all marriage contracts and certificates of marriage; and all commissions and official bonds required by law to be registered with him. He was given authority to acknowledge deeds and other written instruments within his county when the lands conveyed were situated in the Territory.[4] Since 1858 the statutes have specified that he shall "have custody of and safely keep and preserve all the books, records, deeds, maps, and papers deposited or kept in his office," and also record such instruments in books kept for that purpose.[5]

Since 1877 the county clerk has been required to keep a real estate transfer record and enter thereon a description of the property

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1. Terr. L. 1860, ch. 28, sec. 49; G.S. 1868, ch. 25, sec. 89; G.S. 1935, ch. 19, sec. 1203.
2. Terr. L. 1858, ch. 13, sec. 41; Terr. L. 1860, ch. 28, sec. 48; G.S. 1868, ch. 25, sec. 88; G.S. 1935, ch. 19, sec. 1202.
3. L. 1937, ch. 233, secs. 9, 16.
4. Terr. L. 1855, ch. 134, secs. 10, 22.
5. Terr. L. 1858, ch. 13, sec. 43; Terr. L. 1860, ch. 28, sec. 50; G.S. 1868, ch. 25, sec. 90; G.S. 1935, ch. 19, sec. 1204.

described in any conveyance presented to him for that purpose. The register of deeds, before recording any conveyance that has not been thus registered, must collect the required fee and cause the instrument to be entered on the county clerk's record.[1] In making up the real estate assessment roll the county clerk also must consult the records and plats in the office of the register of deeds.[2]

The statutes provide that when the title to the surface of a tract of land and the title to the mineral rights therein are in different owners, that the two shall be separately listed and taxed. It is the duty of the register of deeds to furnish the county clerk annually with a list of all mineral reserves in the county of record in his office, and upon his knowing or wilful failure to do so may upon summary proceedings be removed from office.[3]

The legislature of 1925 imposed a tax of 25 cents per $100 on real estate mortgages in lieu of the general property tax, payable at the time of recording. Of such fees the register of deeds must make a daily remittance and report to the county treasurer.[4]

Policies issued by life insurance companies must have stamped on them a statement, signed and sealed by the State Commissioner of Insurance, that the policy is registered and secured by a pledge of bonds or notes and mortgages on real estate deposited with the State Treasurer, and the Insurance Commissioner must keep a record thereof. However, he may designate the register of deeds of the county in which the company's main office is located as a deputy commissioner of insurance to register policies so issued. The register of deeds thus appointed must make a daily report to the State Commissioner of Insurance of all policies so registered by him.[5]

The register of deeds, in common with other county officers collecting fees in the conduct of their offices, is required to keep a "fee book." In counties of less than 90,000 population the officer must make a quarterly report to the county commissioners of fees collected by him,[6]

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1. L. 1877, ch. 145, secs. 2, 3; G.S. 1935, ch. 67, secs. 240, 241.
2. L. 1866, ch. 118, sec. 54; G.S. 1868, ch. 107, sec. 41; L. 1876, ch. 34, sec. 57; L. 1911, ch. 316, sec. 8; G.S. 1935, ch. 79, sec. 408.
3. L. 1897, ch. 244, secs. 1, 2; L. 1911, ch. 316, secs. 20, 21; G.S. 1935, ch. 79, secs. 420-421.
4. L. 1925, ch. 273, secs. 2-4; G.S. 1935, ch. 79, secs. 3102-3104.
5. L. 1919, ch. 214, sec. 2; L. 1927, ch. 231, sec. 40-408; G.S. 1935, ch. 40, sec. 408.
6. L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1913, ch. 197, sec. 16; R.S. 1923, ch. 28, sec. 123; G.S. 1935, ch. 28, sec. 123.

but in Shawnee and other counties of more than 90,000 population, the reports must be made to the county auditor. The auditor is required to audit the books of the register of deeds and other fee officers monthly and report his findings to the county commissioners in writing.[1] A law enacted in 1915 makes it the duty of all county officers collecting any money for the county to file a sworn statement thereof with the county auditor each month, and makes it the duty of the auditor to examine their books, compare them with the sworn statement, and report his findings to the board of county commissioners.[2]

Records

General. Provisions for the filing and recording of deeds, mortgages contracts, plats, and many other kinds of documents and written instruments are made by numerous laws. Except in a few instances, the exact manner and method of recording is not prescribed by law, other than that it shall be "in a plain and distinct handwriting, in suitable books."[3] Practically all instruments affecting land titles, and many others are copied at length. After typewriters came into general use, most of the records were typed, but in many cases where printed forms are used, as in the case of various types of deeds, they must be filled in by hand when the recording is done in bound books. In 1915 a law was enacted providing that wherever the statutes require a document to be recorded, the making of photostatic copies thereof shall be deemed recording, and that such photostatic copies, when bound together, shall be deemed record books.[4] This system was adopted by the register of deeds in Shawnee County in 1927 for the deed and mortgage records, and subsequently for official bonds and articles of incorporation.

The register of deeds keeps a receiving book in which he enters the day, hour, and minute of the reception of every instrument; the names of the grantee and grantor, the amount of fee charged, and to whom the instrument is delivered after being recorded.[5] From the beginning of the office he also has been required to keep a general index of all instruments recorded by him, with entries under appropriate headings showing the names of the grantee and grantor, the nature of the instrument, a description of the tract affected, and the volume and page numbers wherein the instrument is recorded at length. It must be kept in

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1. L. 1909, ch. 145, secs. 16-18; L. 1911, ch. 190, secs. 16-18; G.S. 1935, ch. 28, secs. 315-317.
2. L. 1915, ch. 172, sec. 6; G.S. 1935, ch. 19, sec. 625.
3. G.S. 1868, ch. 25, sec. 90; G.S. 1935, ch. 19, sec. 1204.
4. L. 1915, ch. 286, sec. 1; G.S. 1935, ch. 67, sec. 224.
5. Terr. L. 1859, ch. 42, sec. 49; Terr. L. 1860, ch. 28, sec. 52; G.S. 1868, ch. 25, sec. 92; G.S. 1935, ch. 19, sec. 1206.

both direct and inverted form, the names of the grantees appearing in alphabetical order on one page, and the names of the grantors in the same order on the opposite page.[1]

Real Property. Since 1866 the county commissioners, when they deem it necessary, may require the register of deeds to keep a numerical index of all instruments recorded affecting real estate titles. In the subdivision of the book devoted to each quarter section of land he enters the nature of any instrument recorded affecting the title to any portion of that quarter section, together with the names of the grantee and grantor, a brief description of the property affected, and the volume and page numbers where the instrument is recorded at length. The law provides that when such an index is started the register of deeds must make entries of all transfers of record in his office before entering any new instruments.[2]

Any instrument in writing conveying or affecting the title to real estate, when properly acknowledged and certified as provided by law, may be recorded in the office of the register of deeds and thereafter all persons are deemed to have notice of its contents. Until deposited for record such an instrument is valid only between the parties thereto and those having actual notice. As soon as the instrument is received the register of deeds must file it for record, but before copying it for record he must compare the instrument with the last record in his office conveying the same property. Should he find an error he must notify the grantee, if possible, before copying the instrument for record. Every letter of attorney containing a power to convey real estate must be acknowledged and recorded the same as other instruments affecting real estate titles, and must be so recorded before the title is transferred. Revocations of such powers are handled in the same way.[3] Land patents issued by the United States Government, or properly certified copies thereof, may be recorded in the same manner and since 1907 the same provision applies to land patents issued by the State of Kansas.[4]

Among the instruments conveying land titles which may be so recorded are warranty and quitclaim deeds,[5] deeds executed by administrators and

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1. Terr. L. 1855, ch. 134, sec. 15; Terr. L. 1858, ch. 13, sec. 45; Terr. L. 1859, ch. 42, sec. 48; Terr. L. 1860, ch. 28, sec. 54; G.S. 1868, ch. 25, sec. 94; G.S. 1935, ch. 19, sec. 1208.

2. L. 1866, ch. 31, secs. 1-3; L. 1867, ch. 43, secs. 1, 2; G.S. 1868, ch. 25, secs. 95-97; L. 1913, ch. 160, sec. 1; G.S. 1935, ch. 19, secs. 1209-1211.

3. Terr. L. 1855, ch. 26, secs. 40-44; Terr. L. 1859, ch. 30, secs. 13, 23; G.S. 1868, ch. 22, secs. 19-24; L. 1913, ch. 134, sec. 1; G.S. 1935, ch. 67, secs. 221-223, 225-227.

4. L. 1862, ch. 159, sec. 1; G.S. 1868, ch. 76, sec. 1; L. 1907, ch. 234, sec. 1; G.S. 1935, ch. 67, sec. 101.

5. L. 1887, ch. 151, secs. 1, 2; G.S. 1935, ch. 67, secs. 203, 204.

executors of estates[1] and by guardians of minors[2] and insane or incompetent persons;[3] and deeds issued by the sheriff to the purchasers of real estate sold under execution issued by the district court.[4] Deeds issued by the county clerk for real estate sold by the county for delinquent taxes and not redeemed within the time provided by law, may be recorded with the register of deeds,[5] as may the certificates of purchase issued by the county treasurer for the property when it is first sold.[6] The legislature of 1886 decreed that all tax deeds theretofore issued should become void unless recorded with the register of deeds within 1 year from the effective date of the law and that all such deeds issued thenceforth should be void unless recorded within 6 months from the date of issue.[7] When property which has been bid in by the county for delinquent taxes remains unredeemed for 3 1/4 years or any extension of that time provided by law, it becomes the duty of the county attorney, upon order of the county commissioners, to institute action in the district court against the owners. After judgment is rendered the sheriff sells the property at public auction and executes a deed vesting the purchaser with title in fee simple. These deeds may be recorded the same as other deeds.[8]

When the State Inheritance Tax Commission finds that no tax is chargeable against any share of an estate being passed upon he is required to issue a certificate to that effect which, when recorded with the register of deeds of the county in which the property is situated, is evidence that no lien exists against it under the inheritance tax law.[9] When the tax has been paid on a distributive share of an estate situated in another county the probate judge having jurisdiction must issue a

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1. L. 1859, ch. 2, secs. 141, 142; L. 1862, ch. 91, secs. 141, 142; L. 1866, ch. 51, secs. 4, 5; G.S. 1868, ch. 37, secs. 132, 141, 142; G.S. 1935, ch. 22, secs. 819-821; L. 1939, ch. 180, secs. 264-266.
2. Terr. L. 1859, ch. 75, sec. 16; G.S. 1868, ch. 46, sec. 17; G.S. 1935, ch. 38, sec. 219; L. 1939, ch. 180, secs. 264-266.
3. Terr. L. 1859, ch. 92, sec. 27; L. 1867, ch. 83, sec. 3; G.S. 1868, ch. 60, sec. 27; L. 1905, ch. 299, sec. 17; L. 1907, ch. 247, sec. 17; G.S. 1935, ch. 39, sec. 217; L. 1939, ch. 180, secs. 264-266.
4. Terr. L. 1855, ch. 69, sec. 54; Terr. L. 1859, ch. 25, sec. 450; G.S. 1868, ch. 80, sec. 459; L. 1909, ch. 182, secs. 494, 495; G.S. 1935, ch. 60, secs. 3457, 3458.
5. L. 1862, ch. 198, sec. 10; L. 1866, ch. 118, sec. 89; G.S. 1868, ch. 107, sec. 112; L. 1876, ch. 34, sec. 138; L. 1933, ch. 312, sec. 7; G.S. 1935, ch. 79, sec. 2501.
6. Terr. L. 1860, ch. 114, sec. 43; L. 1866, ch. 118, sec. 73; G.S. 1868, ch. 107, sec. 90; L. 1876, ch. 34, sec. 116; G.S. 1935, ch. 79, sec. 2313.
7. L. 1886, ch. 31, secs. 1-3; G.S. 1935, ch. 79, secs. 2512-2514.
8. L. 1901, ch. 392, sec. 4; G.S. 1935, ch. 79, sec. 2804.
9. L. 1915, ch. 357, sec. 12; G.S. 1935, ch. 79, sec. 1512.

certificate to that effect which, when recorded in the other county, is evidence that the tax lien has been discharged.[1]

A record of the conveyances of lots in the city of Topeka was kept from 1858 to 1862 by F. W. Giles, secretary of the Topeka Town Association. The land on which the original townsite of Topeka was located was acquired by purchase of a land warrant, or "float," which had been issued by the Federal Government to a Wyandotte Indian. Until the title of the town association to the land could be perfected the association issued to its shareholders certificates indicating their equitable right to title to certain lots. The custom of assigning these certificates for value soon grew up. Later, informal conveyances in the nature of quitclaim deeds were used. The importance of having these conveyances recorded was recognized but as the Free-State men would not give this amount of recognition to the county offices at Tecumseh, even had the conveyances been admissible to public record, Mr. Giles volunteered to keep a record of them himself and did so until after the Government patent to the land was issued to the Indian and transferred to the town association in 1859.[2] The assembly of 1858 legalized the records and made it the duty of all persons concerned to have transfers of title registered therein until the fee simple title could be obtained, after which they were required to be incorporated in the county records.[3] These books eventually were turned over to the register of deeds and the transfers entered on the county records.

Real estate mortgages recorded by the register of deeds may be discharged by an entry made on the margin of the record, acknowledging satisfaction and signed by the mortgagee or assignee; or by a receipt endorsed by the mortgagee or assignee on the mortgage itself. It also may be discharged by a written acknowledgment of satisfaction signed by the mortgagee or assignee and the register of deeds must record such instrument at length.[4] When real estate is sold after foreclosure of a mortgage by a judgment of the district court the fact must be entered on the margin of the mortgage record in the register of deeds' office by the clerk of the court as soon as the judgment becomes final.[5] In event no execution or order of sale is issued within 5 years after judgment has been rendered nor any appeal taken nor proceedings begun to revive judgment within 6 years, the clerk of the district court, upon application of the interested parties, is required to enter the fact upon the

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1. L. 1915, ch. 357, sec. 18; G.S. 1935, ch. 79, sec. 1518.
2. Giles, op. cit., pp. 61-68.
3. Terr. P.L. 1858, ch. 91, sec. 1.
4. Terr. L. 1855, ch. 114, secs. 22-24; L. 1862, ch. 151, secs. 1, 2; G.S. 1868, ch. 68, secs. 5-7; L. 1903, ch. 365, sec. 1; G.S. 1935, ch. 67, secs. 306-308.
5. L. 1885, ch. 145, secs. 1, 2; R.S. 1923, ch. 67, sec. 313; G.S. 1935, ch. 67, sec. 313.

mortgage record in the office of the register of deeds, which statement operates as a cancellation and release of the mortgage.[1]

The register of deeds must keep in a separate book a record of all mortgages registered by him, entering thereon the serial number which he has placed on the instrument, a description of the mortgage, and the amount of the fee. He must make a daily report of such registration to the county treasurer with his remittance of fees, and usually keeps copies of such reports.[2]

Plats of proposed towns and second and third-class cities, properly acknowledged by the proprietors, must be recorded with the register of deeds and since 1915 must first be approved by the county attorney. The same procedure is followed in the case of additions to cities, except that since 1915 they must be approved by the governing body of the city.[3] When it appears to the probate judge that the value of the land of an estate lying close enough to an incorporated city to be made an addition thereto would be advanced by reason of being subdivided and platted into lots, he may issue an order to the executor or administrator to plat the land and the plats are recorded with the register of deeds the same as other city plats.[4] The same procedure may be followed in the case of the estates of minors.[5] When the frontage of any lots is changed in an incorporated city, the city clerk must file a certificate and plat of the change with the register of deeds.[6]

Cemetery corporations are empowered to divide cemetery lands into lots and subdivisions and the plats thereof must be filed with the register of deeds and may not thereafter be altered. Conveyance of title to lots may be by deed or otherwise.[7] The same provisions apply to corporations for the establishment and maintenance of cemeteries in cities or within 2 miles of any city limits.[8] Cemetery lots owned by

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1. L. 1913, ch. 230, sec. 1; G.S. 1935, ch. 67, sec. 314.
2. L. 1925, ch. 273, sec. 4; L. 1927, ch. 335, sec. 1; G.S. 1935, ch. 79, sec. 3104.
3. Terr. L. 1855, ch. 156, secs. 1-5; Terr. L. 1859, ch. 24, secs. 1-3; G.S. 1868, ch. 78, secs. 1-3; L. 1915, ch. 149, sec. 1; L. 1921, ch. 139, secs. 1, 2; R.S. 1923, ch. 12, secs. 401-403; G.S. 1935, ch. 12, secs. 401-403.
4. L. 1869, ch. 53, secs. 1-3; G.S. 1935, ch. 22, secs. 1311-1313.
5. G.S. 1868, ch. 46, sec. 11; L. 1874, ch. 78, secs. 1, 2; L. 1875, ch. 102, sec. 1; L. 1915, ch. 247, sec. 1; G.S. 1935, ch. 38, secs. 211, 214.
6. L. 1879, ch. 70, sec. 3; G.S. 1935, ch. 12, sec. 515.
7. L. 1861, ch. 3, secs. 4, 5; L. 1866, ch. 57, sec. 45; G.S. 1868, ch. 23, secs. 124, 125; L. 1913, ch. 143, sec. 1; L. 1915, ch. 99, sec. 1; L. 1927, ch. 151, sec. 1; G.S. 1935, ch. 17, secs. 1301, 1302.
8. L. 1901, ch. 102, secs. 2, 3; G.S. 1935, ch. 17, secs. 1308, 1309.

cities of the second class are conveyed by certificates signed by the mayor and countersigned by the clerk and may be recorded with the register of deeds.[1]

Reports of proceedings before the board of county commissioners in the condemnation of land for railroad purposes and the certification of the county treasurer that the appraised price has been paid, when filed with the register of deeds give the railroad companies the right to occupy the land condemned.[2] The same is true of such proceedings before the district court.[3] Similar provisions for the recording of condemnation proceedings apply in the case of irrigation corporations,[4] other public utility corporations,[5] and incorporated cities.[6] The appointments and reports of appraisers of land in abandoned watercourses to be sold by drainage district boards must be recorded with the register of deeds and filed with the clerk of the district court.[7]

Maps of such portions of their roads as lie within the county were required to be filed with the register of deeds by railroad companies to whom lands were granted by the State.[8] In many cases, patents issued by the State to railroad companies included in one patent lands lying in different counties and the law required that the whole patent be entered of record in each county wherein any part of the land was situated. In order to eliminate this needless encumbering of the records and additional expense the legislature of 1879 authorized the register of the State Land Office to prepare an abstract of lands lying in each county insuring to the grantee and deliver it to the grantee, who could record it with the same effect as the recording of the original patent.[9]

The assembly of 1860 required that persons claiming liens on real property by reason of labor or materials furnished in the construction and repair of buildings file a verified statement of the amount claimed and a description of the property with the register of deeds before the lien could be enforced. Since 1868 such liens are filed with the clerk of the district court.[10]

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1. L. 1867, ch. 68, art. 3, secs. 2, 50, 51; G.S. 1868, ch. 19, secs. 30, 50, 51; L. 1871, ch. 62, sec. 52; L. 1872, ch. 100, sec. 72; G.S. 1935, ch. 14, sec. 1008.
2. L. 1864, ch. 124, sec. 4; G.S. 1868, ch. 23, sec. 84; G.S. 1935, ch. 66, sec. 904.
3. L. 1866, ch. 80, sec. 1; G.S. 1868, ch. 23, sec. 87; L. 1870, ch. 74, sec. 2; L. 1923, ch. 166, sec. 2; G.S. 1935, ch. 66, sec. 907.
4. L. 1933, ch. 155, sec. 3; G.S. 1935, ch. 17, sec. 627.
5. R.S. 1923, ch. 26, sec. 101; L. 1935, ch. 179, sec. 1.
6. L. 1913, ch. 86, sec. 4; G.S. 1935, ch. 26, sec. 204.
7. L. 1905, ch. 215, sec. 54; G.S. 1935, ch. 24, sec. 454.
8. L. 1864, ch. 79, sec. 5; G.S. 1868, ch. 84, sec. 5; G.S. 1935, ch. 66, sec. 410.
9. L. 1879, ch. 132, sec. 1; G.S. 1935, ch. 67, sec. 248.
10. Terr. L. 1860, ch. 88, sec. 7; L. 1862, ch. 137, secs. 2-4, 26; G.S. 1868, ch. 80, sec. 633; G.S. 1935, ch. 60, sec. 1402.

Any life insurance company may carry as part of its legal reserve any real estate acquired by mortgage foreclosure or direct transfer of the mortgagor, or any certificate of purchase issued in any foreclosure proceedings on real estate in the State. The deed or assignment of the certificate to the State Commissioner of Insurance in trust for the use of the company must be recorded by the register of deeds and deposited with the State Treasurer as security.[1]

When a tract of land is so completely surrounded by the lands of others that the owner has no access to a public highway he may petition the county commissioners to lay out a connecting road. When this is done by order of the commissioners the plat must be recorded in the office of the register of deeds and the road becomes a public highway, the owner of the surrounded tract paying all expenses of establishment and maintenance.[2] When a controversy arises between owners of a partition fence regarding their respective rights and obligations either may apply to the township fence viewers, who assign to each owner his share of responsibility; or they may make an agreement between themselves. The assignment or agreement must be recorded by the register of deeds the same as a land title conveyance.[3]

When deemed necessary for the proper construction, operation, or management of water or sewer systems, or other public utilities, the governing body of a city of the second or third class has the right of eminent domain in constructing a pipe, power, light, or telephone line between the city and a utilities plant within 5 miles of the city; but the written consent of a landowner, with or without formal acknowledgment, when filed with the register of deeds gives the city the same rights as if the land had been condemned.[4] The same provisions are applicable to cities of the first class in the construction of flushing ditches or conduits discharging sewers, or sewer outlets.[5]

Any person or company desiring to appropriate running water for irrigation purposes must post notices to that effect and file a copy with the register of deeds of the county in which the place of diversion is situated, and the register must record the notice and the proof of posting.[6] Rotation agreements among owners or consumers of water from

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1. L. 1933, ch. 201, sec. 1; L. 1935, ch. 199, sec. 1; G.S. 1935, ch. 40, sec. 404a; L. 1937, ch. 252, sec. 2.
2. L. 1874, ch. 108, sec. 29; L. 1911, ch. 248, sec. 13; L. 1913, ch. 261, sec. 1; L. 1915, ch. 291, sec. 1; G.S. 1935, ch. 68, sec. 117.
3. L. 1861, ch. 37, secs. 3-6; G.S. 1868, ch. 40, secs. 11-13; G.S. 1935, ch. 29, secs. 304-306.
4. L. 1913, ch. 122, secs. 1-3; G.S. 1935, ch. 12, secs. 844-846.
5. L. 1889, ch. 232, sec. 3; L. 1903, ch. 122, sec. 152; G.S. 1935, ch. 13, sec. 1016.
6. L. 1886, ch. 115, secs. 3, 5; L. 1891, ch. 133, art. 8, sec. 25; R.S. 1923, ch. 42, secs. 103, 105; G.S. 1935, ch. 42, secs. 103, 105.

any canals, ditches, conduits, or reservoirs for more than one season must be recorded with the register of deeds.[1] Water rights and shares in irrigation companies are appurtenant to the land on which they are established but may be separately transferred by deed executed and recorded the same as real estate conveyances.[2] The record of the proceedings of townships in the establishment of ditches, drains, or watercourses under the drainage act of 1879 must be certified by the township clerks and filed with the register of deeds, whose duty it is to enter them on his records as to each tract of land described, and also to enter them in a permanent record kept for that purpose.[3] The statutes require that anyone drilling or boring an artesian well shall keep a record of the work and file with the register of deeds a statement giving full particulars concerning the well, the particular vein of water claimed to be appropriated, and the amount in cubic feet so claimed. The statement also may be filed with the registers of deeds in other counties and constitutes notice to others of prior right of appropriation.[4] When the county artesian well supervisor finds it necessary to cause repairs to an artesian well to prevent waste, the costs incurred consitute a lien on the property and a statement thereof may be filed with the register of deeds and recorded the same as other liens.[5] Notices of liens in favor of the State on real estate owned by recipients of old age assistance were filed with the register of deeds from 1937 until the law was repealed in 1939.[6]

The legislature of 1862 required the county surveyor to obtain copies of the plats and field notes of the original Government surveys of his county and keep them on file in his office, but the legislature of 1907 required that they be deposited in the office of the register of deeds for the use of the public.[7] In counties with less than 70,000 population, in which the surveyor need not keep his office open 6 days in the week, his records must be kept in the office of the register of deeds when his office is not open, and the register of deeds is responsible for them under his bond.[8]

Personal Property. Every mortgage or conveyance intended to operate as a mortgage of personal property, "which shall not be accompanied by

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1. L. 1891, ch. 133, art. 4, sec. 29; G.S. 1935, ch. 42, sec. 347.
2. L. 1911, ch. 215, sec. 1; G.S. 1935, ch. 42, sec. 121.
3. L. 1933, ch. 181, sec. 1; G.S. 1935, ch. 24, sec. 217.
4. L. 1891, ch. 133, art. 4, secs. 10-12; G.S. 1935, ch. 42, secs. 330-332.
5. L. 1911, ch. 210, secs. 23-25; G.S. 1935, ch. 42, sec. 422-424.
6. L. 1937, ch. 327, sec. 17; L. 1939, ch. 204, sec. 1.
7. L. 1862, ch. 196, sec. 23; G.S. 1868, ch. 25, sec. 168; L. 1891, ch. 89, sec. 2; L. 1907, ch. 169, sec.1; G.S. 1935, ch. 19, sec. 1418.
8. L. 1913, ch. 159, sec. 1; L. 1915, ch. 176, sec. 1; G.S. 1935, ch. 19, secs. 1408, 1435.

an immediate delivery and be followed by an actual and continued change of possession of the things mortgaged," is void as against the creditors of the mortgagor and as against subsequent purchasers and mortgagees in good faith unless the mortgage or a true copy thereof is deposited with the register of deeds of the county in which the mortgagor resides. If the property is in a different county the mortgage must also be recorded there, and if the mortgagor is not a resident of the State the mortgage must be filed in the county where the property is located at the time of indenture. Upon receipt of such a mortgage it is the duty of the register of deeds to endorse on the back of the instrument the time of reception and to file it in his office for the inspection of anyone interested.[1]

The register of deeds is required to record all such mortgages in a book kept for that purpose. A chattel mortgage expires in 2 years from the date of filing unless the mortgagee within 30 days of the expiration date files an affidavit exhibiting his interest in the mortgage at the time, and the amount yet due. A similar affidavit must be filed every 2 years thereafter to keep the mortgage in force, the register of deeds attaching such instrument to the original mortgage or copy on file.[2] Upon satisfaction, a chattel mortgage may be released in the same manner as a real estate mortgage and the acknowledgment must be entered on the margin of the record, though instruments of acknowledgment may be filed without being recorded at length.[3] Since 1895 the register of deeds upon satisfaction of a chattel mortgage returns the original instrument to the mortgagor. If the mortgagor cannot be found within 2 years the mortgage may be burned in the presence of the county commissioners, having first been listed in the chattel mortgage index. All chattel mortgages which have expired by reason of having been on file for 5 years without being renewed may be destroyed in the same manner and under the same conditions.[4]

Instruments such as contracts or promissory notes evidencing the sale of personal property, the title to which remains in the vendor until the purchase price is paid in full, are void as against innocent purchasers or the creditors of the vendee unless filed with the register of deeds. They remain in force until paid, without renewal by the vendor and are released in the same manner as chattel mortgages.[5]

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1. Torr. L. 1860, ch. 25, secs. 1, 2; G.S. 1868, ch. 68, secs. 9, 10; L. 1919, ch. 234, sec. 1; G.S. 1935, ch. 58, secs. 301, 302.

2. Torr. L. 1860, ch. 25, sec. 3; G.S. 1868, ch. 68, secs. 11, 14; L. 1903, ch. 364, sec. 1; L. 1911, ch. 224, sec. 1; G.S. 1935, ch. 58, secs. 303, 306.

3. L. 1862, ch. 151, secs. 1-3; G.S. 1868, ch. 68, sec. 16; G.S. 1935, ch. 58, sec. 308.

4. L. 1895, ch. 170, secs. 1-3; G.S. 1935, ch. 58, secs. 319-321.

5. L. 1889, ch. 255, sec. 1; L. 1901, ch. 396, secs. 1, 2; G.S. 1935, ch. 58, secs. 314, 315.

Since 1913 any blacksmith, horseshoer, or wagonmaker, and since 1917 any garagekeeper wishing to retain a lien on personal property upon which he has made repairs or improvements and which is no longer in his possession, may do so by filing a verified statement of the amount due in the office of the register of deeds of the county in which the work was performed, and also the county of the owner's residence. Such a lien may be enforced and foreclosed in the same manner as provided for chattel mortgages.[1] Threshers' and huskers are entitled to liens on grain crops to secure payment for their services and may file a verified statement in the office of the register of deeds, whose duty it is to record it on the chattel mortgage record. The law requires such liens to be prefered to any prior chattel mortgage or encumbrance and makes them assignable.[2] The same provisions of law apply to liens for seeding and baling broomcorn and baling hay.[3] Owners of registered stallions and jacks may secure any lien to which they are entitled or any mares or their offspring by filing a verified statement with the register of deeds.[4]

Oaths and Bonds. The first assembly made it the duty of the county recorder to record all commissions and official bonds required to be recorded in his office, and to keep an index of all books in which they were entered,[5] but it was not until 1868 that a law was enacted specifically requiring the register of deeds to keep a record of the official bonds and oaths of all county officials.[6] When the legislature of 1875 first required that county commissioners execute a bond conditioned for faithful performance of duty, it was specified that it be approved by the register of deeds and filed in his office.[7]

The commissions, oaths, and bonds of notaries public were recorded by the register of deeds from 1855 until 1868, since which time they have been recorded by the clerk of the district court.[8] A railroad company contracting with any person for the construction of its road or any part thereof is required to take from the contractor a bond conditioned that he will pay all costs incurred for labor, materials, and

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1. L. 1913, ch. 218, secs. 1-3; L. 1917, ch. 232, sec. 1; G.S. 1935, ch. 58, secs. 201, 202.
2. L. 1917, ch. 231, secs. 1-3; L. 1923, ch. 159, secs. 1-3; G.S. 1935, ch. 58, secs. 203-205.
3. L. 1933, ch. 80, secs. 1, 2 (Special Session); G.S. 1935, ch. 58, secs. 218, 219.
4. L. 1887 ch. 227, sec. 1; L. 1915, ch. 350, sec. 1; R.S. 1923, ch. 58, sec. 216; G.S. 1935, ch. 58, sec. 216.
5. Terr. L. 1855, ch. 134, secs. 10, 18.
6. G.S. 1868, ch. 25, sec. 174; G.S. 1935, ch. 19, sec. 2603.
7. L. 1875, ch. 40, sec. 1; L. 1876, ch. 65, sec. 1; G.S. 1935, ch. 19, sec. 233.
8. Terr. L. 1855, ch. 116, sec. 8; Terr. L. 1859, ch. 101, sec. 7; G.S. 1868, ch. 71, sec. 4; G.S. 1935, ch. 53, sec. 104.

other items and file such bond with the register of deeds of each county where any of such work is to be performed.[1] Bonds of assignees in voluntary assignments of property by debtors for the benefit of their creditors were filed with the register of deeds from 1860 until 1868, since when they have been filed with the clerk of the district court.[2]

The new corporation code adopted by the legislature of 1939 required that a copy of their articles of incorporation and any subsequent amendments thereto, certified by the Secretary of State, must be filed by each corporation with the register of deeds of the county in which its registered office is located.[3] From 1899 until 1925 when the law was repealed, the articles of agreement of building and loan associations were required to be recorded with the register of deeds and a copy certified by the register to be filed with the Secretary of State.[4]

Miscellaneous. The first assembly required that any person performing a marriage ceremony should make return thereof to the county recorder, whose duty it was to record it in a book kept for that purpose, but in 1859 this duty was imposed upon the county clerk, and in 1867 upon the probate judge.[5]

Voluntary assignments of lands, tenements, goods, chattels, and credits made by debtors in trust for their creditors must be proved or acknowledged and certified, and recorded the same as real estate conveyances.[6] Firms keeping elevators or warehouses for the storage and sale of grains, livestock, poultry, dairy products, crude oil, and other commodities, may issue elevator or warehouse certificates or receipts for commodities actually on hand, vesting the title thereto in the person to whom issued, but they must first file with the register of deeds a declaration describing the warehouse and the commodities as notice to others.[7] Duplicates of negotiable certificates issued by State sealers for grains stored on farms under authority of the Kansas Grain Inspection Department must be filed with the register of deeds, who is required to enter them on the chattel mortgage record. Assignments must be entered both on the instrument and the record. The register

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1. L. 1872, ch. 136, sec. 1; G.S. 1935, ch. 66, sec. 215.
2. Terr. L. 1860, ch. 13, sec. 1; G.S. 1868, ch. 6, sec. 11; G.S. 1935, ch. 60, sec. 1311.
3. L. 1939, ch. 152, secs. 13, 125.
4. L. 1899, ch. 78, sec. 2; L. 1917, ch. 125, sec. 1; R.S. 1923, ch. 17, sec. 1002; L. 1925, ch. 127, sec. 11.
5. Terr. L. 1855, ch. 108, secs. 9, 10; Terr. L. 1859, ch. 93, secs. 7, 8; L. 1867, ch. 84, sec. 6; G.S. 1868, ch. 61, sec. 6; G.S. 1935, ch. 23, sec. 112.
6. L. 1867, ch. 15, sec. 1; G.S. 1868, ch. 6, sec. 1; G.S. 1935, ch. 60, sec. 1301.
7. L. 1905, ch. 224, secs. 1, 2; L. 1911, ch. 186, sec. 1; L. 1917, ch. 333, secs. 1, 2; L. 1923, ch. 243, sec. 1; G.S. 1935, ch. 82, secs. 201, 202.

must release the duplicate on notice from the Chief Grain Inspector that the original has been canceled.[1]

Notices of tax liens under the internal revenue laws of the United States may be filed with the register of deeds of any county and constitute notice to all persons claiming interest in the property. The register of deeds must enter such notices in the chattel mortgage record and record them in full in the miscellaneous record.[2] When any person liable for any taxes or penalties under the State motor vehicle fuel tax law has not paid the full amount when due, the State officials may file notice of a lien with the register of deeds of the county in which the taxpayer's place of business is located. The register of deeds must immediately file and index the notice in the manner provided for chattel mortgages, and the tax constitutes a lien on all real and personal property owned by the taxpayer until paid.[3]

Permits issued by the State board of health to municipalities to discharge sewage into any waters of the State, otherwise prohibited, must be filed with the register of deeds of the county in which the sewer outlet is located.[4] Chiropractors to whom certificates to practice have been issued by the State Board of Chiropractoric Examiners must have them recorded in the county of their residence. The register of deeds must keep a complete list and description of licenses so recorded by him.[5]

The assembly of 1857 required the county recorder to record the marks and brands of livestock submitted to him by the owners for that purpose. In 1864 this duty was transferred to the county clerk and in 1939 to the State Brand Commissioner.[6]

In the following entries the terms "office," "lower vault," and "upper vault" used in stating location of records refer to the office and adjoining vaults of the register of deeds.

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1. L. 1935, ch. 184, secs. 14-17; G.S. 1935, ch. 34, secs. 419-422.
2. L. 1923, ch. 107, secs. 1-3; G.S. 1935, ch. 79, secs. 2605-2607.
3. L. 1933, ch. 317, sec. 13; G.S. 1935, ch. 79, sec. 3413; L. 1939, ch. 330, sec. 10.
4. L. 1907, ch. 382, sec. 5; G.S. 1935, ch. 65, sec. 165.
5. L. 1913, ch. 291, sec. 9; G.S. 1935, ch. 65, sec. 1306.
6. Terr. L. 1857, p. 81; L. 1864, ch. 82, sec. 1; L. 1866, ch. 67, sec. 1; G.S. 1868, ch. 105, sec. 55; G.S. 1935, ch. 47, sec. 401; L. 1939, ch. 222, sec. 2.

General Recordings

153. RECEPTION RECORD, 1859--. 18 vols. (two unlabeled; 3-18). Title varies: Receiving Book, 1859-1926.
Record of all instruments filed with register of deeds, showing date and time of reception, names of grantor and grantee, kind of instrument, to whom and how delivered, time of delivery, and amount of fees. Arr. chron. by dates of reception. No index. Hdw. on pr. fm. Aver. 640 pp. 18 x 12 x 1 1/2. 15 vols., 1859-1926, attic; 2 vols., 1926-31, lower va.; 1 vol., 1931--, off.
For separate fee book, 1898--, see entry 193.

Real Estate

Indexes

154. INDEX TO DEEDS, 1855--. 43 vols. and 3 duplicate vols. (three unlabeled; 1, 2, 2-30, and twelve vols. labeled by contained letters of alph.). Title varies: General Index to Deeds, 1855-1911.
Index to Deed Record, entry 157; Quitclaim Deed Record, entry 159; Sheriff's Deed Record, entry 160; Tax Deed Record, entry 161; deeds in Deed and Mortgage Record, entry 164; Oil and Gas Lease Record, entry 185; Miscellaneous, nature of instrument, volume and page numbers where recorded, description of property, and remarks. The contents of 3 volumes, 1855-73, have been copied into new volumes. Arr. alph. by names of grantors and grantees. 39 vols., 1855-1928, hdw. on pr. fm.; 7 vols., 1855-73, 1929--, typed on pr. fm. Aver. 400 pp. 18 x 12 x 2 1/2. 42 vols., 1855-1911, 1923--, lower va.; 4 vols., 1911-23, upper va.

155. NUMERICAL INDEX, 1858--. 10 vols. (two labeled township 10; three each labeled township 11, township 12; two labeled township 13).
Numerical index to Deed Record, entry 157; Quitclaim Deed Record, entry 159; Sheriff's Deed Record, entry 160; Tax Deed Record, entry 161; and deeds in Deed and Mortgage Record, entry 164, showing names of grantor and grantee, date and nature of instrument, description of property, and reference to volume and page numbers where recorded. Arr. num. by sec., twp., and range nos. Hdw. and typed on pr. fm. Aver. 400 pp. 17 x 15 x 2 1/2. Lower va.

156. NUMERICAL INDEX, KANSAS HALF BREED INDIAN LAND, 1860--. 1 vol.
Numerical Index to transfers of Shawnee County lands originally reserved for Kansas half breed Indians, recorded in Deed Record, entry 157; Quitclaim Deed Record, entry 159; Sheriff's Deed Record, entry 160; Tax

Deed Record, entry 161; and deeds in Deed and Mortgage Record, entry 164, showing names of grantor and grantee, date and nature of instrument, description of property, and volume and page numbers where recorded. Arr. num. by reserve and mile nos. Hdw. and typed on pr. fm. 400 pp. 17 x 15 x 2 1/2. Lower va.

Deeds

157. DEED RECORD, 1855-58, 1872--. 268 vols. (A, A, B, 0, 0, 33-36, 48, 53, 57, 58, 60-64, 68, 73, 80, 82, 87, 90, 93, 96, 99-101, 103, 106, 107, 111, 115, 121, 125, 131, 133, 137, 139, 142, 143, 149, 150, 153, 154, 163-166, 179, 180, 185, 186, 194, 202, 203, 206-208, 211-216, 220, 227, 236-239, 243, 251, 254, 255, 261, 262, 270, 273, 276, 278, 280, 282, 286, 289, 290, 292, 297, 300, 301, 305, 307, 309, 312, 318, 321, 322, 326, 327, 331, 332, 336, 337, 340, 341, 347, 348, 350-352, 356-358, 361, 362, 368, 369, 375, 376, 379, 380, 385-388, 393, 394, 397-399, 407-409, 420, 421, 426, 431, 435, 436, 438, 441, 442, 446, 451-454, 461, 462, 467, 468, 470, 472, 475, 476, 481, 484, 485, 488, 489, 497, 498, 500, 503, 504, 510, 511, 515, 518, 519, 523, 530, 531, 537, 538, 544, 545, 549, 550, 552, 553, 558, 559, 565, 567, 569, 571, 575, 577, 579, 581, 584, 586, 590, 592, 595, 597, 599, 601, 603, 606, 608, 611, 614, 616, 618, 621, 622, 625, 627, 629, 633, 635, 637, 640, 642, 644, 646, 648, 650, 652, 655, 657, 660, 661, 663, 664, 666, 667, 669, 670, 673, 674, 676, 679, 681, 683, 695, 698, 700, 702, 705, 707, 709, 711, 714, 716, 718, 721, 724, 725, 727, 730, 732, 735, 736, 739, 741, 744, 746, 747, 750). 1856-91 also in Deed and Mortgage Record, entry 164; 1899-- also in Miscellaneous Record, entry 188.
Copies of general warranty, executors', trustees', guardians', and miscellaneous deeds filed for record, showing nature of instrument, date of indenture, names of grantee and grantor, description of property, consideration, certification of register of deeds, date of filing, and notarization. Also contains: Quitclaim Deed Record, entry 159; Sheriff's Deed Record, entry 160; Tax Deed Record, entry 161. Arr. chron. by recording dates. Indexed alph. by names of grantors and grantees, 1855-58; for separate indexes, see entries 154-156. Hdw., and hdw. and typed on pr. fm. 1855-58, 1872-1927; photostat, 1927--. Aver. 640 pp. 18 x 12 x 3. 91 vols., 1855-58, 1872-1917, upper va.; 177 vols., 1917--, lower va.

158. TOPEKA LAND COMPANY (Record), 1858-62. 2 vols.
Copies of deeds and mortgages affecting titles to lots in city of Topeka, showing names of grantee or grantor, nature of instrument, date of indenture, consideration or amount secured, terms and conditions, description of property, and dates recorded and notarized. These are the original records kept by Fry W. Giles, secretary of the Topeka Association, and legalized by the legislative assembly of 1858. (Terr. P.L. 1858, ch. 91, sec. 1). Arr. chron. by recording dates. Indexed alph. by names of grantors. Hdw. 445 pp. 18 x 12 x 2. Upper va.

159. QUITCLAIM DEED RECORD, 1886-1927. 19 vols. (124, 160, 184, 223, 267, 275, 283, 303, 319, 339, 373, 400, 403, 424, 443, 492, 512, 526, 555). 1855-58, 1872-- also in Deed Record, entry 157; 1856-91 also in Deed and Mortgage Record, entry 164; 1892-- also in Miscellaneous Record, entry 188.

Copies of quitclaim deeds filed for record, showing date of indenture, nature of instrument, names of grantor and grantee, description of property, consideration, certification by register of deeds, notarization, and date recorded. Arr. chron. by recording dates. For indexes, see entries 154-156. 13 vols., 1886-1924, hdw. on pr. fm.; 6 vols., 1917-27, typed on pr. fm. Aver. 640 pp. 18 x 12 x 3. 14 vols., 1886-1920, upper va.; 5 vols., 1920-27, lower va.

160. SHERIFF'S DEED RECORD, 1893-1909, 1916-27. 5 vols. (229, 233, 247, 263, 419). 1855-58, 1872-- also in Deed Record, entry 157; 1856-91 also in Deed and Mortgage Record, entry 164; 1892-- also in Miscellaneous Record, entry 188.

Copies of deeds issued by sheriff for property sold under execution, showing date of indenture, names of plaintiff and defendant, case number, date of action, amount of judgment, costs, findings of court, amount of recovery, consideration, description and location of property, order of court, date of sale, sheriff's return, date of filing for record, and notarization. Arr. chron. by recording dates. For indexes, see entries 154-156. Hdw. on pr. fm. Aver. 600 pp. 18 x 12 x 3. Upper va.

For sheriff's copies of deeds, 1913--, see entry 357.

161. TAX DEED RECORD, 1864-1927. 13 vols. (1-3, 132, 217, 218, 242, 246, 260, 272, 294, 349, 490). 1855-58, 1872-- also in Deed Record, entry 157; 1856-91 also in Deed and Mortgage Record, entry 164; 1892-- also in Miscellaneous Record, entry 188.

Copies of deeds issued by county clerk for property sold for delinquent taxes, showing name of county, name of purchaser or assignee, date sold by county treasurer, description and location of property, years and amount of taxes, fees and costs, total, signature of county clerk, certification by register of deeds, and date filed. Arr. chron. by recording dates. For indexes, see entries 154-156. Hdw. on pr. fm. Aver. 600 pp. 18 x 12 x 3. Upper va.

162. COPY OF JACKSON COUNTY (Deed and Mortgage) RECORDS, 1858-68. 1 vol.

Copies of deeds and mortgages affecting land titles in that portion of Shawnee County which formerly was part of Jackson County, showing nature of instrument, date of indenture, names of grantor and grantee, or mortgagor and mortgagee, description of property, consideration, and date of filing. Arr. chron. by recording dates. For index, see entry 163. Hdw. 640 pp. 18 x 12 x 2 1/2. Upper va.

For other mortgage records, see entries 165-171.

163. INDEX - JACKSON COUNTY, 1858-68. 1 vol.
Index to copy of Jackson County (Deed and Mortgage) Records, entry 162, showing time of reception, names of grantor and grantee, nature of instrument, where recorded, remarks, and description of tract. Arr. alph. by names of grantors. Hdw. 100 pp. 18 x 12 x 2 1/2. Upper va.

164. DEED AND MORTGAGE RECORD, 1856-91. 83 vols. (B, 1-3, 5-32, 47-56, 49-52, 54-56, 65-67m 69-72, 74, 75, 77-79, 81, 83, 86, 89, 94, 98, 110, 116, 123, 135, 141, 145, 157, 167-170, 187, 188, 196, 201).
Copies of deeds, mortgages, and miscellaneous instruments filed for record. This is a combination of six records kept separately for varying periods: Deed Record, entry 157; Quitclaim Deed Record, entry 159; Sheriff's Deed Record, entry 160; Tax Deed Record, entry 161; Mortgage Record, entry 165; and Miscellaneous Record, entry 188. Arr. chron. For indexes to 78 vols., 1856-61, 1863-91, see entries 154-156, 166. Indexed alph. by names of grantees and grantors, 5 vols., 1859-79. Hdw. Aver. 640 pp. 18 x 12 x 3. Upper va.

Mortgages (See also entry 162)

165. MORTGAGE RECORD, 1875--. 284 vols. (47, 59, 76, 84, 85, 88, 91, 92, 95, 97, 102, 104, 105, 108, 109, 112-114, 117-120, 122, 126-130, 134, 136, 138, 140, 144, 147, 148, 151, 152, 155, 156, 158, 159, 161, 162, 171-178, 181-183, 189-193, 195, 197-200, 204, 205, 209, 210, 219, 221, 224, 226, 228, 234, 241, 245, 252, 253, 264-266, 268, 269, 271, 277, 281, 287, 288, 291, 293, 295, 296, 298, 299, 302, 308, 310, 311, 313, 317, 320, 323, 325, 328-330, 333, 334, 338, 342-345, 353-355, 359, 363-366, 370, 371, 377, 378, 381, 382, 384, 389-392, 395, 401, 404-406, 410-413, 415-418, 425, 427-430, 432-434, 439, 440, 444, 445, 447-449, 455, 457, 458, 460, 463-466, 473, 474, 477-479, 482, 483, 486, 487, 491, 493, 495, 496, 499, 501, 502, 505, 507-509, 513, 514, 517, 520, 521, 528, 529, 532-533, 539-541, 543, 548, 554, 556, 561, 563, 566, 568, 570, 572, 574, 576, 578, 580, 582, 585, 587, 589, 591, 593, 596, 598, 600, 602, 604, 607, 609, 612, 615, 617, 619, 623, 626, 628, 631, 634, 636, 638, 641, 643, 647, 649, 651, 653, 656, 658, 665, 668, 671, 675, 678, 680, 682, 684, 685, 687-690, 692, 694, 697, 699, 701, 703, 706, 708, 712, 713, 715, 719, 720, 722, 726, 728, 731, 733, 737, 740, 742, 745, 748). 1856-91 in Deed and Mortgage Record, entry 164; 1892-- also in Miscellaneous Record, entry 188.
Copies of real estate mortgages filed for record, showing date of execution, nature of instrument, names of mortgagor and mortgagee, description of property, consideration, rate of interest, amount secured, date of maturity, assignments, acknowledgments of assignments, satisfaction of mortgage, memorandum of release and notarizations. Arr. chron. by recording dates. For index, see entry 166. 145 vols., 1875-1919, hdw. on pr. fm; 62 vols., 1916-27, typed on pr. fm.; 77 vols., 1927--, photostat. Aver. 640 pp. 18 x 12 x 3. 152 vols., 1875-1926, upper va.; 132 vols., 1917--, lower va.
For separate record of releases and assignments, 1915--, see entry 166.

166. INDEX TO MORTGAGES, 1856--. 34 vols. (1-22, and 12 vols. labeled by contained letters of alph.). Title varies: General Index to Mortgages, 1856-1911.
Index to Mortgage Record, entry 165, and to mortgages in Deed and Mortgage Record, entry 164, showing time of reception, names of mortgagor and mortgagee, nature of instrument, where recorded, remarks, and description of property. Arr. alph. by names of mortgagors and mortgagees. Hdw. on pr. fm., 1856-1929; typed on pr. fm. 1929--. Aver. 400 pp. 18 x 12 x 2 1/2. 30 vols., 1856-1911, 1923--, lower va.; 4 vols., 1912-23, upper va.

167. (TRANSCRIPTS OF REAL ESTATE AND CHATTEL MORTGAGES), 1903-9. 1 vol. Discontinued.
Transcripts of real estate and chattel mortgages recorded in register of deeds' office, showing dates of execution and maturity, names and addresses of mortgagor, mortgagee, and assignee, amount secured, rate of interest, description of property, conditions, and reference to volume and page numbers where recorded. Arr. alph. by names of mortgagees. No index. Hdw. on pr. fm. 350 pp. 14 x 12 x 2. Attic.
For other chattel mortgage records, see entries, 181-184.

168. RECORD OF RELEASES AND ASSIGNMENTS (of Mortgages), 1915--. 6 vols. (1-6).
Record of releases and assignments of mortgages, showing date of reception, from whom, for what purpose, how received; names of mortgagor, releasor, and assignee; to whom and how delivered, date of delivery, and amount of fees. Arr. chron. by dates of reception. No index. Hdw. on pr. fm. Aver. 325 pp. 18 x 12 x 2. 3 vols., 1915-24, 1927-31, attic; 2 vols., 1924-27, 1931-36, lower va.; 1 vol., 1937--, off.
For related record, 1875--, see entry 165.

169. RECORD OF MORTGAGE REGISTRATION, 1925--. 3 vols. (1-3).
Record of mortgage registration fees collected, showing registration date and number, names of mortgagor and mortgagee, date of indenture, date due, where recorded, description of property, amount due on mortgage, registration fee, and remarks. Arr. alph. by names of mortgagors. No index. Hdw. on pr. fm. 1925-35; typed on pr. fm., 1935--. 300 pp. 18 x 12 x 3. Lower va.

170. REPORT OF MORTGAGE REGISTRATION FEES COLLECTED, 1925--. 1 bdl.
Duplicate copies of reports by register of deeds to county treasurer of mortgage registration fees collected, showing information as in entry 443. Arr. chron. by registration dates. No index. Hdw. on pr. fm. 2 1/2 x 9 x 12. Upper va.

Liens

171. LIEN BOOK, 1860-67. 1 vol. Discontinued.
Record of mechanics' liens, showing names of owner, contractor, and claimant; date of action, nature and amount of claim, description of property, date of agreement or contract, and signature of affiant. Arr.

chron. by filing dates. Indexed alph. by names of claimants. Hdw. 150 pp. 12 x 8 x 1. Upper va.
For district court record, 1859-62, 1869--, see entry 220.

172. (MECHANICS' LIENS), 1930--. 1930-31 in Conditional Sales Contracts, entry 182; 1932-- in Chattel Mortgages, entry 181. Mechanics' liens filed for record, showing names of owner, contractor, and claimant; description of property; date, itemized statement and amount of claim; date of filing, and reference to volume and page numbers of district court record where recorded.
For mechanics' liens filed in district court, 1900--, see entry 219.

173. OLD AGE PENSION LIENS, 1938-39. 1 vol. Discontinued; law repealed.
Copies of notices of liens in favor of the State Board of Social Welfare on real property owned by recipients of old age assistance, showing name of recipient, oath and signature of county welfare director, acknowledgment and signature of notary, and date filed. Arr. chron. by filing dates. Indexed alph. by names of recipients. Hdw. and typed on pr. fm. 500 pp. 12 x 10 x 3. Lower va.
For social welfare board's copies, see entry 514-iv.

Maps and Plats (See also entries 139-146, 548-560)

174. PLAT BOOK, SHAWNEE COUNTY, 1857--. 12 vols. (1-12).
Plats of cities and subdivisions, towns, and cemeteries of Shawnee County, showing section, township, and range lines; description by metes and bounds; block and lot numbers, names of streets, and land ownership. C. B. Barton, D. A. Harvey, B. B. Bowen, J. A. Cawker, artists. Arr. chron. For index, see entry 175. Pr., black-and-white, and blueprint. Aver. 40 pp. 36 x 32 x 2. Lower va.

175. INDEX TO PLATS, 1857--. 2 vols.
Index to Plat Book, Shawnee County, entry 174, showing names of cities, subdivisions, and cemeteries, with reference to volume and page numbers where recorded. Arr. alph. by names of cities, towns, subdivisions, and cemeteries. Hdw. 289 pp. 9 x 6 1/2 x 1. Lower va.

176. SHAWNEE COUNTY PLAT AND ENTRY BOOK, 1883. 1 vol. Discontinued.
Plat and entry book of Shawnee County, comprising all entries prior to and including the year 1883, showing names of owners of property, acreage owned by each, section, township, and range lines and numbers; and names of register of deeds and receiver. No index. Handdrawn and hdw. 50 pp. 17 x 15 x 1. Lower va.

177. SHAWNEE COUNTY, no date. 1 wall map.
Political and land tenure map of Shawnee County, showing sections, townships, and ranges; State and county roads; churches, schools, cemeteries;

and names of land owners and acreage. Gallup Map Company, Kansas City, Missouri, publishers. Scale, 1 inch equals 1/2 mile. Black-and-white. Mounted. 96 x 60. Off.

178. (PLATS OF CITY OF TOPEKA), 1887--. 1 vol., 15 maps.
Plats, replats, and legal surveys of additions, suburban additions, divisions, subdivisions, and estates of city of Topeka, showing date, field notes, petition of owners to vacate, streets, block and lot numbers, description by metes and bounds, surveyor's certificate, signature of owners, dedication; approval of city planning board, city clerk, and county commissioners; date recorded by county clerk, and certificate of filing by register of deeds. Grant Smith, J. A. Campbell, Jr., H. H. Staley, Hall Somers, and M. E. McCoy, Topeka, Kansas, delineators. Scales, 1 inch equals 25, 40, 50, 80 and 100 feet. Blueprints and pr. Vol. 30 pp. 30 x 20 x 3/4; maps 11 x 17 to 24 x 36. 1 vol., 1887-1933, upper va.; 15 maps, 1927, 1929, 1934--, lower va.

179. CITY OF TOPEKA, 1937. 1 wall map.
Political map of city of Topeka, showing original town, additions, streets, block and lot numbers, schools, hospitals, parks, cemeteries, and the Kansas River. Grant Smith, county engineer, and E. K. Stevenson, Topeka, Kansas, delineators. Scale, 1 inch equals 600 feet. Blueprint. Mounted. 96 x 60. Off.

180. (PLATS OF CEMETERIES), 1933-37. 1 roll, 6 maps.
Amended plats, plats of sections, and additional surveys of cemeteries of Topeka, showing sections, townships, and ranges; description by metes and bounds, lot numbers, signatures of owners, dedication, notarization, and certificate of filing by register of deeds. E. E. McCracken and F. Merritt, Topeka, Kansas, delineators. Scale, 1 inch equals 10, 20, 30, and 40 feet. Blueprint and pr. Roll 24 x 81; maps 10 x 19 to 31 x 40. Lower va.

Personal Property

Chattel Mortgages (See also entry 167)

181. CHATTEL MORTGAGES, 1884--. 133 f. drs. (forty-three unlabeled, ninety lettered alph. A-Z). 1930-31 also in Conditional Sales Contracts, entry 182.
Original chattel mortgages filed for record, showing date and nature of instrument, names of mortgagee and mortgagor, description of property, amount secured, rate of interest, conditions, date of filing, volume and page numbers of Chattel Mortgage Record where recorded; some with affidavits of renewal attached. Also contains: Conditional Sales Contracts, entry 182 (Mechanics' Liens), 1932--, entry 172. Arr. chron. by filing dates, 43 f. drs., 1884-1926; arr. alph. by names of mortgagors, 90 f. drs., 1915--. No index. Hdw. and typed on pr. fm. 10 x 5 x 14 to

15 x 15 x 36. 43 f. drs., 1884-1926, upper va.; 78 f. drs., 1915-31, lower va.; 12 f. drs., 1932--, off.

182. CONDITIONAL SALES CONTRACTS, 1930-31. 18 f. drs. 1884-- in Chattel Mortgages, entry 181.
Conditional sales contracts filed for record, showing names of vendor and vendee, description of property, amount, schedule of payments, dates of execution and filing, signatures of parties, volume and page numbers of Chattel Mortgage Record where recorded, and date of satisfaction. 12 f. drs. also contain: Chattel Mortgages, entry 181; Chattel Mortgage (and Sales Contract) Releases, entry 183; (Mechanics' Liens), entry 172. Arr. chron. by filing dates. No index. Hdw. and typed on pr. fm. 10 x 5 x 14. Upper va.

183. CHATTEL MORTGAGE (and Sales Contract) RELEASES, 1929--. 9 cb. bs. 1930-31 also in Conditional Sales Contracts, entry 182.
Acknowledgments of satisfaction and release of chattel mortgages and conditional sales contracts, showing date, names of mortgagor and mortgagee, acknowledgment and order of release, and signature of mortgagee. Arr. chron. by filing dates. No index. Hdw. and typed on pr. fms. Aver. 4 x 16 x 20. 6 cb. bs., 1929-32, attic; 3 cb. bs., 1931--, lower va.
For related record, 1868--, see entry 184.

184. CHATTEL MORTGAGE RECORD, 1868--. 56 vols. (1-27; and twenty-nine vols. labeled by contained letters of alph.).
Record of chattel mortgages and conditional sales contracts, showing time of reception, names of mortgagor and mortgagee, date of instrument, amount secured, when due or schedule of payments, rate of interest, property mortgaged, signatures, date renewal affidavit filed, and date of satisfaction and release. Arr. alph. by names of mortgagors. No index. Hdw. on pr. fm. Aver. 350 pp. 18 x 12 x 3. 10 vols., 1868-91, upper va.; 46 vols., 1892--, lower va.
For separate record of releases, 1929--, see entry 183.

185. OIL AND GAS LEASE RECORD, 1916--. 2 vols. (423, 471).
Copies of oil and gas leases, showing date, names of lessor and lessee, description of property; purpose, time limit, and terms of lease; consideration, rules and regulations, and dates of filing and expiration of lease. Arr. chron. by filing dates. For index, see entry 154. Typed on pr. fm. 640 pp. 18 x 12 x 3. Upper va.

Appointments, Oaths, and Bonds
(See also entries 119-124, 261, 467)

186. (Record of Official) BONDS, 1869--. 3 vols. Title varies: Official Bonds, 1869-1932.
Copies of official bonds executed by county officers as surety for faithful performance of duties, showing date of execution, name of official

date of election, to what office, amount and conditions of bond; date of expiration, names and affidavits of sureties, and dates of approval and filing. Arr. chron. by filing dates. No index. Hdw. and typed on pr. fm., 1869-1932; photostat, 1933--. 409 pp. 16 x 10 1/2 x 2 to 50 pp. 18 x 14 1/2 x 1. Lower va.

187. BONDS (of County Commissioners and Appointments and Oaths of Deputy Registers of Deeds), 1876--. 2 f. drs.
Surety bonds executed by county commissioners as guaranty of faithful performance of duties, showing name of official; date, amount, and conditions of bond and date of expiration; affidavits and signatures of sureties, dates of approval and filing, and signature of register of deeds. Also, appointments and oaths of deputy registers of deeds, 1877--, showing date, names of register and appointee, to what position appointed, term, and oath of office. Also contains: Reports of County Officials (of Fees Collected), 1880-85, entry 470. Arr. chron. by dates of instruments. No index. Hdw. and typed. 10 x 5 x 14. Upper va.

Miscellaneous

188. MISCELLANEOUS RECORD, 1892--. 81 vols. (225, 230-232, 235, 244, 248-250, 256-259, 274, 279, 284, 285, 304, 306, 314, 315, 324, 335, 346, 360, 367, 372, 374, 383, 396, 402, 414, 422, 437, 450, 456, 459, 469, 480, 494, 506, 516, 524, 525, 527, 536, 542, 546, 547, 551, 557, 560, 562, 564, 583, 594, 605, 610, 613, 620, 624, 632, 639, 645, 654, 659, 662, 672, 677, 686, 696, 704, 710, 717, 723, 729, 734, 738, 743, 749). 1856-91 in Deed and Mortgage Record, entry 164.
Copies of affidavits, agreements, bonds for deeds, contracts, letters of attorney, letters patent, leases, assignments, and other miscellaneous instruments filed for record, showing nature of instrument, date of execution, names of grantee and grantor, terms and conditions, consideration, and date of filing. Also contains: Deed Record, 1899--, entry 157; Mortgage Record, entry 165; Quitclaim Deed Record, entry 159; Sheriff's Deed Record, entry 160; Tax Deed Record, entry 161. Arr. chron. by filing dates. For index, see entry 154. Hdw., typed, and hdw. and typed on pr. fms., 1892-1927; photostat, 1927--. Aver. 640 pp. 18 x 12 x 3. 33 vols., 1892-1917, upper va.; 48 vols., 1917--, lower va.

189. CORPORATION RECORD, 1939--. 1 vol.
Copies of articles of incorporation, showing date, name of corporation and address of registered office, nature of business, classes of stock to be issued, number and par value of each, minimum capital, names and addresses of incorporators, period of corporate existence, number of directors, special provisions for management of business, and certification of Secretary of State. Arr. chron. by filing dates. For index, see entry 190. Photostat. 200 pp. 18 x 14 x 2. Lower va.

190. INDEX TO CORPORATIONS, 1939--. 1 vol.
Index to Corporation Record, entry 189, showing corporate name, kind of instrument, time of reception, and volume and page numbers where recorded. Arr. alph. by names of corporations. Typed. 14 x 10 x 1. Lower va.

191. RECORD OF CHIROPRACTIC CERTIFICATES, 1915--. 1 vol.
Record of certificates issued to chiropractors by State Board of Chiropractic Examiners, showing certificate number, name and address of chiropractor, name of county, date of issue, names of witnesses, names of board members, signature of register of deeds, and date of filing. Arr. chron. by filing dates. Indexed alph. by names of chiropractors. Hdw. on pr. fm. 425 pp. 18 x 12 x 1 1/2. Lower va.
For registers of certificates of other practitioners, see entries 126-130.

192. (SOLDIERS' DISCHARGE RECORD), 1861-65. 1 vol. Discontinued.
Copies of soldiers' discharges from military service of United States, showing name of soldier, rank, company, regiment, volunteer, date of enlistment, date discharged, length of service, if disabled, name, place and date of battle, if entitled to pension, amount, where born, occupation, personal description, honorary mention, and signatures of officers. Arr. chron. by filing dates. Indexed alph. by names of soldiers. Hdw. 150 pp. 12 x 7 x 3/4. Upper va.
For enrollment record, 1885, see entry 406.

193. FEE BOOKS, 1898--. 15 vols. (two unlabeled; 1-4, 1-9).
Title varies: Cash Book, 1913-29.
Record of fees charged and collected by register of deeds, showing date, by whom paid, nature of instrument, reference to volume and page numbers where recorded, amount of fee, and totals. Arr. chron. No index. Hdw. on pr. fm. Aver. 540 pp. 15 x 10 x 2. 8 vols., 1898-1925, attic; 2 vols., 1913-29, upper va.; 3 vols., 1925-33, lower va.; 2 vols., 1933--, off.
For related record, 1859--, see entry 153; for quarterly reports of fees collected, 1880--, see entry 470.

194. (NOTARY RECORD), 1905-14. 1 vol. Discontinued.
Register of deeds' record of notarizations of instruments, showing date, nature of instrument, description of property, names and addresses of grantor and grantee, fees received, remarks, affidavits and acknowledgments, and copy of bill or note. Arr. chron. No index. Hdw. on pr. fm. 225 pp. 14 x 10 x 2. Attic.

(Next entry 195, p. 324)

IV. DISTRICT COURT

Structural Organization and Evolution

Creation - Judicial Districts. The act of Congress organizing the Territory of Kansas provided that the judicial power should be vested in "a Supreme Court, district courts, probate courts, and in justices of the peace. The Supreme Court shall consist of a Chief Justice and two associate justices . . . The said Territory shall be divided into three judicial districts and a district court shall be held in each of said districts by one of the justices of the Supreme Court at such times and places as may be provided by law."[1]

In accordance with this provision Governor Andrew H. Reeder on February 26, 1855 divided the Territory into three judicial districts. All that part of the present area of Shawnee County lying south of the Kansas River was included in the Second district; that part lying north of the river and east of Soldier Creek was made part of the First district, and that part lying north of the river and west of Soldier Creek was included in the Third district.[2] The first Territorial assembly defined the Second judicial district as being composed of the counties of Johnson, Lykins, Linn, Bourbon, Allen, Anderson, Franklin, and Shawnee, with the Hon. Rush Elmore as judge.[3]

The State Constitution, effective January 29, 1861, decreed that "the State shall be divided into five judicial districts" each having a district judge and that terms of court should be held at such times and places as the legislature might provide. It was further authorized that "provision may be made by law for the increase of the number of judicial districts whenever two-thirds of the members of each house shall concur. Such districts shall be formed of compact territory and bounded by county lines." Fixing the first districts "until otherwise provided by law," the Constitution specified that the Third district should consist of the counties of Shawnee, Pottawatomie, Riley, Clay, Dickinson, Davis (now Geary), and Wabaunsee.[4] By legislative enactment from time to time all these counties were subsequently placed in other districts and since 1885 Shawnee County alone has constituted the Third judicial district. Since 1897 terms of court have been held beginning on the second Monday in January the first Monday in April, and the first Tuesday in September of each year.[5]

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1. 10 Stat. 286.
2. Kansas State Historical Society, Archives Department, "Executive Minutes. Minutes Recorded in the Governor's office During the Administration of Governor Andrew H. Reeder," original manuscript, pp. 46, 47.
3. Terr. L. 1855, ch. 91, sec. 2.
4. Const., art. 3, secs. 5, 14, 18.
5. L. 1885, ch. 111, sec. 1; L. 1897, ch. 112, sec. 1; G.S. 1935, ch. 20, sec. 1003.

District Court - Structural Organization and Evolution

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Owing to the amount of work confronting the district court at the time Shawnee County in itself was made to constitute the Third district in 1885 the same legislature created the superior court of Shawnee County and vested it with jurisdiction concurrent with the district court in all civil matters except divorce and with authority to determine any action transferred to it from the district court according to law. This court expired by limitation of the statute in 1887.[1] In 1891 the circuit court of Shawnee County was created to relieve the burden on the district court, and was abolished in 1895. It had the same jurisdiction as the superior court before it.[2] Creation in 1899 of the court of Topeka in City of Topeka Township with the same jurisdiction as justices of the peace affords the district court relief from a mass of work involved in smaller civil cases and criminal misdemeanor cases.[3]

In 1911 the legislature enacted a law providing that in all counties with not less than 60,000 nor more than 100,000 inhabitants, which included Shawnee County, the district court should consist of two divisions to be known as division No. 1 and division No. 2, respectively, each having a judge. In 1925 another act was passed for the benefit of Shawnee County providing for three divisions of the district court, with a judge for each.[4] The county commissioners are required to furnish courtrooms, supplies, and equipment for the extra divisions the same as for the first, and all laws pertaining to district courts in general are applicable to those with two or more divisions.[5]

Judge. The Justices of the Territorial Supreme Court, each of whom held terms of the district court in their respective districts, were appointed by the President with the approval of the Senate for terms of 4 years each.[6] The State Constitution provides that in each judicial district "there shall be elected by the electors thereof a district judge who shall hold his office for the term of 4 years."[7]

No specific legal requirements for qualifications for the position of judge of the district court existed prior to 1915, except the constitutional provision that they must not receive any fees or perquisites,

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1. L. 1885, ch. 140, sec. 1; see Superior Court, p. 340.
2. L. 1891, ch. 83, sec. 1; L. 1895, ch. 104, sec. 1; see Circuit Court, p. 343.
3. L. 1899, ch. 129, secs. 1,2; G.S. 1935, ch. 20, secs. 1901, 1902, see Court of Topeka, p. 395.
4. L. 1911, ch. 151, secs. 1, 2; L. 1925, ch. 149, sec. 2; G.S. 1935, ch. 20, sec. 501.
5. L. 1920, ch. 31, secs. 10, 11 (Special Session); L. 1921, ch. 173, sec. 2; G.S. 1935, ch. 20, secs. 510, 511.
6. 10 Stat. 286.
7. Const., art. 3, sec. 5.

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nor hold any other office of profit or trust under authority of the laws of the State, nor practice law in any of the courts of the State during their continuance in office.[1] The law of 1915 as amended in 1917, however, requires that a candidate for the office must be at least 30 years old and regularly admitted to practice law in the State and must have been actively and continuously engaged in such practice or have served as a judge in a court of record for at least 4 years prior to the date of the general election at which he is to be voted for.[2] Under a general law applying to all officers elected or appointed under any law of the State, he must take an oath to uphold the Constitutions of the United States and the State of Kansas, and to faithfully discharge the duties of his office.[3] No surety bond is required.

A judge of the district court may be removed from office by impeachment, two-thirds of the members of the senate concurring, or by a vote of two-thirds of the members of each house of the legislature, but the Constitution provides that "no such removal shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice and opportunity to be heard."[4] The Constitution provides that in case of a vacancy the Governor shall appoint a district judge to hold office until the next regular election and that provision of law should be made for a judge pro tempore when the judge is absent or otherwise disqualified or unable to sit in a case.[5]

The statutes provide for selection of a judge pro tempore when the regular judge is sick or absent before all the cases pending at the commencement of the term have been reached for trial, or when he is interested in the case before him, or the subject matter thereof, or has been of counsel in the case, or is related to either of the parties. The judge pro tempore may be selected by ballot by members of the bar under the direction of the judge, or in his absence, that of the clerk of the court. Any member of the bar or the judge of any other judicial district may be thus selected, and when so selected he has all the powers and authority of the regular judge. The judge protempore must take the same oath as the regular judge and the oath and the minutes of the proceedings for his selection must be recorded in the journal.[6] It is the duty of the Chief Justice of the Supreme Court to appoint a

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1. Const., art. 3, sec. 13.
2. L. 1915, ch. 208, sec. 1; L. 1917, ch. 153, sec. 1; G.S. 1935, ch. 20, sec. 105.
3. G.S. 1868, ch. 72, sec. 6; G.S. 1935, ch. 54, sec. 106.
4. Const., art. 2, sec. 28; art. 3, sec. 15.
5. Ibid., art. 3, secs. 11, 20.
6. L. 1861, ch. 22, sec. 6; G.S. 1868, ch. 28, secs. 4-8; L. 1901, ch. 151, sec. 1; L. 1911, ch. 155, sec. 1; L. 1933, ch. 168, secs. 1, 2; G.S. 1935, ch. 20, secs. 305-310.

judge pro tempore of any district court to hold a term of court or try a specific case when no selection has been made by the bar and certification of the facts have been made to the Supreme Court by the clerk of the district court or any attorney of record.[1]

In Shawnee County, which has three divisions of the district court and three judges, the judge who is senior in continuous service is designated by law as presiding judge. In event of the absence or disqualification of the judge of one division the judge of either of the other divisions may hold court in his place. The judges must make "reasonable and uniform rules and orders for the assignment of actions or proceedings for trial among the several divisions of the court" and for the direction of business and hearing of motions, not inconsistent with the civil code. Change of venue for cause and upon grounds provided by law may be taken from one division to another. The judge before whom any trial is had is vested with "full power and authority as if he were the sole judge of said district court," but any order, decree, or judgment of the court may be enforced by any of the judges. All powers of appointment delegated by law to a judge of the district court are exercised jointly by the three judges, but appointments of appraisers, receivers, and referees are made by the judge of the division to which the specific case is assigned.[2]

The Justices of the Supreme Court during the Territorial period received $2,000 per year salary.[3] The Constitution provides that judges of the district court shall receive such salary as may be provided by law. Since 1921 the salary has been fixed at $4,000 per year, payable monthly.[4] A judge pro tempore, if not already holding the office of district judge, receives $10 per day while actually holding court, payable by the county in which the term is held.[5] Judges also are paid quarterly their actual and necessary expenses while engaged in performance of their duties away from their places of residence.[6]

Clerk. The Organic Act provided that the judge of each district court in the Territory should appoint his own clerk, who should also be the register in chancery and keep his office at the place where court was held. The Territorial assembly of 1859, which created the office

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1. L. 1935, ch. 149, sec. 1; G.S. 1935, ch. 20, sec. 311a.
2. L. 1920, ch. 31, secs. 1-6 (Special Session); L. 1923, ch. 124, sec. 1; L. 1925, ch. 149, sec. 2; G.S. 1935, ch. 20, secs. 501-506.
3. 10 Stat. 288.
4. Const., art. 3, sec. 13; L. 1920, ch. 30, secs. 1, 2 (Special Session); R.S. 1923, ch. 75, sec. 3120; G.S. 1935, ch. 75, sec. 3120.
5. L. 1911, ch. 155, sec. 1; L. 1933, ch. 168, sec. 2; G.S. 1935, ch. 20, sec. 309.
6. L. 1917, ch. 155, sec. 1; L. 1919, ch. 176, sec. 1; L. 1921, ch. 170, sec. 1; L. 1923, ch. 122, sec. 1; G.S. 1935, ch. 75, sec. 3121.

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of county clerk as it exists today, specified that the county clerk should be ex officio clerk of the district court for his county. The State Constitution provides that "there shall be elected in each organized county a clerk of the district court who shall hold his office 2 years and whose duties shall be prescribed by law."[1]

The statutes do not prescribe any particular qualifications for the clerk, but specify that before entering upon the duties of his office he shall execute to the State and file with the county clerk a bond in a penal sum not less than $2,000 nor more than $60,000, to be approved by the county commissioners and conditioned that he will faithfully perform the duties of his office and pay over to the proper persons all money received by him in his official capacity.[2] He also must subscribe an oath of office and file with his bond.[3]

A clerk of the court may be removed for cause by civil action instituted in the district court in the manner prescribed in the code of civil procedure.[4] In the event of a vacancy caused by death, resignation, or otherwise, the judge of the district is required to appoint a clerk to hold office until the next general election. The clerk may appoint in writing one or more deputies, which appointment must be entered on the records of the court. He is liable on his bond for the default, neglect, or misconduct of his deputies and may take from them surety bonds in such sums as he may deem necessary to secure faithful discharge of their duties. Each deputy must take the same oath of office as that taken by the clerk.[5]

Salaries of clerks of the district courts vary from $600 to $3,600 per year, depending on the population of the county. The clerk of the Shawnee County district court receives $3,000 per year; one deputy, $1,800 per year; a second deputy, $1,620 per year, and two other deputies $1,320 per year each. The county commissioners may allow additional clerical hire if they deem it necessary.[6]

Shorthand Reporter. The judge of each district court in the State and the judge of each division in counties consisting of more than one division is required to appoint a shorthand reporter, who is sworn as an officer of the court and holds office at the pleasure of the judge.

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1. 10 Stat. 286; Terr. L. 1859, ch. 42, secs. 39, 40; Const., art. 3, sec. 7.
2. L. 1861, ch. 24, sec. 1; G.S. 1868, ch. 28, sec. 147; L. 1897, ch. 96, sec. 3; G.S. 1935, ch. 19, sec. 1301.
3. L. 1861, ch. 24, sec. 1; G.S. 1868, ch. 25, sec. 173; G.S. 1935, ch. 19, sec. 2602.
4. G.S. 1868, ch. 25, sec. 180; G.S. 1935, ch. 19, sec. 2609.
5. L. 1861, ch. 24, secs. 3, 4, 6; G.S. 1868, ch. 25, secs. 149, 150, 152; G.S. 1935, ch. 19, secs. 1303, 1304, 1306.
6. L. 1937, ch. 233, secs. 11, 16.

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No one related by blood to the presiding judge of the court may be appointed. Since 1885 the statutes provide that no person may be thus appointed without first having been examined as to his qualifications by a committee composed of three members of the bar, to be appointed by the judge. The candidate must write, in the presence of the committee, at the rate of 150 words per minute for at least 5 consecutive minutes upon matter not previously written or known to him. If he passes the examination satisfactorily the committee must give him a certificate to that effect, signed by a majority of their number and which must be filed among the court records. Before entering upon his duties the shorthand reporter must take an official oath. No official reporter may appear as counselor in any case pending in his court.[1]

The official court reporter is paid a salary of $2,600 per year in monthly installments from the State Treasury. In Shawnee County the reporter for each division also is deputy clerk for that division and under the direction of the clerk of the court performs the duties of docket clerk for which he receives additional compensation of $480 per year. Shorthand reporters are allowed their necessary and actual expenses incurred while in performance of their duties away from their homes, but not to exceed $200 in any 1 year.[2]

Bailiff. It always has been the duty of the sheriff to attend upon the courts of record in his county.[3] The legislature of 1905 first provided that the sheriff of each county having more than 70,000 inhabitants should appoint a bailiff for the district court of his county, whose duty it was to attend the sessions of the court and perform such duties as the judge thereof might prescribe.[4] This law was not then applicable to Shawnee County but in 1911 it was restricted to counties of more than 90,000 population and another law enacted providing that in counties of from 60,000 to 90,000 population, which included Shawnee County, the judge of each division of the district court should appoint a bailiff, and this provision has been retained in subsequent laws. It is the bailiff's duty to perform all acts imposed by law upon bailiffs and deputy sheriffs and to assist the sheriff when not attending court. The bailiff receives a salary of $1,200 per year payable monthly

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1. L. 1879, ch. 174, secs. 1-4; L. 1885, ch. 189, secs. 1-4; L. 1921, ch. 171, secs. 1-3; G.S. 1935, ch. 20, secs. 901-903, 905.
2. L. 1879, ch. 174, secs. 3, 4; L. 1885, ch. 189, sec. 5; L. 1897, ch. 131, sec. 18; L. 1899, ch. 141, sec. 1; L. 1911, ch. 151, sec. 9; L. 1917, ch. 156, sec. 1; L. 1919, ch. 177, sec. 1; L. 1921, ch. 171, sec. 4; L. 1923, ch. 123, sec. 1; L. 1929, ch. 162, sec. 1; L. 1933, ch. 287, sec. 9; L. 1935, ch. 150, sec. 1; G.S. 1935, ch. 20, secs. 904, 906; L. 1937, ch. 329, sec. 3.
3. Terr. L. 1855, ch. 150, sec. 4; Terr. L. 1860, ch. 28, sec. 75; G.S. 1868, ch. 25, sec. 106; G.S. 1935, ch. 19, sec. 812.
4. L. 1905, ch. 226, sec. 2.

by the county. Each judge also may appoint a jury bailiff at a salary of $600 per year.[1] Since 1927 district court judges generally have had authority to appoint bailiffs for their respective courts, to hold office at the judge's pleasure and receive $3 a day salary for each day's actual attendance on court.[2]

Jurisdiction

Civil Cases. The Organic Act provided that the district courts of the Territory "shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States . . . . and the first 6 days of every term of said courts, or so much thereof as may be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws." The act also specified that the district courts should have chancery as well as common law jurisdiction, but in other respects the fixing of their jurisdiction was left to the legislative assembly.[3] In civil matters the first assembly gave them jurisdiction "in all cases of equity whatsoever, and in all civil actions or suits within their respective districts where the amount in controversy shall exceed $100, except in such cases where concurrent jurisdiction may be given by law to some other court."[4] The common law of England was adopted as the rule of action and decision in the Territory except when it should be repugnant to the Constitution of the United States and the Organic Act.[5]

However, a new code of civil procedure was enacted by the assembly of 1858 and has continued with little fundamental change to the present day. This code provides that "the rule of the common law that statutes in derogation thereof shall be strictly construed has no application to this code. Its provisions and all proceedings under it shall be liberally construed with a view to promote its object and assist the parties in obtaining justice." The code decreed that "the distinction between actions at law and suits in equity and the forms of all such actions and suits heretofore existing are abolished, and in their place there shall be hereafter but one form of action, which shall be called a civil action."[6]

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1. L. 1911, ch. 151, sec. 10; L. 1920, ch. 33, sec. 1 (Special Session); G.S. 1935, ch. 20, sec. 508.
2. L. 1927, ch. 177, secs. 1, 2; G.S. 1935, ch. 20, sec. 312.
3. 10 Stat. 286.
4. Terr. L. 1855, ch. 42, sec. 1.
5. Ibid., ch. 96, sec. 1.
6. Terr. L. 1858, ch. 11, secs. 2, 3; Terr. L. 1859, ch. 25, secs. 2, 10, 11; G.S. 1868, ch. 80, secs. 2, 10, 11; L. 1909, ch. 182, secs. 2, 10; G.S. 1935, ch. 60, secs. 102, 201.

The State Constitution left it entirely to the legislature to fix the jurisdiction of the district courts except to specify that power to grant divorces, which during the Territorial period could be exercised by any court of chancery, should be vested exclusively in the district courts, subject to regulation by law.[1] The statutes provide that the district court "shall be a court of record and shall have general original jurisdiction of all matters, both civil and criminal (not otherwise provided by law), and jurisdiction in cases of appeal and error from all inferior courts and tribunals, and shall have a general supervision and control of all such inferior courts and tribunals to prevent and correct errors and abuse."[2]

District judges have such powers in vacation or at chambers as may be prescribed by law. In vacation they also have power to hear and determine motions to vacate and modify injunctions, discharge attachments, and vacate orders of arrest; to grant or to vacate all necessary interlocutory orders; to punish for contempt in open court or at chambers, and to assign attorneys for prisoners unable to employ counsel.[3]

The statutes specify that the clerk of the district court shall perform all duties that may be imposed upon him by law or the rules and practice of the court and that he "shall safely keep and preserve all papers, process, pleadings, and awards that may be filed or by law placed" in his office.[4] The civil code requires the clerk of every court to "perform the duties conferred and imposed upon him by the provisions of the civil code, by other statutes, and by the common law. In the performance of his duties he shall be under the direction of his court." The clerk must enter on the journal the proceedings of the court each day, together with all orders of the judge in vacation or at chambers, and all judgments entered on confession or default.[5]

It is the duty of the official reporter to attend all sessions of his court and when required by the judge to do so, to take full stenographic notes of the evidence and oral proceedings in such cases as the judge may direct. All such notes and all exhibits offered in evidence must be filed with the clerk of the court and become records of the court. Upon the request of any person interested, and the payment of a prescribed fee, the reporter is required to make a transcript of all

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1. Const., art. 2, sec. 18; art. 3, sec. 6.
2. L. 1861, ch. 22, sec. 1; G.S. 1868, ch. 28, sec. 1; G.S. 1935, ch. 20, sec. 301.
3. L. 1861, ch. 22, secs. 2, 3; G.S. 1868, ch. 28, sec. 2; G.S. 1935, ch. 20, sec. 302.
4. L. 1861, ch. 24, sec. 2; G.S. 1868, ch. 25, sec. 148; G.S. 1935, ch. 19, sec. 1302.
5. Terr. L. 1858, ch. 11, sec. 588; Terr. L. 1859, ch. 25, sec. 600; G.S. 1868, ch. 80, secs. 705, 714; L. 1909, ch. 182, secs. 731, 739; G.S. 1935, ch. 60, secs. 3803, 3811.

or any part of the testimony or proceedings so taken. The county commissioners must furnish him with such supplies, stationery, and equipment as may be necessary. No official reporter may appear or advise as a counselor in any case pending in his court.[1]

A civil action may be commenced in the district court by filing a petition with the clerk and causing a summons to be issued thereon. The clerk must enter all actions on the appearance docket as soon as they are filed and also all subsequent pleadings, process, orders, and judgments in the case. All writs and process and orders for provisional remedies are issued by the clerk upon the filing with him of a praecipe demanding them. It is his duty to file all papers delivered to him for that purpose in every action, endorsing upon each paper the day of filing and upon every order for a provisional remedy and upon every undertaking given under it, the day of its return to his office by the officer serving it. The papers in each case he must keep together in a wrapper labeled with the title of the cause.[2] The summons must be under the seal of the court, dated the day it is issued and directed to the sheriff, commanding him to notify the defendant that he has been sued and that the petition will be taken as true and judgment rendered accordingly unless answer is made by a certain time.[3]

Before the beginning of each term of court it is the duty of the clerk to make up the trial docket under direction of the court, on which assignments of causes for trial on particular days must be made "so as to give reasonable notice to the parties of the days on which such causes are to be heard." Since 1858 it has been the clerk's duty to make a copy of the trial docket, commonly called the "bar docket," for the use of attorneys before the first day of the opening of the term.[4] In 1915, however, a law was enacted authorizing the clerk of the district court in all counties to print and distribute a bar docket to the attorneys at least 10 days before the opening of the term, a fee of 10 cents being taxed in each case to defray the cost. The act does not apply to counties in which is printed a daily legal newspaper recognized by the court and bar as an official court publication.[5] A daily legal newspaper is printed in Shawnee County.

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1. L. 1879, ch. 174, sec. 4; L. 1885, ch. 189, sec. 4; L. 1921, ch. 171, sec. 3; G.S. 1935, ch. 20, sec. 903.

2. Terr. L. 1858, ch. 11, secs. 305, 583-586; Terr. L. 1859, ch. 25, secs. 315, 595-598; G.S. 1868, ch. 80, secs. 704, 709-712; L. 1909, ch. 182, secs. 730, 735-737; G.S. 1935, ch. 60, secs. 3802, 3807-3809.

3. Terr. L. 1858, ch. 11, sec. 57; Terr. L. 1859, ch. 25, sec. 65; G.S. 1868, ch. 80, sec. 59; L. 1909, ch. 182, sec. 60; G.S. 1935, ch. 60, sec. 2501.

4. Terr. L. 1858, ch. 11, secs. 306, 309; Terr. L. 1859, ch. 25, secs. 316, 319; G.S. 1868, ch. 80, secs. 313, 318; L. 1870, ch. 87, sec. 8; L. 1871, ch. 116, sec. 3; L. 1909, ch. 182, secs. 311, 316; G.S. 1935, ch. 60, secs. 2930, 2935.

5. L. 1915, ch. 193, sec. 1; G.S. 1935, ch. 19, sec. 1307.

In actions to enforce a mortgage, deed of trust, or other lien or charges, the court must render judgment for the amount due, and for the sale of the property and application of the proceeds to the debt. The clerk must enter all judgments and orders of the court on the journal, and clearly specify the relief granted. Since adoption of the civil code in 1858 it has been his duty, when ordered by the court, to make a complete record of every cause as soon as it is finally determined, which is subscribed by the judge at the next term. This record is made up of the petitions, process, and returns, and all pleadings, reports, verdicts, orders, and judgments subsequent thereto, though if any of the items be voluminous, the court may order them abbreviated, or omitted entirely. If the trial was by jury the clerk must enter the judgment in conformity with the verdict.[1] This provision, however, has fallen into disuse. The clerk must keep the judgment docket in the form of an index with the names of the judgment debtors in alphabetical order, and enter a statement of each judgment in the order of its rendition, showing the names of the parties, amount and nature of the judgment, date of rendition, and the costs. If there are several judgment debtors the entry must be repeated under each name.[2] Judgments rendered by United States courts and other courts of record in the State constitute liens on real estate owned by the judgment debtor within the county in which the judgment is rendered. An attested copy of the journal entry of any judgment and a statement of the costs taxed against the debtor may be filed with the clerk of the district court of any county and become a lien upon real estate owned by the debtor within that county. Such judgments must be entered by the clerk on the appearance and judgment dockets in the same manner as if rendered in the court of which he is clerk.[3] Transcripts of judgments rendered by justices of the peace also may be filed with the clerk of the district court of the county in which rendered and when entered on the appearance and judgment dockets by the clerk they have the same effect as if rendered in the district court.[4]

Executions are deemed process of the court. They are issued by the clerk and directed to the sheriff. Lands, tenements, and chattels not exempt by law are subject to payment of debts and may be taken on

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1. Terr. L. 1858, ch. 11, secs. 374, 382, 387-390; Terr. L. 1859, ch. 25, secs. 384, 394, 399-402; G.S. 1868, ch. 80, secs. 399, 409, 414-417; L. 1870, ch. 87, sec. 13; L. 1909, ch. 182, secs. 397, 407, 412-414; G.S. 1935, ch. 60, secs. 3107, 3117, 3122-3124.

2. G.S. 1868, ch. 80, sec. 706; L. 1909, ch. 182, sec. 732; G.S. 1935, ch. 60, sec. 3804.

3. G.S. 1868, ch. 80, sec. 419; L. 1907, ch. 260, sec. 1; L. 1909, ch. 182, sec. 416; G.S. 1935, ch. 60, sec. 3126.

4. Terr. L. 1858, ch. 11, sec. 489; Terr. L. 1859, ch. 25, sec. 501; G.S. 1868, ch. 80, sec. 518; L. 1909, ch. 182, sec. 517; G.S. 1935, ch. 60, sec. 3480.

execution and sold.[1] The sheriff must make return to the court of all sales and the court, if it finds the proceedings regular and in conformity with law and equity, may cause the clerk to enter its confirmation on the journal and order the sheriff to give the purchaser a certificate of purchase, or if the property is not subject to redemption, to give him a deed.[2] At any time within 18 months the defendant owner may redeem the property. For the first 12 months his right to redeem is exclusive. If the defendant owner fails to do so, any creditor whose claim is a lien on the property may redeem it within 15 months. The mode of redemption is by paying the money into the office of the clerk of the district court for the use of the persons entitled to it. The clerk must give the person redeeming a receipt for his money and enter a minute of such redemption in a book kept for that purpose. The last creditor redeeming before the expiration of the 15 months is entitled to an assignment of the certificate of purchase.[3]

Whenever a real estate mortgage is foreclosed by judgment of the district court and the property sold, or the judgment satisfied without sale, it is the duty of the clerk of the court to enter on the margin of the mortgage record in the office of the register of deeds a statement of the judgment of foreclosure and the volume and page of the court journal where the judgment is recorded.[4] When no execution or order of sale has been issued within 5 years from such judgment, nor any proceedings instituted to revive the judgment, and when no appeal has been taken within 6 years, it is the duty of the clerk, upon application of any parties in interest and the payment of a 50-cent fee, to enter a statement to that effect on the margin of the mortgage record, which statement operates as a cancellation and release of the mortgage.[5]

When a personal property tax warrant is returned unsatisfied to the county treasurer by the sheriff it is the treasurer's duty to file with the clerk of the district court an abstract of the amount of taxes, penalties, and costs, together with the last tax warrant. It is the duty of the clerk to enter the amount on his judgment docket, where it becomes a lien upon any real estate owned by the delinquent taxpayer. The clerk of the court thereupon may issue a tax warrant which has the

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1. Terr. L. 1858, ch. 11, secs. 418, 420; Terr. L. 1859, ch. 25, secs. 430, 432; G.S. 1868, ch. 80, secs. 441, 443; L. 1909, ch. 182, secs. 438, 440; G.S. 1935, ch. 60, secs. 3401, 3403.
2. Terr. L. 1858, ch. 11, secs. 437, 438; Terr. L. 1859, ch. 25, secs. 449, 450; G.S. 1868, ch. 80, secs. 458, 459; L. 1893, ch. 109, sec. 1, 26; L. 1909, ch. 182, secs. 475, 500; G.S. 1935, ch. 60, secs. 3438, 3463.
3. L. 1893, ch. 109, secs. 2, 4, 14, 15; L. 1909, ch. 182, secs. 476-478, 488, 489; L. 1923, ch. 163, sec. 1; L. 1929, ch. 212, sec. 1; G.S. 1935, ch. 60, secs. 3439-3441, 3451, 3452.
4. L. 1885, ch. 145, secs. 1, 2; R.S. 1923, ch. 67, sec. 313; G.S. 1935, ch. 67, sec. 313.
5. L. 1913, ch. 230, sec. 1; G.S. 1935, ch. 67, sec. 314.

same effect as an execution and the property may be sold without appraisement.[1] When land sold and bid in by the county for delinquent taxes remains unredeemed and the certificate of sale untransferred for 3 1/4 years it is the duty of the county attorney, when so ordered by the county commissioners, to institute an action in the district court against the supposed owner or owners. The court may find the amount of taxes and penalties due to be a first and prior lien on the property and order that the property be sold. After 10 days from the date of judgment the clerk must issue to the sheriff an order of sale describing each parcel of land and the amount of the lien charged to it. The sheriff makes a return of the sale, and confirmation is made by the court as in the case of other sales under execution. The sheriff gives the purchaser a deed to the property, acknowledged by the clerk of the court.[2]

If a person liable to pay a State income tax has not paid the tax or any portion thereof within 60 days after it becomes due, the State Tax Commission may issue a warrant directed to the sheriff of the county in which the taxpayer resides, commanding him to levy upon the property of the taxpayer for the amount. Within 5 days after receiving the warrant the sheriff must make a copy and file it with the clerk of the district court, whose duty it is to enter it on the judgment docket, where it remains a lien against any real estate owned by the taxpayer until the amount is satisfied.[3]

Any person claiming a lien on any real property by reason of work performed or materials furnished for the owner thereof may file with the clerk of the district court of the county in which the property is situated a statement setting forth the amount and nature of the claim. This statement the clerk must immediately enter on the "mechanics' lien docket." Such claims are assignable. When an assignment is made it may be entered on the same page of the lien docket as that containing the record of the lien, and signed by the claimant and attested by the clerk of the court; or it may be made by a separate instrument in writing.[4] In enacting the workmen's compensation law in 1911 the legislature gave the district court jurisdiction over arbitration matters

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1. L. 1876, ch. 34, sec. 96; G.S. 1935, ch. 79, sec. 2105.

2. L. 1877, ch. 39, secs. 1-6; L. 1901, ch. 392, secs. 1, 4; L. 1931, ch. 306, sec. 1; L. 1933, ch. 312, sec. 11; G.S. 1935, ch. 79, secs. 2801, 2804.

3. L. 1933, ch. 320, sec. 35; G.S. 1935, ch. 79, sec. 3235.

4. Terr. L. 1855, ch. 109, secs. 2, 6; Terr. L. 1857, p. 72; Terr. L. 1859, ch. 90, sec. 2; Terr. L. 1860, ch. 88, sec. 7; L. 1862, ch. 137, secs. 1-4, 9, 19; L. 1867, ch. 85, sec. 1; G.S. 1868, ch. 80, secs. 630, 632, 633; L. 1870, ch. 87, secs. 21, 23, 24; L. 1871, ch. 97, secs. 1-3; L. 1872, ch. 141, secs. 1-3; L. 1889, ch. 168, secs. 1-4; L. 1891, ch. 146, sec. 1; L. 1909, ch. 182, secs. 649-652; L. 1919, ch. 235, secs. 1, 2; R.S. 1923, ch. 60, sec. 1401; G.S. 1935, ch. 60, secs. 1401-1404.

and provided that receipts for final payments of awards and releases of employers from liability be filed in the office of the clerk. The clerk was required to accept, receipt for, and file every award, modification agreement, final receipt, and release so offered without fee and record and index them in a book provided for that purpose. By legislative enactment in 1927, however, jurisdiction was given entirely to the State Public Service Commission.[1]

The plaintiff in a civil action for the recovery of money or in a suit for alimony may have an attachment against the property of the defendant under certain conditions. An order of attachment is issued by the clerk of the court upon the filing with him by the plaintiff of an affidavit setting forth the claim and a bond approved by the clerk in double the amount of the claim, conditioned that he will pay the defendant any damages sustained by reason of the attachment if the order is wrongfully obtained. Orders of attachment are executed by the sheriff, who takes the property into his actual custody; or, if it is real property, posts a copy of the order thereon. He must swear two householders as appraisers and make an inventory and appraisement of the property attached, which he signs and returns to the clerk with the order. Should the defendant execute a bond to the plaintiff in double the amount of the claim, conditioned that the property or its appraised value will be forthcoming to answer the judgment of the court in the action, the sheriff must redeliver to him the property.[2]

Any creditor is entitled to proceed by garnishment in the district court against any person having in his possession any property of, or who may be indebted to the creditor's debtor. In such cases the plaintiff must file with the clerk of the court an affidavit setting forth the facts and execute a bond in not exceeding double the amount of the claim, to be approved by the clerk. The clerk then issues a summons for the defendant directed to the sheriff or any other person not a party to the action.[3]

The plaintiff in an action to recover possession of specific personal property may, at the commencement of the suit or any time before

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1. L. 1911, ch. 218, secs. 24-29, 31, 33-36; L. 1917, ch. 226, secs. 11-20; L. 1927, ch. 232, secs. 22-32, 41, 63; G.S. 1935, ch. 44, secs. 522-534.

2. Terr. L. 1858, ch. 11, secs. 191-194, 198, 199; Terr. L. 1859, ch. 25, secs. 199-202, 206-208; L. 1866, ch. 76, sec. 1; G.S. 1868, ch. 80, secs. 190-193, 197-199; L. 1870, ch. 87, secs. 4, 5; L. 1909, ch. 182, secs. 190-193, 197, 198, 200; L. 1911, ch. 231, sec. 1; G.S. 1935, ch. 60, secs. 901-903, 905, 909, 912.

3. G.S. 1868, ch. 80, sec. 200; L. 1889, ch. 151, secs. 1-3; L. 1909, ch. 182, secs. 228-231; R.S. 1923, ch. 60, sec. 943; L. 1933, ch. 215, sec. 1; L. 1933, ch. 82, sec. 1; ch. 83, sec. 1 (Special Session); G.S. 1935, ch. 60, secs. 940-943.

answer day, claim immediate delivery of such property by replevin. When he files with the clerk of the court a proper affidavit and executes a bond in a sum not less than double the value of the property claimed, the clerk must issue to the sheriff an order for delivery of the property to the plaintiff. The defendant then may execute a redelivery bond in a sum not less than double the value of the property, guaranteeing delivery to the plaintiff in event the court so decrees, and retain possession pending the court's final order.[1]

Before any restraining order or order of injunction can become operative the applicant must give security in such sum as the court may deem proper, conditioned for the payment of such costs and damages as may be incurred by any party who may sustain them if it appears upon final determination of the case that such injunction ought not to have been granted.[2]

In vacation the clerk of the court may appoint the appraisers of property voluntarily assigned by debtors for the benefit of creditors, and must file their oaths and appraisements, and also approve, file, and record the bond of the assignee.[3]

Writs of habeas corpus granted by the court and other process in connection therewith are issued by the clerk, and all except the summons must be sealed with the seal of the court.[4]

Before the clerk may issue a summons in any civil action filed in his court, he must take from the plaintiff a bond conditioned for payment of costs in event the action be decided against the plaintiff, or in event the costs cannot be collected from the defendant. This bond must be in such sum as in the opinion of the clerk will be sufficient to cover the costs, but in lieu thereof the plaintiff, if a resident of the State, may make a cash deposit of $15. If, however, the plaintiff by reason of poverty is unable to give security for the costs, but has a just cause of action and is a resident of the State, and files an affidavit with the clerk to that effect, no bond is required. Nor is

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1. Terr. L. 1858, ch. 11, secs. 174-179, 181; Terr. L. 1859, ch. 25, secs. 184-189, 191; G.S. 1868, ch. 80, secs. 176-182; L. 1909, ch. 182, secs. 176-182; G.S. 1935, ch. 60, secs. 1001-1007.

2. Terr. L. 1858, ch. 11, sec. 242; Terr. L. 1859, ch. 25, sec. 251; G.S. 1868, ch. 80, sec. 242; L. 1909, ch. 182, sec. 254; G.S. 1935, ch. 60, sec. 1110.

3. G.S. 1868, ch. 6, secs. 4-6, 9-12; G.S. 1935, ch. 60, secs. 1304-1306, 1309-1312.

4. G.S. 1868, ch. 80, sec. 682; L. 1909, ch. 182, sec. 710; G.S. 1935, ch. 60, sec. 2224.

any bond for costs required where the plaintiff is the State, or any county or political subdivision thereof, or any board or officer thereof acting in official capacity.[1]

The clerk of the court must require any person offered as surety to make affidavit of his qualifications, which affidavit must be endorsed upon or attached to the undertaking. The surety must be a resident of the State and worth double the sum to be secured, above all exemptions, debts, and liabilities.[2]

Contractors or owners of property making improvements or repairs for which labor is to be employed and materials furnished may execute and file with the clerk of the district court a bond to be approved by the clerk in a sum not less than the contract price, conditioned for the payment of all claims which might be the basis of liens against the property. When the bond is so filed on lien may attach and liens which already have been filed must be discharged.[3] When any public official under the laws of the State contracts for any public building, construction work, or other repairs or improvements costing more than $100 he must take from the contractor a bond conditioned for the payment of all indebtedness incurred for labor and materials, and thereafter no lien may attach under the act. The bond must be approved by the clerk of the district court and filed by him in his office.[4]

Criminal cases. In criminal matters the first Territorial assembly gave the district courts "original and exclusive jurisdiction in all cases of crime and misdemeanor whatsoever committed in violation of the laws of this Territory."[5] Exclusive original jurisdiction in all cases of felony and of all offenses not declared expressly to be cognizable before some other court or officer, has been vested in the district courts from the beginning.[6]

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1. Terr. L. 1858, ch. 11, sec. 543; Terr. L. 1859, ch. 25, sec. 555; L. 1862, ch. 76, sec. 1; G.S. 1868, ch. 80, sec. 581; L. 1875, ch. 121, sec. 1; L. 1901, ch. 276, sec. 1; L. 1909, ch. 182, sec. 606; G.S. 1935, ch. 60, sec. 2401.
2. Terr. L. 1858, ch. 11, secs. 599, 600; Terr. L. 1859, ch. 25, secs. 610, 611; G.S. 1868, ch. 80, secs. 723, 724; L. 1909, ch. 182, secs. 748, 749; G.S. 1935, ch. 60, secs. 3820, 3821.
3. L. 1889, ch. 168, sec. 13; L. 1909, ch. 182, sec. 660; ch. 183, sec. 1; G.S. 1935, ch. 60, sec. 1412.
4. L. 1887, ch. 179, secs. 1, 2; L. 1909, ch. 182, secs. 661, 662; L. 1913, ch. 242, sec. 1; L. 1925, ch. 198, sec. 1; L. 1931, ch. 227, sec. 1; G.S. 1935, ch. 60, secs. 1413, 1414.
5. Terr. L. 1855, ch. 42, sec. 1.
6. Terr. L. 1855, ch. 54, sec. 33; Terr. L. 1859, ch. 28, sec. 209; G.S. 1868, ch. 31, sec. 308; G.S. 1935, ch. 21, sec. 126.

Justices of the peace have jurisdiction coextensive with their respective counties in all criminal cases wherein the fine cannot exceed $500 and the imprisonment cannot exceed 1 year, except as otherwise provided by law.[1] In Shawnee County it has been the custom to try such cases in the Court of Topeka since its creation in 1899. The law provides that no information shall be filed against any person for any felony until such person shall have had a preliminary examination before a justice of the peace or other examining magistrate.[2] If it appears to the magistrate that no offense has been committed the prisoner must be discharged, but if it appears that an offense has been committed and that there is probable cause to believe the prisoner guilty, the examining magistrate must commit him to bail or jail and certify the proceedings and recognizance to the clerk of the court before which the prisoner is bound to appear.[3] In Shawnee County such preliminary examinations in felony cases also are held in the Court of Topeka.

Informations in criminal cases may be filed in term time or in vacation by the county attorney,[4] or indictments may be returned by grand juries.[5] Every indictment must be recorded by the clerk in a book kept for that purpose and the judge must compare the record with the original and certify to its correctness. If the original is lost the prosecution may proceed upon a copy taken from the record and certified by the clerk.[6] When an indictment is found or information filed, the court may direct the clerk to issue a warrant directed to the sheriff, and at the same time the clerk must issue summonses for the witnesses.[7]

All offenses are bailable by sufficient sureties except murder when the proof is evident or the presumption great. The judge of the court fixes the amount of bond but if he is not in the county the clerk may fix it. Any judge, justice of the peace, sheriff, or other officer taking a recognizance must immediately certify it to the clerk of the court,

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1. L. 1867, ch. 49, sec. 1; G.S. 1868, ch. 83, sec. 1; G.S. 1935, ch. 63, sec. 101.
2. L. 1864, ch. 64, sec. 8; L. 1867, ch. 77, sec. 3; G.S. 1868, ch. 82, sec. 69; L. 1871, ch. 117, sec. 2; L. 1887, ch. 178, sec. 2; G.S. 1935, ch. 62, sec. 805.
3. Terr. L. 1855, ch. 129, art. 2, secs. 3, 4, 18, 26, 27; Terr. L. 1858, ch. 12, art. 3, secs. 16, 18, 25; Terr. L. 1859, ch. 27, secs. 44, 46, 53; G.S. 1868, ch. 82, secs. 52, 54, 64; G.S. 1935, ch. 62, secs. 618, 620, 630.
4. L. 1864, ch. 64, sec. 2; L. 1867, ch. 77, sec. 1; G.S. 1868, ch. 82, sec. 67; L. 1887, ch. 178, sec. 1; G.S. 1935, ch. 62, sec. 802.
5. Terr. L. 1855, ch. 129, art. 3, sec. 21; Terr. L. 1859, ch. 27, sec. 79; G.S. 1868, ch. 82, sec. 97; G.S. 1935, ch. 62, sec. 929.
6. Terr. L. 1858, ch. 12, art. 6, sec. 18; Terr. L. 1859, ch. 27, sec. 103; G.S. 1868, ch. 82, sec. 117; G.S. 1935, ch. 62, sec. 1016.
7. G.S. 1868, ch. 182, sec. 126; G.S. 1935, ch. 62, sec. 1101.

who must thereupon record it in the recognizance docket.[1] Whenever a change of venue to another court is granted the clerk must make out a transcript of all the proceedings and records in the case and transmit them, together with the order of removal, the petition, and the recognizance of the defendant, to the court to which the removal is ordered.[2]

When a person has been convicted in the district court of a crime punishable by death and has been sentenced, it is the clerk's duty to issue a warrant under the seal of the court, directed to the warden of the State penitentiary directing him to carry out the sentence. The clerk delivers the warrant to the sheriff, who must deliver warrant and prisoner to the warden. When the sentence has been executed the warden must make return of the warrant and his proceedings thereunder to the clerk of the court, who enters it upon the records of the case.[3]

In certain cases and under certain restrictions the district court has authority to parole persons convicted therein of crime, but no absolute discharge may be granted within less than 6 months from the date of the parole. Such paroled persons must give bond, to be filed with the clerk, to guarantee their appearance at stated times.[4] A certified copy of any pardon, parole, or commutation of sentence granted by the Governor must be sent to the clerk of the district court of the county in which the prisoner was convicted and spread of record in the proceedings in the case.[5]

Naturalization. From the beginning of the Territory the district courts of Kansas have been vested by Federal statutes with jurisdiction in the naturalization of aliens. Both the Supreme Court and the district courts had such jurisdiction during the Territorial period but after statehood the work was placed with United States circuit and district courts and "courts of record having common law jurisdiction, a seal, and a clerk." Under the terms of the act of the Fifty-ninth Congress only the district courts of the State and the Federal courts in Kansas have naturalization jurisdiction.[6] No naturalization

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1. Terr. L. 1858, ch. 12, art. 5, secs. 3, 4, 13; Terr. L. 1859, ch. 27, secs. 114, 115, 124; G.S. 1868, ch. 82, secs. 134, 135, 144; G.S. 1935, ch. 62, secs. 1206, 1207, 1216.

2. Terr. L. 1855, ch. 129, art. 5, sec. 31; Terr. L. 1858, ch. 12, art. 7, sec. 4; Terr. L. 1859, ch. 27, sec. 166; G.S. 1868, ch. 82, sec. 188; G.S. 1935, ch. 62, sec. 1332.

3. L. 1935, ch. 155, secs. 12, 13; G.S. 1935, ch. 62, secs. 2412, 2413.

4. L. 1907, ch. 178, secs. 1-5; L. 1913, ch. 172, sec. 1; L. 1921, ch. 174, sec. 1; G.S. 1935, ch. 62, secs. 2101-2105, 2208.

5. L. 1864, ch. 89, sec. 1; G.S. 1868, ch. 73, sec. 1; L. 1921, ch. 273, sec. 1; G.S. 1935, ch. 62, sec. 2216.

6. Revised Statutes of the United States of 1873, title 30, sec. 2165; 34 Stat. 596.

proceedings have been had in the Shawnee County district court since 1929, however, all subsequent records being kept by the United States district court for the district of Kansas, first division, at Topeka.

Appeals. The Organic Act specified that writs of error, bills of exceptions, and appeals should be allowed from the final decision of the district courts to the Supreme Court of the Territory.[1] The new code of procedure adopted in 1858 provided that any court might be reversed by the Supreme Court for errors appearing on record and specified that proceedings to obtain such reversal should be by petition in error. Writs of error and certiorari were abolished. But in the revision of the code in 1909 the legislature abolished petitions in error and provided that all reviews of the judgments and orders of inferior courts should be by appeal.[2]

The first district courts of the Territory had appellate jurisdiction in all cases from the probate courts and justices of the peace by appeals and certiorari. Subsequent laws provide that " a judgment rendered or final order made by a probate court, a justice of the peace, or any other tribunal, board, or officer exercising judicial functions and inferior in jurisdiction to the district court may be reversed, vacated, or modified by the district court."[3]

In cases of appeal from justices of the peace and city or county courts the justice or judge must transmit to the clerk of the district court a complete transcript of the proceedings and all papers in the case, which the clerk must file and enter on the docket.[4] When a case is appealed from the probate court the probate judge must transmit to the clerk of the district court a complete transcript of the records and proceedings in the case. The district court tries the case anew and when a decision is rendered the clerk must transmit the original papers and a transcript of the records and proceedings in the district court to the court whence the appeal was taken, which court must proceed according to the decision.[5]

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1. 10 Stat. 286.
2. Terr. L. 1858, ch. 11, secs. 514, 515, 530; L. 1909, ch. 182, sec. 567; G.S. 1935, ch. 60, sec. 3301.
3. Terr. L. 1855, ch. 42, sec. 1; Terr. L. 1858, ch. 11, secs. 511, 513; Terr. L. 1859, ch. 25, secs. 523, 525; L. 1864, ch. 93, sec. 1; G.S. 1868, ch. 80, secs. 540, 541; L. 1909, ch. 182, sec. 564; G.S. 1935, ch. 60, sec. 3301.
4. Terr. L. 1858, ch. 42, secs. 113, 114; Terr. L. 1859, ch. 87, secs. 105, 106; G.S. 1868, ch. 81, secs. 122, 123; L. 1870, ch. 88, secs. 7, 8; L. 1931, ch. 229, sec. 4; G.S. 1935, ch. 61, secs. 1003, 1004.
5. L. 1867, ch. 4, secs. 6-8; G.S. 1868, ch. 37, secs. 193-195; L. 1872, ch. 128, sec. 1; G.S. 1935, ch. 22, secs. 1106-1108; L. 1939, ch. 180, secs. 274, 276, 277.

Persons feeling themselves aggrieved by the decision of the governing body of a city in condemnation of property for flood control construction projects may appeal to the district court in the same manner as from a judgment of a justice of the peace. The city clerk must certify a transcript of the hearing and the bond of the appellant to the clerk of the district court, who must enter it on the docket in the same manner as with other cases. Upon rendition of the judgment by the court, the clerk must certify the decision to the governing body of the city.[1] Similar appeals to the district court may be taken by landowners from reports of the county surveyor in permanently establishing corners and boundaries;[2] by drainage districts or by any property owner therein from the awards of commissioners appointed to appropriate lands for drainage purposes;[3] by landowners from the awards of viewers appointed to condemn land for construction of levees by the county;[4] by landowners from awards made by commissioners as damages to land in the erection or maintenance of a milldam or dam for generating power;[5] by persons claiming interest in lands in navigable streams which are about to be sold by the State;[6] by any person, firm, corporation, or association dissatisfied with any order of the State Corporation Commission;[7] by taxpayers from orders and determinations of the State Income Tax Commission[8] and Inheritance Tax Commission;[9] and by persons, corporations, institutions, or municipalities from orders of the State Board of Health regarding a water supply.[10] Appeals from the decision of the county commissioners in allowance of claims against the county also may be taken to the district court.[11]

The Supreme Court may reverse, vacate, or modify any of the following orders of the district court or any other court of record except a probate court: First, a final order; second, an order that discharges, vacates, or modifies a provisional remedy or that grants, refuses,

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1. L. 1917, ch. 87, sec. 9; G.S. 1935, ch. 12, sec. 643.
2. L. 1879, ch. 177, sec. 3; L. 1891, ch. 89, sec. 10; G.S. 1935, ch. 19, sec. 1426.
3. L. 1905, ch. 215, secs. 44, 45; G.S. 1935, ch. 24, secs. 443, 444.
4. L. 1893, ch. 104, sec. 4; G.S. 1935, ch. 24, sec. 804.
5. L. 1867, ch. 87, sec. 12; G.S. 1868, ch. 66, sec. 11; G.S. 1935, ch. 59, sec. 111.
6. L. 1915, ch. 322, secs. 3, 4; G.S. 1935, ch. 72, secs. 2130, 2131.
7. L. 1929, ch. 220, sec. 3; G.S. 1935, ch. 66, sec. 118c.
8. L. 1933, ch. 320, sec. 27; G.S. 1935, ch. 79, sec. 3227.
9. L. 1917, ch. 319, sec. 2; G.S. 1935, ch. 79, sec. 1517.
10. L. 1907, ch. 382, sec. 3; L. 1909, ch. 226, sec. 1; G.S. 1935, ch. 65, sec. 163.
11. Terr. L. 1858, ch. 13, sec. 16; Terr. L. 1859, ch. 42, sec. 25; Terr. L. 1860, ch. 28, secs. 26, 27; G.S. 1868, ch. 25, secs. 30, 31; G.S. 1935, ch. 19, secs. 223, 224.

vacates, or modifies an injunction, or that grants or refuses a new trial, or that confirms or refuses to confirm the report of a referee, or that sustains or overrules a demurrer; third, an order that involves the merits of any action, or some part thereof; fourth, an order appointing a receiver, or one refusing to revoke, modify or change such an order.[1] Appeals to the Supreme Court are taken by notice filed with the clerk of the trial court, a copy of which must be served on all adverse parties whose rights are sought to be affected by the appeal. When the appeal is perfected the clerk of the trial court must make certified copies of the notice, process, affidavits, and journal entry of judgment or order and transmit them to the clerk of the Supreme Court.[2] Except in certain cases no appeal from the final judgment of the district court can operate to stay execution unless the appellant executes to the adverse party and files with the clerk a bond in double the amount of the judgment if the order directs the payment of money, or in such sum as the court may deem proper in other cases. If the order directs the assignment or delivery of documents they may be placed in the custody of the clerk pending determination of the appeal.[3]

Jurors. In counties with less than 90,000 inhabitants the mayors of cities and trustees of townships certify annually to the county clerk the names of taxpayers eligible to serve as jurors. A panel for each term of court is drawn from these lists by the county clerk and the jurors summoned by the sheriff. Prior to 1876 the names were certified to the county clerk by the county commissioners. If the judge of the district court believes more than twelve petit jurors will be needed he may issue an order to the county clerk for such additional number as he deems necessary.[4] By virtue of population Shawnee County in 1936 came under the law which requires the district judges to prepare the lists and draw the jurors as each panel is needed. When a drawing has been completed the names must be certified to the clerk of the court, who issues summons for their appearance at such time as the judge may direct.[5] Under the laws of 1859 a grand jury was required to attend all terms of court, but the legislature of 1868 decreed that grand juries should be summoned only upon order of the court. In 1887 a law was enacted requiring that a grand jury attend two terms of court in each

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1. L. 1865, ch. 53, sec. 1; G.S. 1868, ch. 80, sec. 542; L. 1901, ch. 278, sec. 1; L. 1907, ch. 256, sec. 1; L. 1909, ch. 182, sec. 565; L. 1915, ch. 187, sec. 1; G.S. 1935, ch. 60, sec. 3302.

2. G.S. 1868, ch. 80, secs. 544, 545; L. 1909, ch. 182, secs. 569, 570; G.S. 1935, ch. 60, secs. 3306, 3307.

3. Terr. L. 1858, ch. 11, sec. 519; Terr. L. 1859, ch. 25, sec. 531; G.S. 1868, ch. 80, sec. 551; G.S. 1935, ch. 60, sec. 3322.

4. Terr. L. 1859, ch. 84, secs. 1-5, 22, 23; L. 1866, ch. 60, sec. 1; G.S. 1868, ch. 54, secs. 1-15, 21, 22; L. 1876, ch. 104, secs. 1, 2; G.S. 1935, ch. 43, secs. 101-113, 120, 121.

5. L. 1907, ch. 232, secs. 1, 2, 4, 10; L. 1921, ch. 167, sec. 1; G.S. 1935, ch. 43, secs. 135, 136, 138, 144.

organized county and that the judge call a grand jury at such other times as he might be petitioned by the voters to do so. In 1889 a law was enacted providing that in each organized county a grand jury should be called only upon petition of 100 taxpayers. Since 1901 the number of petitioners required depends upon the population of the county. In counties of more than 50,000 inhabitants, which includes Shawnee County, there must be at least 700 signers.[1]

Accounts. The clerk of the court must keep a record of the attendance and fees of jurors and witnesses. Within 10 days after the close of each term of court the clerk must certify to the board of county commissioners a statement of the attendance and mileage of jurors and witnesses. Within 10 days after the close of each term of court the clerk must certify to the board of county commissioners a statement of the attendance and mileage of jurors and witnesses in all criminal cases in which the county is liable for payment of such costs.[2]

The clerk of any court in which a criminal cause has been determined in which the county is liable for the costs must before the next term of court tax all costs which have accrued in the case and deliver to the prosecuting attorney a complete fee bill, specifying each item of service and the fee. The prosecuting attorney must examine the bill, correct any errors, and certify it to the county commissioners.[3] The sheriff or other officer collecting any costs on executions, after retaining his own fees must pay the remainder to the clerk of the court. It is the clerk's duty to receive any costs belonging to another person and hold them subject to that person's order. If they are not called for within 1 year the clerk must pay them into the county treasury.[4] The clerk must keep a fee book in which he must record all fees received by him. Such fees must be paid semimonthly into the county treasury, accompanied by a sworn statement that the sum is correct. The county auditor is required to audit the books of the clerk of the district court monthly and report their condition to the county commissioners.[5]

A court stenographer's fee of $2 is taxed as costs for every day or fraction thereof during the trial of any proceedings in which the reporter takes notes, and $1 in all other cases except criminal cases

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1. Terr. L. 1859, ch. 27, secs. 57-85; G.S. 1868, ch. 82, sec. 73; L. 1887, ch. 167, sec. 1; L. 1889, ch. 153, sec. 1; L. 1901, ch. 235, sec. 1; L. 1935, ch. 227, sec. 1; G.S. 1935, ch. 62, sec. 901.

2. L. 1862, ch. 99, secs. 23, 24; G.S. 1868, ch. 39, secs. 20, 21; L. 1913, ch. 197, secs. 36, 37; G.S. 1935, ch. 28, secs. 139, 140.

3. Terr. L. 1855, ch. 29, art. 2, secs. 20, 21; Terr. L. 1859, ch. 27, secs. 323, 324; G.S. 1868, ch. 82, secs. 333, 334; G.S. 1935, ch. 62, secs. 1909, 1910.

4. L. 1862, ch. 99, secs. 32, 33; G.S. 1868, ch. 39, secs. 28, 29; L. 1913, ch. 197, secs. 42, 43; G.S. 1935, ch. 28, secs. 145, 146.

5. L. 1909, ch. 145, secs. 16-18; L. 1911, ch. 190, secs. 16-18; G.S. 1935, ch. 28, secs. 315-317.

dismissed by the State or in which the defendant is acquitted.[1] Court stenographers' fees collected by him as costs must be forwarded by the clerk to the State Treasurer quarterly. At the same time he must make a certified statement to the State Auditor showing the amount of fees collected, by whom paid, and the amount remitted to the State Treasurer.[2] In counties of 90,000 inhabitants or less, which included Shawnee County until 1936, it was the duty of the county commissioners to examine the appearance dockets annually and determine the amount of stenographers' fees collected by the clerk. Of the amount collected they must make a report in triplicate, duly certified to by the chairman, and file one copy with the county clerk, forward another to the State Treasurer, and deliver the third to the clerk of the court, who must attach it to his statement accompanying his regular quarterly remittance to the State Treasurer.[3]

Miscellaneous Functions. Before any person may sell or offer to sell any patent right in Kansas he must first file with the clerk of the district court authenticated copies of the letters patent and an affidavit that they are genuine and have not been revoked or annulled.[4] Notaries public commissioned by the Governor must file with the clerk of the district court of the county for which they were commissioned their commission, oath, and bond, which it is the clerk's duty to record, after which the original oath and bond are transmitted to the Secretary of State. Prior to 1868 such oaths and bonds were registered by the county recorder, or register of deeds.[5]

Until 1903 the district courts of the State had jurisdiction over the admission of applicants to the bar to practice in the district and inferior courts. The Supreme Court passed upon applications to practice therein. Since 1903, however, the Supreme Court examines applicants and passes upon applications for admission to practice in all courts of the State, and is authorized to make its own regulations for that purpose.[6] In counties with 50,000 or more inhabitants, when a majority of the practicing attorneys therein elect to come under the act, all practicing attorneys are required to register annually with the clerk

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1. L. 1885, ch. 189, sec. 5; L. 1897, ch. 131, sec. 18; L. 1899, ch. 141, sec. 1; L. 1917, ch. 156, sec. 1; L. 1921, ch. 171, sec. 4; L. 1929, ch. 162, sec. 1; L. 1933, ch. 287, sec. 9; L. 1935, ch. 150, sec. 1; G.S. 1935, ch. 20, sec. 904.
2. L. 1901, ch. 131, sec. 1; G.S. 1935, ch. 20, sec. 908.
3. L. 1913, ch. 197, sec. 25; G.S. 1935, ch. 28, sec. 130.
4. L. 1889, ch. 182, sec. 1; G.S. 1935, ch. 57, sec. 101.
5. Terr. L. 1855, ch. 116, sec. 8; Terr. L. 1859, ch. 101, sec. 7; G.S. 1868, ch. 71, sec. 4; G.S. 1935, ch. 53, sec. 104.
6. Terr. L. 1859, ch. 14, secs. 2, 3; G.S. 1868, ch. 11, secs. 2, 3; L. 1897, ch. 111, sec. 1; L. 1903, ch. 64, secs. 1, 2; L. 1905, ch. 67, secs. 1, 2; G.S. 1935, ch. 7, secs. 102, 103.

of the district court and pay a fee of $10 to be used for the establishment and maintenance of a law library. The act does not apply to counties in which a State law library is maintained,[1] hence is not applicable in Shawnee County.

A majority in interest of owners of any contiguous body of swamp or overflowed lands may form a drainage district for the purpose of reclaiming and protecting such lands from flood waters. They first must sign articles of incorporation and file them with the clerk of the district court, who issues summonses to the owners of all property in the proposed district who have not signed the articles. The court may hear objections at a specified time and exclude any lands not benefitted. Within 20 days after the court has declared the district to be a corporation the clerk must transmit a certified copy of the record to the Secretary of State for filing in his office.[2] Under another law a private landowner, or a township or school district board, or the mayor and council of a city whose property would be benefitted by drainage may petition the district court to form a drainage district. The court appoints commissioners to investigate the feasability of the project and made a preliminary report. If the preliminary report is approved by the court the commissioners are instructed to proceed with the work and made a final report. The commissioners have authority to determine the methods and routes of drainage and make assessments against property and award damages, all of which acts are subject to approval of the court, which hears objections offered at a specified time and may make any modifications deemed necessary. The order of the court approving the assessments and declaring the proposed work of drainage established is final, subject to appeal to the Supreme Court.[3] Under the "conservancy act" enacted in 1929 and repealed in 1937 after being held unconstitutional by the Supreme Court, the district courts were empowered to incorporate conservancy districts upon petition of at least 500 freeholders or three-fifths of the property owners in the proposed area for the purpose of preventing floods, regulating stream channels, reclaiming overflowed lands, providing for irrigation, and for building and maintaining levees, canals, reservoirs, embankments, bridges, or dams. The court appointed three directors for the district to serve 3-year terms.[4]

When the court enters a decree fixing the rights of any person to the use of water for irrigation purposes the clerk must forward a

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1. L. 1919, ch. 178, secs. 1, 2; L. 1920, ch. 32, sec. 1 (Special Session); L. 1925, ch. 133, sec. 1; L. 1927, ch. 156, sec. 1; L. 1929, ch. 145, sec. 1; G.S. 1935, ch. 19, secs. 1308, 1309; L. 1938, ch. 40, secs. 1, 2 (Special Session).

2. L. 1911, ch. 168, secs. 1-4; L. 1935, ch. 24, secs. 601-604.

3. L. 1907, ch. 197, secs. 1-4; L. 1909, ch. 128, sec. 1; ch. 129, secs. 1-4; L. 1911, ch. 171, sec. 1; G.S. 1935, ch. 24, secs. 701-706.

4. L. 1929, ch. 176, secs. 1-8; G.S. 1935, ch. 24, secs. 1001-1008; 131 Kan. 214; L. 1937, ch. 222.

certified copy of the order to the chief engineer of the division of water resources of the State Board of Agriculture.[1]

Early laws provided that the probate judge should incorporate and disincorporate towns and villages upon petition of the inhabitants, but the legislature of 1871 vested this power in the judge of the district court, authorizing him to incorporate towns with more than 500 and not more than 2,000 inhabitants as cities of the third class, fix the time and place for the first election of officers, and appoint the first election boards. In 1886 this function was transferred to the board of county commissioners.[2]

Since 1872 the district judge has appointed the county auditor in counties of certain population classes, now confined to those with more than 45,000 inhabitants,[3] which includes Shawnee County. He also makes appointments to fill vacancies in the office of county attorney caused by the death, resignation, or removal of that officer,[4] and vacancies in the office of clerk of the district court due to the same causes.[5]

When either of the parties to any proceeding in the probate court, or their attorneys of record, shall file an affidavit with the clerk of the district court to the effect that the probate judge is insane, or is interested in the subject matter of the proceedings then pending it is the clerk's duty to appoint a probate judge pro tempore and certify his oath and the minutes of the proceedings for his selection to the probate court.[6]

The county clerk, clerk of the district court, and county attorney are required by law to consider any objections raised according to law to the nomination papers or certificates filed for any candidate to be voted upon by the electors of the county or the townships at any general election, and a decision of a majority of them on the matter is final.[7]

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1. L. 1933, ch. 206, sec. 4; G.S. 1935, ch. 74, sec. 509c.
2. Terr. L. 1855, ch. 155, secs. 1, 26; G.S. 1868, ch. 108, secs. 1, 26; L. 1871, ch. 60, sec. 2; L. 1872, ch. 102, sec. 1; L. 1886, ch. 66, sec. 2; L. 1905, ch. 123, sec. 1; L. 1923, ch. 101, sec. 1; L. 1929, ch. 134, sec. 1; G.S. 1935, ch. 15, sec. 102.
3. L. 1872, ch. 67, sec. 1; L. 1874, ch. 56, sec. 1; L. 1876, ch. 66, sec. 1; ch. 67, sec. 1; L. 1891, ch. 87, sec. 1; L. 1905, ch. 185, sec. 1; L. 1915, ch. 172, sec. 1; L. 1917, ch. 130, sec. 1; L. 1925, ch. 132, sec. 1; G.S. 1935, ch. 19, secs. 601, 620.
4. L. 1864, ch. 31, sec. 7; G.S. 1868, ch. 25, sec. 146; G.S. 1935, ch. 19, sec. 715.
5. L. 1861, ch. 24, sec. 6; G.S. 1868, ch. 25, sec. 152; G.S. 1935, ch. 19, sec. 1306.
6. L. 1907, ch. 166, secs. 1, 2; G.S. 1935, ch. 20, secs. 1108, 1109; L. 1939, ch. 180, secs. 5, 6.
7. L. 1893, ch. 78, sec. 10; L. 1897, ch. 129, sec. 10; G.S. 1935, ch. 25, sec. 308.

The city council of any third class city, at its first meeting after an election for city officers, must cause a certificate of the election and oaths of office of the mayor and clerk-elect to be made out and within 10 days cause it to be filed with the clerk of the district court.[1]

Records

Not only do the statutes provide for most of the records kept by the clerk of the district court, but in many instances specify how they shall be kept.

The proceedings of the court each day, all judgments entered by confession or default, and all orders of the judge in vacation or at chambers are entered on the journal.[2] Though not specifically required by law, most clerks keep a minute book in which the proceedings are noted before being copied into the permanent journal.

Under the law of 1858, which required the clerk to make such a record when so ordered by the court, the clerks of most district courts kept in a book provided for that purpose a "complete record" of all actions filed. This included full copies of the petition, the process and returns, and all pleadings, reports, verdicts, orders, and judgments in the case. Some of the more voluminous documents could, upon order of the court, be abbreviated or even omitted.[3] This record, however, eventually came to be regarded as superfluous and no courts have required it since the latter part of the last century. In Shawnee County it was discontinued in 1890.

All papers filed in every action must be preserved by the clerk in his office. The papers in each case must be kept separate, "carefully enveloped in a wrapper labeled with the title of the cause."[4] The shorthand notes of proceedings and testimony taken by official court reporters and all exhibits admitted in evidence must be filed with the

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1. L. 1869, ch. 26, sec. 25; L. 1871, ch. 60, sec. 21; G.S. 1935, ch. 15, sec. 210.

2. Terr. L. 1858, ch. 11, sec. 588; Terr. L. 1859, ch. 25, sec. 600; G.S. 1868, ch. 80, secs. 705, 714; L. 1909, ch. 182, secs. 731, 739; G.S. 1935, ch. 60, secs. 3803, 3811.

3. Terr. L. 1858, ch. 11, secs. 388-390; Terr. L. 1859, ch. 25, secs. 400-402; G.S. 1868, ch. 80, secs. 415-417; L. 1909, ch. 182, secs. 413, 414; G.S. 1935, ch. 60, secs. 3123, 3124.

4. Terr. L. 1858, ch. 11, secs. 584-586; Terr. L. 1859, ch. 25, secs. 596-598; G.S. 1868, ch. 80, secs. 710-712; L. 1909, ch. 182, secs. 736, 737; G.S. 1935, ch. 60, secs. 3808, 3809.

clerk and remain a part of the records in his office.[1] Under this law the transcripts of the shorthand notes when admitted in evidence become part of the record.[2] The written depositions of witnesses must be sealed, endorsed with the title of the cause, and filed with the clerk,[3] and after being read in evidence become part of the records, as do instructions to the jury.[4] Receivers appointed by the court[5] file their reports with the clerk.

As soon as an action is commenced by the filing of a petition in his office the clerk must enter upon the appearance docket the time the petition is filed, the issuance and return of the summons, and all subsequent pleadings, papers, and process, together with all the judgments and orders of the court in the case.[6] The trial docket must show the assignments of causes for trial.[7] A copy of the trial docket made by the clerk for the use of the bar, and known as a "bar docket" formerly was kept,[8] but like the "complete record" it fell into disuse in most counties before the opening of this century. Since 1915 the clerks of the district courts in counties where no officially recognized legal newspaper is published are authorized to publish and distribute a bar docket for the attorneys.[9] Though not required by law to be kept as a separate record, motions are entered upon a separate docket by the clerks of many district courts in Kansas, including Shawnee County. A record of verdicts returned by juries was kept in Shawnee County 1889-93, 1906-18, and since 1926 the clerk has kept a separate record of alimony granted in divorce cases and of the payments thereof, though neither record is required by law to be kept separately.

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1. L. 1885, ch. 189, sec. 4; L. 1915, ch. 195, sec. 1; L. 1921, ch. 171, sec. 3; G.S. 1935, ch. 20, sec. 903.
2. L. 1905, ch. 494, sec. 1; G.S. 1935, ch. 20, sec. 910.
3. Terr. L. 1858, ch. 11, sec. 347; L. 1859, ch. 25, sec. 357; G.S. 1868, ch. 80, sec. 355; L. 1909, ch. 182, sec. 353; G.S. 1935, ch. 60, sec. 2838.
4. L. 1909, ch. 182, sec. 575; G.S. 1935, ch. 60, sec. 2942.
5. Terr. L. 1858, ch. 11, sec. 253; Terr. L. 1859, ch. 25, sec. 262; G.S. 1868, ch. 80, sec. 254; L. 1898, ch. 9, sec. 1; L. 1909, ch. 182, sec. 266; G.S. 1935, ch. 60, sec. 1201.
6. Terr. L. 1858, ch. 11, sec. 305; Terr. L. 1859, ch. 25, sec. 315; G.S. 1868, ch. 80, sec. 704; L. 1909, ch. 182, sec. 730; G.S. 1935, ch. 60, sec. 3802.
7. Terr. L. 1858, ch. 11, sec. 306; Terr. L. 1859, ch. 25, sec. 316; G.S. 1868, ch. 80, sec. 313; L. 1870, ch. 87, sec. 8; L. 1871, ch. 116, sec. 3; L. 1909, ch. 182, sec. 311; G.S. 1935, ch. 60, sec. 2930.
8. Terr. L. 1858, ch. 11, sec. 309; Terr. L. 1859, ch. 25, sec. 319; G.S. 1868, ch. 80, sec. 318; L. 1909, ch. 182, sec. 316; G.S. 1935, ch. 60, sec. 2935.
9. L. 1915, ch. 193, sec. 1; G.S. 1935, ch. 19, sec. 1307.

The judgment docket must be kept in the form of an index with the name of each person against whom a judgment is rendered appearing in alphabetical order. A statement of each judgment must be entered immediately upon its rendition, showing the amount and nature of the judgment, the date rendered, and the costs.[1] All judgments and orders of the court also must be entered on the appearance docket and specify clearly the relief granted or order made in the action.[2] Judgments rendered in Federal courts and other courts of record in the State are entered by the clerk in the judgment docket upon receipt of an attested copy of the journal entry from the court where rendered, to become a lien upon real estate owned by the judgment debtor in Shawnee County.[3] The clerk also files transcripts of judgments rendered by justices of the peace and enters them on the judgment docket the same as if rendered in the district court, and also enters the case on the appearance docket.[4]

Executions are entered by the clerk in the execution docket at the time they are issued by him and must show the names of the parties, the date and amount of the judgment and costs, the date of the execution, the county to which issued, and the sheriff's return in full.[5] Executions issued by courts of other counties against property located in his county are entered by the clerk on the execution docket in the same manner as if issued by his own court.[6] In some counties, including Shawnee, a separate docket is kept for this purpose. Copies of sheriff's certificates of purchase of property sold under execution[7] are filed with the clerk. Upon redemption of property sold under execution the clerk must enter a minute "upon a book kept for that purpose,"[8] but Shawnee and various other counties redemptions are entered on the execution docket. When the court confirms a sale of property made by

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1. G.S. 1868, ch. 80, sec. 706; L. 1909, ch. 182, sec. 732; G.S. 1935, ch. 60, sec. 3804.
2. Terr. L. 1858, ch. 11, sec. 387; Terr. L. 1859, ch. 25, sec. 399; G.S. 1868, ch. 80, sec. 414; L. 1909, ch. 182, sec. 412; G.S. 1935, ch. 60, sec. 3122.
3. G.S. 1868, ch. 80, sec. 419; L. 1909, ch. 182, sec. 416; G.S. 1935, ch. 60, sec. 3126.
4. Terr. L. 1858, ch. 11, sec. 489; Terr. L. 1859, ch. 25, sec. 501; G.S. 1868, ch. 80, sec. 518; L. 1909, ch. 182, sec. 517; G.S. 1935, ch. 60, sec. 3480.
5. G.S. 1868, ch. 80, sec. 707; L. 1909, ch. 182, sec. 733; G.S. 1935, ch. 60, sec. 3805.
6. G.S. 1868, ch. 80, sec. 475; L. 1901, ch. 283, sec. 1; L. 1909, ch. 182, sec. 469; G.S. 1935, ch. 60, sec. 3432.
7. Terr. L. 1858, ch. 11, sec. 438; Terr. L. 1859, ch. 25, sec. 450; G.S. 1868, ch. 80, sec. 459; L. 1893, ch. 109, sec. 1; L. 1909, ch. 182, sec. 475; G.S. 1935, ch. 60, sec. 3438.
8. L. 1893, ch. 109, sec. 14; L. 1909, ch. 182, sec. 488; G.S. 1935, ch. 60, sec. 3451.

the sheriff, the clerk must make an entry thereof on the journal,[1] and in some counties the clerk keeps a separate record of such confirmations. Unsatisfied delinquent personal property tax warrants certified by the county treasurer are entered by the clerks of some district courts on the regular judgment docket,[2] but in Shawnee County separate volumes are kept for this purpose.

Statements of liens against real property by mechanics, laborers, contractors, subcontractors or others furnishing labor or materials for construction or repairs are filed by the clerk of the district court, who also records them in a book for that purpose and titled "Mechanics' Lien Docket."[3] Awards and agreements, and final receipts and releases of liability under the workmen's compensation law were filed with the clerk of the district court and by him recorded in a book kept for that purpose from 1911 until 1927.[4]

Several different kinds of surety bonds and undertakings in civil cases are filed and recorded by the clerk of the district court. These include bonds given to secure costs of proceedings,[5] bonds in appeals from the Court of Topeka and justice of the peace courts;[6] bonds in attachment,[7] garnishment,[8] replevin,[9] and injunction,[10] as well as the

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1. Terr. L. 1858, ch. 11, sec. 437; Terr. L. 1859, ch. 25, sec. 449; G.S. 1868, ch. 80, sec. 458; L. 1893, ch. 109, sec. 26; L. 1909, ch. 182, sec. 500; G.S. 1935, ch. 60, sec. 3463.
2. L. 1876, ch. 34, sec. 96; G.S. 1935, ch. 79, sec. 2105.
3. L. 1862, ch. 137, secs. 2, 3, 4, 19; G.S. 1868, ch. 80, secs. 632, 633; L. 1870, ch. 87, secs. 23, 24; L. 1871, ch. 97, secs. 2, 3; L. 1872, ch. 141, secs. 2, 3; L. 1889, ch. 168, secs. 2, 3; L. 1909, ch. 182, secs. 650, 651; L. 1919, ch. 235, sec. 2; G.S. 1935, ch. 60, secs. 1402, 1403.
4. L. 1911, ch. 218, sec. 28; L. 1917, ch. 226, secs. 14, 15; L. 1927, ch. 232, sec. 63.
5. Terr. L. 1858, ch. 11, sec. 543; Terr. L. 1859, ch. 25, sec. 555; L. 1862, ch. 76, sec. 1; G.S. 1868, ch. 80, sec. 581; L. 1875, ch. 121, sec. 1; L. 1901, ch. 276, sec. 1; L. 1909, ch. 182, sec. 606; G.S. 1935, ch. 60, sec. 2401.
6. Terr. L. 1858, ch. 41, sec. 112; Terr. L. 1859, ch. 87, sec. 104; G.S. 1868, ch. 81, sec. 121, L. 1885, ch. 152, sec. 4; L. 1931, ch. 229, sec. 2; G.S. 1935, ch. 61, sec. 1002.
7. Terr. L. 1858, ch. 11, sec. 193; Terr. L. 1859, ch. 25, sec. 201; G.S. 1868, ch. 80, sec. 192; L. 1870, ch. 87, sec. 5; L. 1909, ch. 182, sec. 192; G.S. 1935, ch. 60, sec. 903.
8. L. 1889, ch. 151, sec. 2; L. 1909, ch. 182, sec. 230; L. 1933, ch. 215, sec. 1; L. 1933, ch. 82, sec. 1 (Special Session); G.S. 1935, ch. 60, sec. 942.
9. Terr. L. 1858, ch. 11, sec. 179; Terr. L. 1859, ch. 25, sec. 189; G.S. 1868, ch. 80, sec. 178; G.S. 1935, ch. 60, sec. 1003.
10. Terr. L. 1858, ch. 11, sec. 242; Terr. L. 1859, ch. 25, sec. 251; G.S. 1868, ch. 80, sec. 242; L. 1909, ch. 182, sec. 254; G.S. 1935, ch. 60, sec. 1110.

bonds of receivers[1] and assignees.[2] Bonds executed to the State by contractors to secure payment of claims which might be the basis of liens,[3] and bonds taken by public officials from contractors making public improvements also are filed with the clerk of the court.[4]

The statutes do not specifically require that the court's records of criminal cases be filed or recorded separately from the civil cases, but in all counties this is done, to a greater or lesser extent, as a matter of convenience. The laws requiring the clerk to record the daily proceedings of the court in the journal and keep the papers in each case separate, enveloped in a wrapper labeled with the title of the cause, apply to criminal as well as to civil actions. Proceedings in civil and criminal cases are never kept separately in the journal. In some counties the original instruments filed in the two types of actions are kept separately, while in others they are filed together. In Shawnee County they were kept together from 1859 to 1887, since then they have been filed separately. Certified copies of paroles, pardons, and commutations of sentence granted by the Governor and notices of applications therefor are filed with the clerk of the court which imposed the sentence.[5]

Since adoption of the criminal code in 1858 the clerk has been required to record "in a book kept for that purpose" all indictments returned by grand juries.[6] Though not required by law, it is the practice of most district court clerks to keep a separate appearance docket of criminal cases, and usually a separate trial docket. In Shawnee County civil and criminal cases both were entered on the same trial docket until 1929, since which time separate dockets have been kept. Since 1930 a separate record of criminal actions prosecuted in Shawnee County by the Attorney General also has been kept.

The clerk of the court must keep a recognizance docket and record therein all recognizances taken in court as well as all those certified to him by any judge, justice of the peace, sheriff, or other officer.

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1. Terr. L. 1858, ch. 11, secs. 255, 470; Terr. L. 1859, ch. 25, secs. 264, 482; G.S. 1868, ch. 80, secs. 256, 493; L. 1909, ch. 182, secs. 269, 539; G.S. 1935, ch. 60, secs. 1203, 3498.
2. G.S. 1868, ch. 6, sec. 9; G.S. 1935, ch. 60, sec. 1309.
3. L. 1889, ch. 168, sec. 13; L. 1909, ch. 182, sec. 660; G.S. 1935, ch. 60, sec. 1412.
4. L. 1887, ch. 179, secs. 1, 2; L. 1909, ch. 182, secs. 661, 662; L. 1913, ch. 242, sec. 1; L. 1925, ch. 198, sec. 1; L. 1931, ch. 227, sec. 1; G.S. 1935, ch. 60, secs. 1413, 1414.
5. L. 1864, ch. 89, sec. 1; G.S. 1868, ch. 73, sec. 1; L. 1921, ch. 273, sec. 1; G.S. 1935, ch. 62, sec. 2216.
6. Terr. L. 1858, ch. 12, art. 6, sec. 18; Terr. L. 1859, ch. 27, sec. 103; G.S. 1868, ch. 82, sec. 117; G.S. 1935, ch. 62, sec. 1018.

authorized to accept them.[1] Bonds in appeal from justices of the peace, the city court of Topeka,[3] and other lower courts are filed by the clerk of the district court, who usually keeps a record thereof.

Federal statutes require the clerk of the district court to file duplicates of declarations by aliens of intention to become citizens of the United States. The law specifies that the declarations and the petitions for naturalization shall be bound in chronological order in separate volumes, consecutively numbered, indexed, and made a part of the records of the court.[4] Since 1929 naturalization records of Shawnee County are kept by the United States district court for the district of Kansas, first division, at Topeka.

The clerk of the court files lists of jurors drawn for service and certified to him by the jury clerk.[5] He must keep a record of the attendance and fees of jurors and witnesses, and within 10 days after the close of a term of court must certify to the county commissioners a statement of such attendance and fees,[6] copies of which he frequently retains in his office.

The clerk must keep a fee book and record therein an account of all fees which he charges and collects,[7] and by implication of the law, keeps a record of all other moneys received and paid out in his official capacity.

The law requires the clerk to file and preserve copies of letters patent and the accompanying affidavits,[8] and in most counties the clerk keeps a record of such documents filed with them, though not required by law to do so. In Shawnee County the record was discontinued in 1916. A record of the commissions, oaths, and bonds of notaries public in the county formerly kept by the register of deeds, has been kept by the clerk of the district court since 1868.[9] Applications for admission to practice

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1. Terr. L. 1855, ch. 120, art. 9, sec. 14; Terr. L. 1858, ch. 12, art. 5, secs. 11, 13; Terr. L. 1859, ch. 27, secs. 122, 124, 293; G.S. 1868, ch. 82, secs. 137, 144; G.S. 1935, ch. 62, secs. 1209, 1216.
2. Terr. L. 1855, ch. 94, sec. 15; Terr. L. 1859, ch. 86, sec. 14; L. 1867, ch. 49, sec. 4; G.S. 1868, ch. 83, sec. 21; G.S. 1935, ch. 65, sec. 401.
3. L. 1899, ch. 129, sec. 13; G.S. 1935, ch. 20, sec. 1020.
4. 34 Stat. 599-601, U.S.C.A., title 8, secs. 400, 404.
5. L. 1907, ch. 232, sec. 10; G.S. 1935, ch. 43, sec. 144.
6. L. 1862, ch. 99, secs. 23, 24; G.S. 1868, ch. 39, secs. 20, 21; L. 1913, ch. 197, secs. 35, 36; G.S. 1935, ch. 28, secs. 136, 139.
7. L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1901, ch. 145, sec. 17; L. 1913, ch. 197, sec. 16; G.S. 1935, ch. 20, secs. 123, 316.
8. L. 1889, ch. 182, sec. 1; G.S. 1935, ch. 57, sec. 101.
9. Terr. L. 1855, ch. 116, sec. 8; Terr. L. 1859, ch. 101, sec. 7; G.S. 1868, ch. 71, sec. 4; G.S. 1935, ch. 53, sec. 104.

law as an attorney in the district court were filed with the clerk until power to admit to the bar was given exclusively to the State Supreme Court in 1903.[1]

The oaths of judges pro tempore and minutes of the proceedings in their selection are filed by the clerk and recorded in the journal of the court.[2] The clerk also files the certificates of examination, appointments, and oaths of official court reporters;[3] the appointments and oaths of court bailiffs;[4] the appointments, oaths, and bonds of county auditors;[5] appointments of county attorneys[6] and clerks of the district court to fill vacancies;[7] and the certificates of appointments, oaths and bonds of deputy clerks of the court.[8]

The certificates of election and oaths of office of the mayors and clerks of third class cities also are filed with the clerk of the district court.[9] The statutes specify that the sheriff and county attorney shall file a copy of their annual inventory of county personal property with the clerk of the district court.[10]

During the existence of the circuit court, 1891-95, which had concurrent original jurisdiction with the district court in all civil actions except divorces, the clerk of the district court was required to enter on his journal all judgments rendered and executions issued by the circuit court. No judgment docket or execution docket was kept by the circuit court clerk, which office in fact was filled ex officio by the clerk of the district court.[11]

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1. Terr. L. 1859, ch. 14, sec. 2; G.S. 1868, ch. 11, sec. 2; L. 1897, ch. 111, sec. 1; L. 1903, ch. 64, sec. 1; L. 1905, ch. 67, sec. 1; G.S. 1935, ch. 7, sec. 102.
2. L. 1861, ch. 22, sec. 6; G.S. 1868, ch. 28, sec. 7; G.S. 1935, ch. 20, sec. 308.
3. L. 1885, ch. 189, secs. 2, 3; L. 1921, ch. 171, sec. 2; G.S. 1935, ch. 20, secs. 902, 905.
4. L. 1920, ch. 31, sec. 8 (Special Session); L. 1921, ch. 173, sec. 1; L. 1927, ch. 177, sec. 1; G.S. 1935, ch. 20, secs. 512, 508.
5. L. 1872, ch. 67, sec. 1; L. 1874, ch. 56, sec. 1; L. 1876, ch. 66, sec. 1; ch. 67, sec. 1; L. 1891, ch. 87, sec. 1; L. 1905, ch. 185, sec. 1; L. 1915, ch. 172, secs. 1, 2; L. 1917, ch. 130, sec. 1; L. 1925, ch. 132, sec. 1; G.S. 1935, ch. 19, secs. 601-603, 620, 621.
6. L. 1864, ch. 31, sec. 7; G.S. 1868, ch. 25, sec. 146; G.S. 1935, ch. 19, sec. 715.
7. L. 1861, ch. 24, sec. 6; G.S. 1868, ch. 25, sec. 152; G.S. 1935, ch. 19, sec. 1306.
8. L. 1861, ch. 24, secs. 3, 4; G.S. 1868, ch. 25, secs. 149, 150; G.S. 1935, ch. 19, secs. 1303, 1304.
9. L. 1869, ch. 26, sec. 25; L. 1871, ch. 60, sec. 21; G.S. 1935, ch. 15, sec. 210.
10. L. 1925, ch. 138, sec. 1; G.S. 1935, ch. 19, sec. 2624.
11. L. 1891, ch. 83, secs. 10, 17; see Circuit Court, p. 343.

Civil Cases
(See also entry 266-iii)

Proceedings

195. (MINUTE DOCKET), 1891--. 462 vols.
Original minutes of proceedings in civil and criminal cases in district court, showing term of court, case number, title and cause, attorneys, dates of hearings and continuances, decisions and orders of court, and disposition of case. Arr. chron. by dates of hearings. No index. Hdw. Aver. 70 pp. 18 x 12 x 1/2. 294 vols., 1891-1924, attic; 168 vols., 1924--, clk's. east room.

196. JOURNAL, 1858--. 180 vols. (A-Z, 1-154).
Journal of proceedings in civil and criminal cases, showing term of court, case number, title and cause, names of attorneys, date of trial, dates and nature of pleadings filed and writs issued, exceptions, demurrers, motions, fees and costs, court orders and decrees, and disposition of case. Arr. chron. by terms of court and dates of trials thereunder. Indexed alph. by names of plaintiffs and defendants. Hdw., 1858-91; typed, 1891--. 640 pp. 18 x 13 x 3. Clk's. va.

197. COMPLETE RECORD, 1858-90. 8 vols. (A-H). Discontinued.
Complete and final record of civil and criminal cases, showing term of court, case number, title and cause, date filed; copies of bills of particulars, informations, complaints, affidavits, petitions, cross petitions, answers, bonds, summonses, exceptions, demurrers, jury verdicts, and court findings; and disposition of case. Arr. chron. by filing dates. Indexed alph. by names of plaintiffs and defendants. Hdw. Aver. 600 pp. 17 1/2 x 12 1/2 x 3. Clk's. va.

Case Files

198. (CIVIL CASE FILES), 1885--. 1,552 f. drs. (labeled by contained case nos. 6901-54677), 1 cb. b. 1859-87 in (Civil and Criminal Case Files), entry 199.
Petitions, pleadings, summonses, subpoenas, motions, affidavits, court orders, instructions to jury, jury verdicts, journal entries, and other original instruments filed in civil cases, showing case number, title and cause; names of attorneys, witnesses, and jurors; rulings and decisions of court; fees, costs, and disposition of case. The instruments in each case are enclosed in a jacket labeled with case number and title of cause. Also contains: Receivers' Reports, 1901--, entry 203; Certificates of Sales (of Property Under Execution), Fines Remitted by County Commissioners, 1928--, entry 217; Affidavits of Jurors, 1910--, entry 245; Witness Claims (Affidavits), 1910--, entry 248. Arr. num. by case nos. No index. Hdw., typed, and hdw. and typed on pr. fms. Condition fair, 1887-95, 1907-12. F. drs. 10 x 5 x 14; cb. b. 16 x 16 x 22. 220 f. drs., 1885-95, clk's. south off.; 1,332 f. drs., 1893--, clk's. main off.

For record of verdicts rendered, 1889-93, 1906-13, entry 212.

199. (CIVIL AND CRIMINAL CASE FILES), 1859-87. 165 f. drs. (labeled by contained case nos. 1-6900).

These are combination files of civil and criminal cases subsequently kept separately; (Civil Case Files), entry 198; (Criminal Case Files), entry 229. Arr. num. by case nos. No index. Hdw. on pr. fms. Condition fair. 10 x 5 x 14. Clk's. east room.

200. (STENOGRAPHERS' NOTE BOOKS), 1901--. 32 cb. bs., 15 sacks. 1872-1937 also in Miscellaneous (Records), entry 266.

Stenographers' shorthand notes of testimony and proceedings in district court cases, showing case number, title and cause, attorneys, date of hearing, names of witnesses, and details of testimony. Arr. chron. by dates of proceedings. No index. Hdw. Cb. bs. 8 x 12 x 20 and 12 x 12 x 18; sacks 10 x 18 x 24. 22 cb. bs., 15 sacks, 1901-36, attic; 10 cb. bs., 1937--, clk's. main off.

201. TRANSCRIPTS (of Evidence in Civil Cases), 1921--. 1 cb. b., 4 f. drs. (labeled by contained letters of alph.). 1872-1937 also in Miscellaneous (Records), entry 266.

Transcripts of evidence in civil cases tried in district court, showing case number, title and cause, attorneys, date of trial, details of testimony, and date filed. Also contains: Transcript (of Evidence in Criminal Cases), 1921-32, entry 230; Letter File (Correspondence), 1921-32, entry 262. Arr. chron. by filing dates, 1 cb. b., 1921-32; arr. alph. by names of plaintiffs, 4 f. drs., 1928--. No index. Hdw. and typed. Cb. b. 17 x 18 x 24; f. drs. 16 x 10 x 26. 1 cb. b., 1921-32, attic; 4 f. drs., 1928--, clk's. south off.

202. DEPOSITIONS, 1884--. 24 f. drs. (twenty-three labeled by contained letters of alph.; one labeled by contained case nos. 24915-25182). 1872-1937 also in Miscellaneous (Records), entry 266.

Depositions of witnesses in civil and criminal cases in district court, showing case number, title and cause, attorneys; name, testimony, and signature of deponent; notarization, and date filed. Also contains: Witness Claims (Affidavits), 1884-1911, entry 248. Arr. num. by deposition nos., 1884-1911; arr. alph. by names of plaintiffs, 1912--. No index. Hdw. and typed. Condition fair, 1912-23. Aver. 15 x 6 x 20. Clk's. south off.

203. RECEIVERS' REPORTS, 1894-1900. 4 f. drs. (labeled by contained Report nos. 15000-19000). 1901-- in (Civil Case Files), entry 198.

Reports of receivers appointed by district court, showing date of report, case number, names of plaintiff and defendant, dates and amounts of collections, from what sources, dates and amounts of disbursements, to whom and for what purpose, list of claims unpaid, signature of receiver, and date of filing. Arr. num. by case nos. No index. Hdw. and typed on pr. fm. 10 x 4 x 14. Clk's. south off.

204. (EXAMINER'S REPORT OF CONDITIONS OF RECEIVERSHIP), 1928. 1 f. dr.
Copies of examiners' reports on condition of receivership of Rossville State Bank, showing date of report, amounts of resources and disbursements at time of last report, and statement of resources and disbursements of period for which report is made. No index. Typed. 5 x 4 x 10. Clk's. south off.

Dockets

205. CIVIL APPEARANCE DOCKET AND FEE BOOK, 1859--. 104 vols. (A-Z, AA-ZZ, 1-52). Title varies: Civil Appearance Docket, 1859-1906.
Appearance docket of civil cases filed in district court, showing case number, title and cause, attorneys, dates and nature of pleadings filed and writs issued, sheriff's return, notations of court's orders, record of fees and costs, and disposition of case. Arr. num. by case nos. Indexed alph. by names of plaintiffs and defendants; for separate index, see entry 206. Hdw. on pr. fm. 600 pp. 18 x 13 x 3. Clk's. va.

206. GENERAL INDEX (to Civil Appearance Docket and Fee Book), 1859--. 10 vols. (1, 1-9).
Index to Civil Appearance Docket and Fee Book, entry 205, showing case number, and names of plaintiffs and defendants, with reference to volume and page numbers where recorded. Arr. alph. by names of plaintiffs and defendants. Typed. 640 pp. 18 x 12 x 3. 8 vols., 1859-1928, clk's. main off.; 2 vols., 1921--, clk's. va.

207. ATTORNEYS' OFFICE DOCKET, 1913-18. 4 vols. Discontinued.
Attorneys' docket of civil cases filed in district court, showing name of court, case number, title and cause, attorneys, date filed, amount claimed, dates answer due and filed, and remarks. Arr. num. by case nos. Indexed alph. by names of plaintiffs and defendants. Hdw. on pr. fm. Aver. 350 pp. 16 x 12 x 2. Attic.

208. BAR DOCKET, 1862-79, 1896-1914. 69 vols. (B-J, 42-60, 62-102). Discontinued.
Record of civil and criminal cases set for trial in district court, showing term of court, case number, title and cause, amount of bond, attorneys, date, scheduled for trial, and remarks. Arr. chron. by dates of scheduled trials. Indexed alph. by names of plaintiffs and defendants, 66 vols., 1862-79, 1896-1914; no index, 3 vols., 1913-14. Hdw. on pr. fm. Aver. 430 pp. 16 x 10 x 2 1/2. Attic.

209. MOTION DOCKET, 1865--. 189 vols. (twelve labeled by contained letters of alph. for each division; ninety labeled by division nos.; B-E, 1, 2, 1-3, 3-15, 41-78, 80-106).
Docket of motions filed in civil and criminal cases, showing term of court, case number, title and cause, attorneys, nature of motion, by whom made, date of hearing, and decisions and orders of court. Arr.

chron. by filing dates, 177 vols., 1865-1929; arr. alph. by names of plaintiffs and defendants, 12 vols., 1929--. Indexed alph. by names of plaintiffs and defendants, 145 vols., 1894-1912, 1916-29; no index, 44 vols., 1865-94, 1912-16, 1929--. Hdw. on pr. fm. Aver. 360 pp. 16 x 11 x 2 1/4. 177 vols., 1865-1929, attic; 12 vols., 1929--, clk's. east room.

210. TRIAL DOCKET-CIVIL CASES, 1929--. 39 vols. (labeled by contained letters of alph.). 1859-1929 in Trial Docket (Civil and Criminal), entry 211.

Judge's docket of civil cases set for trial, showing case number, title and cause, attorneys, dates of hearings and continuances, minutes of proceedings, decisions and orders of court, disposition of case, and remarks. Arr. alph. by names of plaintiffs. No index. Hdw. on pr. fm. 300 pp. 12 x 10 x 3. Clk's. east room.

211. TRIAL DOCKET (Civil and Criminal), 1859-1929. 300 vols. (labeling varies).

This is judge's combination docket of civil and criminal cases set for trial, and which have been kept separately since 1929: Trial Docket, Civil Cases, entry 210; (Criminal) Trial Docket, entry 236. Arr. chron. by dates of trials. No index, 73 vols., 1859-95, 1912-16; indexed alph. by names of plaintiffs and defendants, 227 vols., 1862-1912, 1916-29. Hdw., 4 vols., 1859-68; hdw. on pr. fm., 257 vols., 1862-1929; hdw. and typed on pr. fm., 39 vols., 1916-29. Condition poor, 4 vols., 1862-68, 1903-6; condition fair, 149 vols., 1862-90, 1893-1912. Aver. 300 pp. 15 x 10 x 2. Attic.

212. JURY BOOK (Verdicts Rendered in District Court), 1889-93, 1906-18. 4 vols. (two unlabeled; 1, 2). Title varies: Jury Record, 1889-93, 1906-18. Discontinued.

Record of verdicts rendered by juries in civil and criminal cases tried in district court, showing term of court, case number, title and cause, date of trial, list of jurors, and verdict returned. Arr. chron. by dates of return. Indexed alph. by names of plaintiffs and defendants. Hdw. on pr. fm. Aver. 260 pp. 17 x 11 x 1 1/2. Attic.

For original instruments in civil cases, 1859--, see entry 198; in criminal cases, 1859--, see entry 229.

213. ALIMONY DOCKET, 1926--. 4 vols. (labeled by contained letters of alph.)

Record of alimony granted in district court divorce cases, showing case number, names of plaintiff and defendant, date of decree, amount granted, volume and page numbers of appearance docket where recorded, amounts and dates of payments to clerk, dates paid to plaintiff, and plaintiff's signature. Arr. alph. by names of defendants. No index. Hdw. on pr. fm. Aver. 260 pp. 17 x 11 x 1 1/2. Attic.

Judgment and Execution

214. ABSTRACT OF JUDGMENTS (Judgment Docket), 1858--. 43 vols. (A-Z, 1-17).
Record of judgments rendered in district court, showing case number, names of judgment creditor and debtor, amount of judgment, date rendered, rate of interest, date satisfied or renewed, and volume and page numbers of journal and execution docket where recorded. Arr. alph. by names of judgment debtors. No index. Hdw. on pr. fm. Aver. 640 pp. 18 x 12 x 2. Clk's. va.

215. ORDER OF SALE DOCKET, 1859--. 29 vols. (one unlabeled; 1, A, A-Z). Title varies: Execution Docket, 1859-1934.
Record of executions issued in district court to satisfy judgments, showing case number, names of judgment debtor and creditor, attorneys, date and amount of judgment, date of execution, to whom issued, description of property, dates of publication and sale, to whom sold, amount received, and brief of sheriff's return. Arr. chron. by dates of issue. Indexed alph. by names of plaintiffs and defendants. Hdw., 2 vols., 1859-67; hdw. on pr. fm., 27 vols., 1861--. Aver. 300 pp. 18 x 12 1/2 x 2. 28 vols., 1859-1935, clk's. va.; 1 vol., 1935--, clk's. main off.
For sheriff's copies of orders of sale, 1934--, see entry 358.

216. FOREIGN EXECUTION DOCKET, 1868--. 2 vols.
Record of executions against property located in Shawnee County to satisfy judgments rendered in courts of other counties, showing case number, names of litigants, amount of judgment, date of execution, to whom issued, description of property, appraised value, date of sale, to whom sold and brief of sheriff's return. Arr. chron. by dates of issues. Indexed alph. by names of plaintiffs and defendants. Hdw. on pr. fm. 190 pp. 18 x 12 x 1 1/2. Clk's. va.

217. CERTIFICATES OF SALES (of Property Under Execution), FINES REMITTED BY COUNTY COMMISSIONERS, 1923-28. 1 f. dr. 1928-- in (Civil Case Files), entry 198.
Sheriff's certificates of sale of property under execution, showing certificate number, case number, name of township or city, description of property, name and address of purchaser, purchase price, amount of fees and costs, certification of sheriff, and date filed. No index. Hdw. on pr. fm. 5 x 4 x 10. Clk's. south off.
For sheriff's register of certificates, 1903--, see entry 355; for sheriff's copies of certificates, 1918--, see entry 356.

218. ABSTRACT OF (Delinquent) PERSONAL PROPERTY (Tax) WARRANTS, 1934--. 2 vols.
Abstracts of delinquent personal property tax warrants returned unsatisfied by sheriff and certified by treasurer to clerk of district court to become lien upon real estate owned by delinquent, showing name and address of property owner, warrant number and date, year of

tax, amount, date of certificate, date and amount collected, and remarks. Arr. alph. by names of property owners, 1 vol., 1934--; no obvious arr., 1 vol., 1934--. No index. Hdw. on pr. fm. Aver. 400 pp. 19 x 15 x 2. Clk's. va.

Workmen

219. MECHANICS' LIENS, 1900--. 15 f. drs. (labeled by contained lien nos. 1-4000).

Original mechanics' liens, showing case number, names of claimant and contractor or owner, nature and amount of claim, itemized statement of claim, name of construction or improvement, description of property, date work was performed, date lien filed, date of release, notarization, and signature of claimant. Arr. chron. by filing dates. No index. Hdw. on pr. fm. 10 x 5 x 14. Clk's. south off.

For mechanics' liens filed for record, 1930--, see entry 172.

220. (Record of) MECHANICS' LIEN, 1859-62, 1869--. 10 vols. (one unlabeled; AA, 1-8). Title varies: Sub Contractor's Liens, 1872-96.

Record of mechanics' liens filed, showing names of claimant and contractor or owner, nature and amount of claim, itemized statement of labor or materials furnished, for what construction or improvement, date work was performed, description of property, date filed, date of release, and remarks. Arr. chron. by filing dates. and num. by case nos. Indexed alph. by names of owners and claimants, 7 vols., 1859-62, 1869-1922; indexed alph. by names of owners and contractors, 3 vols., 1922--. Hdw., 1859-62; hdw. on pr. fm. 1869--. Aver. 350 pp. 16 x 11 x 3. 2 vols., 1859-62, 1907-22, clk's. va.; 5 vols., 1869-1908, attic; 3 vols., 1922--, clk's. main off.

For register of deeds' lien book, 1860-67, see entry 171.

221. WORKMEN'S RELEASES, 1914-28. 4 f. drs. (labeled by contained release nos. 1-2506). Discontinued.

Original instruments of release of employers from liability under workmen's compensation act, showing claim and release numbers; date, nature, extent, and period of injury; amount of compensation received, from whom; name of employer released, signatures of workmen and witnesses, notarization, and date filed. Arr. num. by case nos. No index. Hdw. and typed. 10 x 5 x 14. Clk's. main off.

222. RECORD OF WORKMEN'S RELEASES, 1912-28. 4 vols. (12-15). Discontinued.

Record of release of employers from liability under workmen's compensation act, showing claim and policy numbers, name of employee, date and nature of injury, amount of compensation received, name of employer released, date of release, and remark. Arr. chron. by dates of release and num. by case nos. Indexed alph. by names of employees. Typed. Aver. 450 pp. 18 x 12 1/2 x 3. Clk's. va.

Bonds

223. BONDS FOR COSTS RECORD, 1855--. 7 vols. (O, 1-3, 3, 4, 16). Title varies: Record Bonds in Civil Cases, 1855-85. Record of bonds executed to guarantee payment of costs in civil cases, showing case number, title of cause, date filed, amount and conditions of bond, affidavits and signature of sureties, and approval of clerk of court. Also contains: Record of Appeal Bonds (in Civil Cases), 1865-93, entry 224; Miscellaneous Record of Bonds, 1855-85, entry 225. Arr. chron. by filing dates. Indexed alph. by names of plaintiffs. Hdw., 1855-1904; typed, 1904--. 600 pp. 18 x 12 x 3. 6 vols., 1855-1920, attic; 1 vol., 1920--, clk's. off.

224. RECORD OF APPEAL BONDS (in Civil Cases), 1893--. 3 vols. (6-8). 1865-93 in Bonds for Costs Record, entry 223. Record of bonds executed in appeals of civil cases from Court of Topeka and justices of the peace, showing case number, name of court, title of cause, decision of court, amount of bond, affidavits and signatures of principal and sureties, approval of clerk of court, and date filed. Arr. chron. by filing dates. Indexed alph. by names of plaintiffs. Hdw., 1893-1903; typed, 1903--. 600 pp. 18 x 14 x 3. 1 vol., 1893-1905, attic; 2 vols., 1905--, clk's. va.

225. MISCELLANEOUS RECORD OF BONDS, 1885--. 11 vols. (2, 5-13, 18). Title varies: Record of Undertakings and Bonds, 1885-1926. 1855-85 in Bonds for Costs Record, entry 223. Record of bonds executed in miscellaneous civil cases, including bonds in appeal to State Supreme Court, and appeal from surveys and appraisements; bonds for discharge of attachment, condemnation bonds, receivers' bonds, and bonds for stay of execution and injunction, showing case number, title of cause, nature of undertaking, date and amount of bond, affidavits and signatures of principal and sureties, approval of clerk of court, and date filed. Also contains: Record of Appeal Bonds (in Criminal Cases), 1855-87, entry 240. Arr. chron. by filing dates. Indexed alph. by names of plaintiffs. Hdw., 1885-92; typed, 1892--. 600 pp. 18 x 14 x 3. 5 vols., 1885-1916, 1926-27, attic; 6 vols., 1916--, clk's. va.

226. CONTRACTORS' BONDS, 1891--. 4 f. drs. (labeled by contained bond nos. 1-1140). Contractors' statutory bonds executed as guaranty of faithful performance of agreement and payment of claims, showing bond number, name of contractor, nature of agreement, amount of filing. Arr. num. by case nos. No index. Hdw. and typed on pr. fm. 10 x 4 x 14. Clk's. south off.

227. RECORD OF CONTRACTORS' BONDS VS MECHANICS' LIENS, 1891--. 4 vols. (1, 2, 13, 14). Record of bonds filed by contractors as security for payment of claims, showing bond number, name of claimant, amount and nature of claim,

description of property, amount and conditions of bond, names and affidavits of sureties, and date of recording. Arr. chron. by recording dates and num. by bond nos. Indexed alph. by names of contractors. Hdw., and typed and hdw. on pr. fm. Aver. 383 pp. 18 x 12 x 3. Clk's. va.

228. QUALIFICATION OF SURETY, 1926--. 1 f. dr.
Qualifications of sureties, showing date, name, address, marital status and occupation of surety; value of real estate and personal property owned, debits of previous security to anyone, signature of surety, notarization, and date filed. No index. Typed and hdw. on pr. fm. 5 x 4 x 10. Clk's. south off.
For sheriff's record of qualification of sureties, 1929--, see entry 389.

Criminal Cases
(See also entries 195-197, 200, 202, 208, 209, 212, 266-iii)

Case Files

229. (CRIMINAL CASE FILES), 1873--. 99 bdls. (labeled by contained case nos. 1-12676), 126 f. drs. (labeled by contained case nos. 1600-8790, 8911-10650; 12680-16131). 1859-87 in (Civil and Criminal Case Files), entry 199.
Indictments, informations, warrants, subpoenas, affidavits, motions, instructions to jury, jury verdicts, commitments, court orders, journal entries, and other original instruments filed in criminal cases, showing case number; names of defendant, complainant, witnesses, and jurors, crime charged, pleadings and writs, decisions and orders of court, findings of jury, fees, costs, and disposition of case. The instruments for each case are enclosed in a jacket labeled with the number and title of the cause. Also contains: Affidavits of Jurors, 1910--, entry 245; Witness Claims (Affidavits), 1910--, entry 248. Arr. num. by case nos. No index. Hdw. and typed on pr. fm. Condition fair, 1873-1920. Bdls. aver. 4 x 8 x 10; f. drs. 12 x 5 x 14. 56 bdls., 1873-1915, attic; 70 f. drs., 1885-1925, clk's. south off.; 43 bdls., 1915-21, 1925-29, clk's. east room; 56 f. drs., 1929--, clk's. va.
For record of verdicts, 1889-93, 1906-13, see entry 212.

230. TRANSCRIPT (of Evidence in Criminal Cases), 1920--. 4 f. drs. (labeled by contained letters of alph.). 1872-1937 in Miscellaneous (Records), entry 266; 1921-32 also in Transcript (of Evidence in Civil Cases), entry 201.
Transcripts of evidence given by witnesses in criminal cases tried in district court, showing case number, title and cause, attorneys, name of witness, date of trial, details of testimony, and date filed. Arr. alph. by names of plaintiffs. No index. Typed. 16 x 10 x 26. Clk's. south off.

231. PARDONS BY GOVERNOR, 1925--. 6 f. drs. (labeled by contained pardon nos. 5374-15846).
Original pardons granted by Governor, showing case and parole numbers, name of prisoner, date of conviction, offense charged, date of expiration of sentence, date and terms of pardon, signature of Governor, and date filed. Arr. num. by case nos. No index. Hdw. and typed on pr. fm. 4 x 4 x 10. Clk's. south off.

Dockets

232. RECORD OF INDICTMENTS, 1858-94. 5 vols. (one unlabeled; A, B, 1, 2).
Record of criminal indictments returned by grand juries, showing date of session, name of accused, offense charged, nature of indictment, true bills, date returned, names of complainant, witnesses, and county attorney, amount of bond, and date approved. Arr. chron. by dates of return. Indexed alph. by names of defendants. Hdw. on pr. fm. Condition fair. Aver. 350 pp. 17 x 12 x 2. Attic.

233. RECORD OF INFORMATION, 1893-1902, 1907--. 13 vols. (one unlabeled; D, 5-9, 15-20).
Record of information filed in criminal cases, showing case number, name of accused, offense charged, date of offense, nature of information, names and affidavits of complainant and witnesses, remarks, and date filed for record. Arr. chron. by filing dates. Indexed alph. by names of defendants. Hdw., 1893-1902; hdw. on pr. fm., 1907-25; typed on pr. fm., 1925--. Aver. 580 pp. 18 x 12 x 2 1/2. 9 vols., 1893-1902, 1912--, clk's. va.; 4 vols., 1907-16, attic.

234. CRIMINAL APPEARANCE DOCKET, 1859--. 31 vols. (A-Z, 1-5).
Docket of criminal cases filed, showing case number, title and cause, date and nature of pleadings filed and writs issued, names of attorneys, notations of court's orders and decisions, record of fees and costs, and disposition of case. Arr. num. by case nos. Indexed alph. by names of defendants; also separate index, entry 235. Hdw. on pr. fm. Aver. 600 pp. 18 x 13 x 3. 26 vols., 1859-1936, clk's. va.; 5 vols., 1936--, clk's. main off.

235. GENERAL INDEX, CRIMINAL, 1859--. 2 vols.
Index to Criminal Appearance Docket, entry 234, showing case number and names of plaintiff and defendant with reference to volume and page numbers where recorded. Arr. num. by case nos., 1859-95; arr. alph. by names of defendants, 1859--. Hdw., 1859-95; typed, 1895--. Aver. 325 pp. 18 x 12 x 2. Clk's. va.

236. (Criminal) TRIAL DOCKET, 1929--. 9 vols. (labeled by contained letters of alph.). 1859-1929 in Trial Docket (Civil and Criminal), entry 211.
Judge's docket of criminal cases set for trial, showing case number, name of defendant, crime charged, attorneys, dates of hearings and

continuances, minutes of proceedings, decisions and orders of court, disposition of case, and remarks. Arr. alph. by names of defendants. No index. Hdw. on pr. fm. Aver. 450 pp. 12 x 10 x 3. Clk's. east room.

237. STATE OF KANSAS CASES (Record of Criminal Cases Prosecuted by State Attorney General), 1930--. 1 vol.
Record of criminal cases set for trial in district court and prosecuted by State Attorney General, showing case number, name of defendant, crime charged, date of filing, date of trial, decisions and orders of court, disposition of case, record of fees and costs, and volume and page numbers of appearance docket where recorded. Arr. alph. by names of defendants. No index. Hdw. on pr. fm. 300 pp. 12 x 10 x 3. Clk's. east room.

Bonds

238. RECOGNIZANCE RECORD TO APPEAR, 1865--. 16 vols. (0, 2-9, 10A, 10B, 10D, 14-17). Title varies: Recognizance Record of Bonds, 1865-91.
Record of bonds executed by defendants in criminal cases to guarantee appearance in court, showing case number, name of defendant, nature of case, amount of bond, date for appearance, affidavits and signatures of principal and sureties, approval of court, and date of filing. Also contains: Record of Appeal Bonds (in Criminal Cases), 1887-1901, entry 240. Arr. chron. by filing dates. Indexed alph. by names of defendants. Hdw. on pr. fm. 600 pp. 18 x 14 x 3. 9 vols., 1865-1911, attic; 7 vols., 1911--, clk's. va.

239. (APPEAL BONDS), 1915--. 5 f. drs. (labeled by contained case nos. 7000-11000).
Original bonds executed by defendants in appeals from decisions of lower courts in criminal actions, showing date, case number, title and cause, name of court from which appeal is taken, amount and conditions of bond, affidavits and signatures of sureties, date of approval, and date filed. Arr. num. by case nos. No index. Hdw. on pr. fm. 10 x 5 x 14. Clk's. south off.

240. RECORD OF APPEAL BONDS (in Criminal Cases), 1901--. 4 vols. (8, 9, 10C, 11). 1855-87 in Miscellaneous Record of Bonds, entry 225; 1887-1901 in Recognizance Record to Appear, entry 238.
Record of bonds executed in criminal cases appealed to district court from Court of Topeka, City of Topeka police court, and justices of the peace, showing name of court, case number, title of cause, decision of lower court, amount of bond, affidavits and signatures of principal and sureties, approval of court, and date filed. Arr. chron. by filing dates. Indexed alph. by names of defendants. Hdw. on pr. fm. 600 pp. 16 1/2 x 12 x 3. 1 vol., 1901-13, attic; 3 vols., 1913--, clk's. va.

Naturalization

241. AFFIDAVIT OF APPLICANT (Declaration of Intention), 1904-6. 2 f. drs. Discontinued.
Original declarations by aliens of intention to become citizens of United States, showing declaration number, date; name, address, age, color, sex, physical description, and occupation of declarant; date and place of birth; date and place of arrival in United States; renunciation of allegiance, affidavit, signatures of declarant and witnesses, notarization, and date filed. No index. Typed. 5 x 4 x 10. Clk's. south off.

242. NATURALIZATION SERVICE DECLARATION OF INTENTION, 1868-1932. 10 vols. Discontinued. Subsequent records kept by United States District Court at Topeka.
Record of declarations of intention by aliens to become citizens of United States, showing declaration number, date; name, address, age, color, sex, occupation, and physical description of declarant; date and place of birth; date and place of arrival in United States; copy of oath and affidavit, and dates filed and recorded. Arr. num. by declaration nos. Indexed alph. by names of declarants. Hdw. on pr. fm. Aver. 45 pp. 18 x 11 1/2 x 2. Clk's. va.

243. NATURALIZATION SERVICE - PETITION AND RECORD, 1906-29. 7 vols. (I-VII). Discontinued. Subsequent records kept by United States District Court at Topeka.
Record of naturalization, showing name, address, age, color, sex, physical description, and occupation of alien; date and place of birth; date and place of arrival in United States; country renounced; names, ages, and residences of children; date declaration of intention and petitions filed; affidavits of witnesses; memorandum of continuances, orders of court in granting or denying citizenship, certificate of citizenship; number, and date issued. Arr. num. by declaration nos. Indexed alph. by names of petitioners. Hdw. on pr. fm. Aver. 200 pp. 18 x 12 x 1 1/2. Clk's. main off.

Jurors

244. JURY DRAWN AND CERTIFICATE OF SERVICE, 1936--. 2 f. drs.
Lists of jurors drawn for service in district court trials, showing date, term of court, division for which drawn, names and addresses of jurors, signature of jury clerk; date summoned, and signature of clerk of district court. Arr. chron. by filing dates. No index. Typed. 10 x 4 x 14. Clk's. south off.

For prior record, 1930-36, see entry 51; for judges' orders to draw jurors, 1884-1936, see entry 266-iv; for sheriff's lists of jurors to be summoned, 1905--, see entry 359.

245. AFFIDAVITS OF JURORS, 1937--. 1 f. dr. 1872-1937 in Miscellaneous (Records), entry 266; 1910-- also in (Civil Case Files), entry 198; 1910-- also in (Criminal Case Files), entry 229.
Jurors' affidavits of service rendered in district court, showing court divisions, term of court, number of days in attendance, mileage, oath, signature of juror, and date filed. No index. Hdw. on pr. fm. 16 x 10 x 26. Clk's. main off.

246. JURY FEE BILLS CERTIFIED, 1907-28, 1936--. 1 f. dr.
Court clerk's copies of monthly reports to county commissioners of fees due jurors in district court trials and payable by county, showing date, names of jurors, days attendance, mileage, amount of fees, term of court, and clerk's signature. Arr. chron. by dates of reports. No index. Typed. 10 x 4 x 14. Clk's. south off.
For county commissioners' copies, 1910--, see entry 14-ii.

247. JURY SERVICE RECORD, 1891--. 11 vols. (nine unlabeled; 3, 4). Title varies: Jury Record, 1891-97. 1875-91 in Witness and Jury Claims, entry 250.
Record of attendance and fees of jurors, showing term of court, name of juror, date, days served, and amount of fees due. Arr. chron. by terms of court and chron. thereunder by dates of service. No index. Hdw. on pr. fm. Aver. 200 pp. 17 x 13 x 2. 9 vols., 1891-1930, attic; 2 vols., 1931--, clk's. main off.

Witnesses

248. WITNESS CLAIMS (Affidavits), 1937--. 1 f. dr. 1884-1911 in Depositions, entry 202; 1910-- in (Civil Case Files), entry 198; 1910-- also in (Criminal Case Files), entry 229.
Witnesses' affidavits of attendance in civil and criminal cases tried in district court, showing term of court, case number, title and cause, name and address of witness, for which party, number of days in attendance, mileage, total amount of fees due, oath and signature of witness, and date filed. No index. Hdw. on pr. fm. 16 x 10 x 26. Clk's. main off.
For statements of witness fees certified to county commissioners, 1910--, see entry 14-iii.

249. WITNESS (Attendance and Claim) DOCKET, 1885--. 10 vols. (D-M). Title varies: Witness Claims, 1885-1907. 1875-85 in Witness and Jury Claims, entry 250.
Record of attendance and claims of witnesses in district court trials, showing case number, title of cause, name and address of witness, date subpoenaed, for which party, dates of attendance, mileage, total amount of claim, and remarks. Arr. chron. by trial dates. Indexed alph. by names of plaintiffs. Hdw. on pr. fm. Aver. 460 pp. 16 x 13 x 2 1/2. 7 vols., 1885-1922, attic; 3 vols., 1922--, clk's. main off.

250. WITNESS AND JURY CLAIMS, 1875-91. 2 vols.
This is a combination of two records subsequently kept separately: Jury Service Record, entry 247; Witness (Attendance and Claim) Docket, 1875-85, entry 249. Arr. chron. by dates of trials. Indexed alph. by names of plaintiffs. Condition fair. 300 pp. 15 x 12 x 2. Attic.

Receipts and Disbursements

251. JOURNAL (Record of Cash Received), 1899-1901, 1907-9, 1912--, 44 vols. Title varies: Day Book and Cash Book, 1912-25.
Daily record of cash received by clerk of district court, showing case number, title and cause, items and amounts received, by whom paid, purpose, total, and remarks. Arr. chron. by dates of receipt. No index. Hdw. Condition fair, 1912--. Aver. 400 pp. 14 x 9 1/2 x 2. 26 vols., 1899-1901, 1907-9, 1912-25, attic; 18 vols., 1919--, clk's. va.

252. LEDGER, 1910--. 14 vols.
Record of cash received and disbursed by clerk of district court, showing case number, title and cause; date, items and amounts received, by whom paid, purpose; total amount of deposit; date, items and amounts of disbursements, to whom paid, purpose, check number, receipt number, and balance. Also contains: Journal (Record of Fees), 1912-14, 1926--, entry 253; Ledger-Foreign County Fees, 1920--, entry 254. Arr. chron. by dates of transactions. No index, 7 vols., 1911-32. Hdw. and typed. Aver. 510 pp. 18 x 12 x 4. 12 vols., 1910-32, attic; 2 vols., 1933--, clk's. va.

253. JOURNAL (Record of Fees), 1887-1911, 1914-25. 12 vols. (nine unlabeled; 1-3). Title varies: Register of Fees, 1887-1911. 1912-14, 1926-- in Ledger, entry 252.
Record of fees collected and disbursed, showing case number, title and cause, amount of fees, by whom and date paid, purpose, date and to whom paid, amount, service rendered, and receipt number. Arr. chron. by dates of transactions. No index. Hdw. and hdw. on pr. fm. Aver. 500 pp. 16 x 12 x 2 1/2. Attic.
For quarterly reports of fees collected, 1880--, see entry 470.

254. LEDGER-FOREIGN COUNTY FEES, 1917-20. 1 vol. 1920-- in Ledger, entry 252.
Record of fees paid by other counties for services rendered, showing name of county, case number, title and cause, amount of fees, by whom and date paid, service rendered, classification as to source, and remarks. Arr. chron. by dates paid. Indexed alph. by names of counties. Hdw. Aver. 400 pp. 12 x 6 x 2. Attic.

255. RECEIPTS (Money Paid In), 1937--. 6 bdls. 1884-1936 in Miscellaneous (Records), entry 266.
Duplicate copies of receipts issued by clerk of district court for fines, fees, and costs received, showing date, receipt number, case number, title and cause, amount for each purpose, total, by whom paid, and signature of clerk. Arr. chron. by dates of receipts. No index. Hdw. on pr. fm. 3 x 6 x 9. Clk's. va.

256. INVOICES (Report of Court Costs Collected and Remitted to County Treasurer), 1928--. 3 vols.
Duplicate copies of monthly reports of clerk of district court to county commissioners of fines, fees, and costs collected and remitted to county treasurer, showing date of report, itemized statement and classification of amounts received, from what sources, total amount; date remitted to treasurer, and signature of clerk, with county treasurer's receipts attached. Arr. chron. by dates of reports. No index. Hdw. and typed on pr. fm. Aver. 425 pp. 16 x 11 x 3 1/2. 1 vol., 1928-35, attic; 2 vols., 1935--, clk's. va.

Patents

257. LETTERS PATENTS AND PATENT AFFIDAVIT, 1889--. 4 f. drs.
Affidavits of patents executed by patentee, showing date of affidavit, nature and description of invention, letter patent number, date certificate of patent was issued by United States patent office, date filed with clerk of district court; name, address, age, occupation, oath, and signature of patentee, and date filed. Arr. chron. by filing dates. No index. Typed, 1889-1928; hdw. on pr. fm. 1929--. 5 x 4 x 10. Clk's. south off.

258. RECORD OF LETTERS PATENT, 1894-1916. 1 vol. Discontinued.
Record of patent rights, showing date and number of letter patent, date filed; name, description, and explanation of invention; by whom patented; name, address, age, and occupation of affiant; name, residence, and occupation of principal; and date affidavit filed and recorded. Arr. chron. by filing dates. Indexed alph. by names of patentees. Hdw. and typed. 584 pp. 18 x 12 x 3. Clk's. va.

Miscellaneous

259. NOTARY RECORD, 1868--. 25 vols. (one unlabeled; B-K, B-O).
Title varies: Qualifications of Notaries Public, 1868-79; Record of Notaries, 1879-1927.
Record copies of commissions granted by Governor of Kansas authorizing appointees to perform duties of notary public, showing name and address of appointee, date of appointment, name of Governor and Secretary of

State, amount of bond, name of sureties, copy of oath and qualification of office, and date recorded. Arr. chron. by recording dates. Indexed alph. by names of notaries. Hdw., 1868-79; hdw. on pr. fm., 1879--. Condition fair, 1879-1927. Aver. 500 pp. 16 x 12 x 2 1/2. 1 vol., 1868-79, clk's. va.; 20 vols., 1879-1927, attic; 4 vols., 1927--, clk's. main off.

260. POWER OF ATTORNEY, 1928--. 1 f. dr. 1895-1931 in Bonds and Power of Atty.- Revocation of Pow. of Atty. (Applications for Admission to the Bar), entry 263.
Letters of attorney delegating to grantee authority to act for grantor in matters set forth in instrument, showing dates, enumeration of duties, and signatures of grantee, grantor, and witnesses, with attached surety bonds showing date, name of principal, amount and conditions of bond, and affidavits and signatures of sureties. Also, revocations of power of attorney, showing date, reason for revocation, signature of grantor and date filed. Arr. chron. by filing dates. No index. Hdw. on pr. fm. and typed. 5 x 4 x 10. Clk's. south off.

261. APPOINTMENTS, 1908--. 3 f. drs. Title varies: Appointments of Deputy Clerk and County Auditors, 1908-29.
Appointments, bonds, and oaths of deputy clerks, court bailiffs, official court reporters, and other district court officials, and county auditors, showing name of appointee, title of office, date of appointment, amount and conditions of bond, affidavits and signatures of sureties, date approved, and date filed. Arr. chron. by filing dates. No index. Typed. Hdw. and typed on pr. fm. Aver. 4 1/2 x 4 x 10. Clk's. south off.
For other appointments and bonds see entries 119-124, 186, 187, 450.

262. LETTER FILE (Correspondence), 1929--. 7 f. bs. 1872-1937 also in Miscellaneous (Records), entry 266; 1921-32 also in Transcript (of Evidence in Civil Cases), entry 201.
Original and duplicate copies of clerk's correspondence to and from various sources pertaining to official business of office and district court. Arr. alph. by names of correspondents and chron. thereunder. No index. Hdw. and typed. 12 x 12 x 2. Clk's. east room.

263. BONDS AND POWER OF ATTY.- REVOCATION OF POW. OF ATTY. (Applications for Admission to Bar), 1895-1931. 1 f. dr. Discontinued.
Applications to practice law in district and inferior courts, 1895-1905, showing date; name, age, and address of applicant; education, training, and experience; proof of right to practice, oath and signature of applicant, and dates approved and filed. Also contains: Power of Attorney, entry 160. Arr. chron. by filing dates. No index. Hdw. on pr. fm. and typed. 4 x 4 x 10. Clk's. south off.

264. ATTORNEYS RECEIPTS FOR PAPERS, 1884-1927. 11 vols. (three unlabeled; 1-8). Discontinued. Subsequent records kept on cards destroyed upon return of papers.
Receipts for papers and instruments taken from clerk's office by attorneys, showing case number, title and cause, name of attorney, instrument identification, date taken, date returned, and signatures of attorney and clerk. Arr. chron. by dates taken. No index, 1884-88; indexed alph. by names of plaintiffs and defendants, 1889-1927. Hdw. on pr. fm. Aver. 480 pp. 13 1/2 x 11 x 2. Attic.

265. IN MEMORIUM, 1898-1923, 1929--. 2 f. drs. Title varies: Memorials and Reports Committee, Bar Association, 1898-1925.
Copies of memorial resolutions adopted by Shawnee County Bar Association in honor of deceased members, showing date, statements of resolution, and signature of clerk of district court. Arr. chron. No index. Hdw. and typed. 4 1/2 x 4 x 10. Clk's. south off.

266. MISCELLANEOUS (Records), 1872--. 51 cb. bs., 3 f. drs.
Miscellaneous instruments filed by clerk of district court, including:

i. Affidavits of newspaper publishers of publication of legal notices, 1884--, showing names of publisher and publication, dates published, amount of fees, and oath and signature of publisher.
ii. Canceled and paid checks returned by banks handling district court funds, showing date, check number, name of bank, name of payee, amount, purpose, signature of clerk, endorsements, and date canceled.
iii. Exhibits, including documents, instruments, records, and various objects filed in civil and criminal cases tried in district court, showing case number, title and cause, nature and identification of instrument, date admitted as evidence, and date filed.
iv. Orders of judge of district court directing county clerk to draw a number of taxpayers to serve as jurors, 1884-1936, showing date of order, term of court, date to appear and signature of judge. For list of jurors drawn for service, 1930-36, see entry 51; for list, 1936--, see entry 244.
v. Stubs of checks drawn by clerk of district court on court funds, showing date, check number, name of bank, name of payee, amount, and purpose.

Also contains: (Stenographers' Note Books), 1872-1937, entry 200; Transcripts (of Evidence in Civil Cases), 1872-1937, entry 201; Depositions, 1872-1937, entry 202; Transcript (of Evidence in Criminal Cases), 1872-1937, entry 230; Affidavits of Jurors, 1872-1937, entry 245; Receipts (Money Paid In), 1884-1936, entry 255; Letter File (Correspondence), 1872-1937, entry 262. Arr. chron. by dates of instruments. No index. Hdw. and typed on pr. fm. Condition fair, 1884-1937. Cb. bs. aver. 14 x 20 x 30; f. drs. 4 x 4 x 10. 51 cb. bs., 1872-1937, attic; 3 f. drs., 1884--, clk's. south off.

(Next entry 267, p. 342)

V. SUPERIOR COURT

Structural Organization and Evolution

Creation - Terms. Because of the large volume of work confronting the district court of Shawnee County in 1885 the legislature of that year created the superior court with the provision that it should exist for 2 years and have jurisdiction to try all cases, except divorce actions, which might be transferred to it from the district court. The act specified that terms should be held commencing on the first Mondays of April, June, September, and November of each year.[1] The first session of the superior court was held April 6, 1885 and the last case was heard April 4, 1887.[2]

The county commissioners were required to provide at the expense of the county suitable rooms forholding court and for the clerk's office and records, and also to supply the necessary furniture, record books, stationery, and equipment.[3] The county commissioners on March 27, 1885 leased rooms on the second floor of the building on lot 134 on Kansas Avenue for the court.[4]

Judge. The act provided that the Governor should appoint and commission a judge of the superior court to hold office until the first Monday in April 1887. The judge was required to subscribe a written oath and file one copy with the Secretary of State and another with the county clerk of Shawnee County. He received a salary of $2,500 per year payable from the State treasury in monthly installments.[5] On March 24, 1885 Governor John A. Martin appointed W. C. Webb to this position.[6] The law provided that in event of the absence or illness of the judge at the beginning of or during the term the members of the bar should select a judge pro tempore by ballot, under direction of the clerk of the court, providing that at least 20 of the attorneys practicing in the court and residing in the county should be present and participate in the proceedings. It was specified that if the presiding judge was interested in an action before him, or related to either of the parties, or otherwise disqualified, the parties to the action or their attorneys could select a pro tempore judge by written stipulation; otherwise the case had to be transferred to the district court.[7]

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1. L. 1885, ch. 140, secs. 1, 3, 16, 21.
2. Superior Court, Journal, vol. 1, p. 1; vol. 2, p. 88, see entry 267.
3. L. 1885, ch. 140, sec. 13.
4. Commissioners' Journal, vol. G., p. 360, see entry 2.
5. L. 1885, ch. 140, secs. 9, 10.
6. Superior Court, Journal, vol. 1, p. 1, see entry 267.
7. L. 1885, ch. 140, sec. 7.

Clerk. The act created the office of clerk of the superior court and specified that until other provision was made the clerk of the district court should be ex officio clerk of the superior court.[1]

Bailiff. It was required that the sheriff of the county should attend upon the superior court in person or by deputy, serve process and execute the orders of the court, and perform all such other duties as might devolve upon him as general bailiff. He also was required to appoint a suitable person to attend upon the court as crier or bailiff, and whose duties should be such as were prescribed by law or designated by the court.[2]

Jurisdiction

The legislature gave the superior court concurrent jurisdiction with the district court in "all civil actions, legal and equitable, except actions for divorce," and also jurisdiction "to try and determine all such actions, either civil or criminal, as may be transferred from said district court to said superior court by authority of this act or of any other laws of this State; and for the purpose of the jurisdiction hereby conferred, and for its proper and necessary exercise, all the laws of this State relating to the powers and jurisdiction of the district courts and the practice, pleadings, and proceedings therein shall apply to said superior court and to the mode of procedure therein and to the process thereof, original, mesne, and final, so far as the same may be applicable." The court also was given original jurisdiction in proceedings in quo warranto, habeas corpus, and mandamus, and could allow injunctions "in all proper actions and proceedings." However, it had no original jurisdiction in any criminal action and no appellate jurisdiction from justices of the peace nor the probate court. But the legislature gave it "concurrent with the district court, supervisory powers over and respecting all courts and tribunals inferior to the district court to prevent and correct errors and abuses."[3]

Within his county and with respect to proceedings before him the judge of the superior court was given power in vacation or at chambers to determine motions to grant, vacate, or modify injunctions; to dissolve or discharge attachments; to appoint receivers; to vacate orders of arrest; to grant or vacate all necessary interlocutory orders, and to punish for contempt. In all other respects he had the same authority respecting actions in his own court that district judges possessed

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1. L. 1885, ch. 140, sec. 1.
2. Ibid., sec. 14.
3. Ibid., secs. 3, 4.

respecting actions in the district court.[1] In the absence of the superior court judge from the county the judge of the district court was empowered to grant temporary injunctions and perform other acts in pending cases. Attorneys duly admitted to practice in the Supreme and district courts were deemed attorneys of the superior court.[2]

The same duties as those imposed upon clerks of district courts were imposed upon the clerk of the superior court. Upon transfer of a case from the district court he was required to enter it upon the superior court appearance docket "and such other dockets as may be necessary," after which it was proceeded with and determined as though it had originally been filed in the superior court. Process of the court was directed, executed, and returned, and was in the same form, as that of the district court.[3]

Records

The law required the clerk of the superior court to keep a journal of court proceedings, an appearance docket, a trial docket, a judgment docket, and an execution docket, and to file the papers in all actions left with him for that purpose. All process issued by him was required to be attested with his signature and the seal of the court.[4] The records were kept in the same manner as those of the district court.

267. JOURNAL, 1885-87. 2 vols.
Journal of proceedings of superior court, showing date, case number, title and cause, attorneys, pleadings, rulings and decisions of court, and disposition of case. Arr. chron. by dates of entries. Indexed alph. by names of plaintiffs. Hdw. 580 pp. 18 x 13 x 3. Attic.

268. (CASE FILES), 1885-87. 11 f. drs. (labeled by contained case nos. 1-448).
Petitions, pleadings, informations, complaints, warrants, motions, subpoenas, summonses, affidavits, instructions to jury, commitments, journal entries, and other original instruments filed in civil and criminal cases, showing date, case number, title and cause; names of attorneys, witnesses, and jurors; date of trial, rulings of court; fees, costs, and disposition of case. The instruments in each case are enclosed in a jacket labeled with number and title of the cause. Arr. num. by case nos. No index. Hdw. and hdw. on pr. fms. 10 x 5 x 14. East room, clk. of dist. ct.

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1. L. 1885, ch. 140, sec. 5.
2. Ibid., secs. 6, 8.
3. Ibid., secs. 11, 12, 15.
4. Ibid., secs. 2, 11, 12.

269. APPEARANCE DOCKET, 1885-87. 1 vol.
Docket of cases filed in superior court, showing date, case number, title and cause, attorneys; date and nature of pleadings filed and writs issued, fees, costs, and disposition of case. Arr. chron. by filing dates. Indexed alph. by names of plaintiffs. Hdw. on pr. fm. 580 pp. 18 x 14 x 2 1/2. Va., clk. of dist. ct.

270. TRIAL DOCKET, 1885-87. 2 vols.
Judge's docket of civil and criminal cases set for trial, showing case number, title and cause, attorneys, date of hearing, rulings and orders of court, and disposition of case. Arr. num. by case nos. Indexed alph. by names of plaintiffs and defendants. Hdw. Aver. 100 pp. 18 x 12 x 1/2. Attic.

271. ABSTRACT OF JUDGMENT (Docket), 1885-87. 1 vol.
Abstract of judgments rendered in superior court, showing date, case number, names of plaintiff and defendant, amount of judgment, against whom, rate of interest, date satisfied, and volume and page numbers of journal where recorded. Arr. alph. by names of judgment debtors. No index. Hdw. 640 pp. 18 x 12 x 2. Attic.

272. EXECUTION DOCKET, 1885-87. 1 vol.
Docket of executions issued to satisfy judgments, showing date, case number, names of judgment debtor and creditor, date and amount of judgment, date execution issued, to whom, description of property, date and to whom sold, amount received, and brief of sheriff's return. Arr. chron. by dates of issue. Indexed alph. by names of plaintiffs and defendants. Hdw. 196 pp. 18 x 12 x 1 1/2. Attic.

VI. CIRCUIT COURT

Structural Organization and Evolution

Creation - Terms. The volume of work which had accumulated in the district court within 4 years after the discontinuance of the superior court led to a legislative enactment in 1891 creating the circuit court. Terms were fixed to commence on the first Mondays in January, April, and September each year. As in the case of the superior court the county commissioners were required to furnish quarters for the court and the clerk, and all the necessary equipment, furniture, and supplies.[1] This court was abolished by the legislature effective April 12, 1895.[2]

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1. L. 1891, ch. 83, secs. 1, 3, 13.
2. L. 1895, ch. 104, secs. 1, 3.

The judge of the circuit court was empowered in vacation or at chambers, to hear and determine motions to grant, modify, and vacate injunctions; to dissolve or discharge attachments; to appoint receivers; to vacate orders of arrest; and to grant or vacate all nexessary interlocutory orders and punish for contempt. In all other cases he possessed the same powers and jurisdiction respecting actions coming before him as were possessed by district judges in matters before the district court.[1]

The act required the transfer to the circuit court of 300 civil actions, other than divorce cases and appeals from justices of the peace, then pending and undetermined in the district court. It also was competent for parties to any other civil action, other than divorce, to transfer their case to the circuit court by stipulation. It was the clerk's duty, upon receiving an order of transfer from the district judge, to certify all papers in the transferred case to himself as clerk of the circuit court, and enter them in the circuit court dockets.[2]

All laws relating to qualifications, drawing, summoning, and empaneling of jurors in the district court were made applicable to the circuit court. Jurors not actually empaneled on a case in one court or the other could be exchanged by the two courts as needed.[3]

Appeals from orders, decisions, and judgments of the circuit court law to the State Supreme Court in the same manner as appeals from the district court.

Records

The clerk of the circuit court was required to keep an appearance docket, a journal, and "such other books as may be ordered by the court or required by law." The act specified that he should not keep a judgment docket nor an execution docket, but that final judgments of the circuit court should be entered on the appearance docket and judgment docket of the district court. In other respects the records of the circuit court were handled in the same manner as those of the district court.[4]

The legislature in abolishing the circuit court decreed that its clerk should "immediately deliver to the clerk of the district court

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1. L. 1881, ch. 83, sec. 5.
2. Ibid., secs. 11, 12.
3. Ibid., sec. 16.
4. Ibid., secs. 10, 17.

of said county all records, books, papers, documents, and paraphenalia of said circuit court, "and that the clerk of the district court should thenceforth be their legal custodian.[1]

273. JOURNAL, 1891-95. 6 vols. (1-6).
Journal of circuit court proceedings in civil and criminal cases, showing case number, title and cause, attorneys, pleadings, date of hearing, orders and rulings of court, fees, costs, and disposition of case. Arr. chron. by dates of entries. Indexed alph. by names of plaintiffs. Typed. 640 pp. 18 x 13 x 3. Va. clk. of dist. ct.

274. (CASE FILES), 1891-95. 55 f. drs. (labeled by contained case nos. 1-1780).
Petitions, pleadings, informations, complaints, warrants, subpoenas, summonses, motions, affidavits, instructions to jury, commitments, journal entries, and other miscellaneous original instruments filed in civil and criminal cases, showing case number, title and cause; names of attorneys, witnesses, and jurors; date of filing, rulings and orders of court; fees, costs, and disposition of case. The instruments in each case are enclosed in a jacket labeled with number and title of the cause. Arr. num. by case nos. No index. Hdw. and typed on pr. fms. 10 x 5 x 14. South room, clk. of dist. ct.

275. CIVIL APPEARANCE DOCKET, 1891-94. 4 vols. (1-4).
Docket of civil cases filed in circuit court, showing case number, title and cause, date, attorneys, dates and nature of pleadings filed and writs issued, fees, costs, and disposition of case. Arr. chron. by filing dates. Indexed alph. by names of plaintiffs. Hdw. on pr. fm. 565 pp. 18 x 14 x 2 1/2. Va., clk. of dist. ct.

276. MOTION DOCKET, 1889-94. 2 vols.
Docket of motions filed in circuit court, showing date, case number, title and cause, attorneys, nature of motion, by which party, date of hearing, and ruling of court. Arr. chron. by filing dates. Indexed alph. by names of plaintiffs. Hdw. on pr. fm. 160 pp. 16 x 10 x 1/2. Attic.

277. TRIAL DOCKET, 1891-95. 12 vols. (1-12).
Judge's docket of civil and criminal cases tried in circuit court, showing case number, title and cause, attorneys, date of hearing, notations of proceedings, court orders and rulings, and disposition of case. Arr. num. by case nos. Indexed alph. by names of plaintiffs. Hdw. on pr. fm. Aver. 100 pp. 16 x 10 x 1/2. Attic.

278. WITNESS AND JUROR DOCKET, 1891-94. 1 vol.
Record of witness and juror attendance and claims for services in civil and criminal cases tried in circuit court, showing term of court, case

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[1] L. 1895, ch. 105, secs. 1, 2.

number, title and cause, date of trial, name and address of witness or juror, date subpoena issued, number of days in attendance, mileage, total amount of fees claimed, and remarks. Arr. chron. by dates of trials. Indexed alph. by names of plaintiffs. Hdw. on pr. fm. 300 pp. 14 x 8 x 1 1/2. Attic.

279. JURY RECORD (Verdicts Rendered), 1891-94. 1 vol.
Record of verdicts rendered by juries in civil and criminal cases tried in circuit court, showing term of court, case number, title and cause, date of trial, list of jurors, and nature of verdict and agreement rendered. Arr. chron. by dates of verdicts. Indexed alph. by names of plaintiffs and defendants. Hdw. on pr. fms. Condition fair. 300 pp. 14 x 9 x 2. Attic.

280. MISCELLANEOUS RECORD BONDS, 1891-95. 2 vols. Title varies: Record of Bonds for Cost, 1891-95.
Record of bonds for cost and attachment, and supersedeas and miscellaneous bonds filed in civil cases tried in circuit court, showing date of bond, case number, title and cause, amount and conditions of bond, names of sureties, date of approval, and date recorded. Arr. chron. by dates of recording. Indexed alph. by names of plaintiffs. Hdw. on pr. fms. Aver. 400 pp. 15 1/2 x 10 x 2. Attic.

VII. PROBATE COURT

Structural Organization and Evolution

Creation. Provision for the establishment of probate courts was made in the act of Congress organizing the Territory of Kansas.[1] The first Territorial assembly provided that there should be a probate court in each county, which should for all purposes be deemed a court of record and have a seal.[2] The State Constitution specified that "there shall be a probate court in each county, which shall be a court of record . . . The court shall consist of one judge . . ."[3]

Until 1891 the statutes required probate courts to hold four terms annually, but from then until 1939 a term was held each month. The new probate code provides that "there shall be no terms of the probate court. It shall be open for the transaction of business at

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1. 10 Stat. 286.
2. Terr. L. 1855, ch. 44, secs. 1, 6.
3. Const., art. 3, sec. 8.

(Next entry 281, p. 376)

the county seat at all reasonable hours. Hearings may be had at such other places in the county as the court may deem advisable."[1]

Judge. The first probate judges were elected by joint ballot of the first assembly to hold office until 1857, at which time and thereafter they were to be elected by the people to serve terms of 4 years. The assembly of 1859 reduced the term to 2 years, and the State Constitution specified that the probate judge "shall be elected by the qualified voters of the county and hold his office 2 years."[2] The first probate judges were commissioned by the Governor and subscribed an oath endorsed on the commission, which was recorded in the records of the court. To be eligible for the office a candidate was required to be a United States citizen and to have resided in the Territory and county for at least 3 months.[3] Since 1855 the statutes are silent as to special qualifications but require the probate judge, before entering upon the duties of his office, to execute and file a bond conditioned for faithful performance of duties and the payment to proper authority of all moneys and effects that may come into his hands by virtue of his office. Until 1868 the amount of the bond was fixed at $3,000. It was approved by the county treasurer and filed in his office until 1861, and thereafter with the county clerk. The general statutes of 1868 fixed $3,000 as the minimum amount of the bond and provided for approval by the county clerk. Since 1897 the law provides for a bond in a sum of not less than $2,000 nor more than $25,000 to be fixed by the county commissioners and approved by them.[4] Under a general law the probate judge also must subscribe an oath of office and deposit it with his official bond.[5]

Under a general law a probate judge may be removed by civil action in the manner provided in the code of civil procedure for neglecting or refusing to perform any duty incumbent upon him, or for "corruptly or oppressively" performing any duty.[6] Formerly, vacancies in the office of probate judge were filled by appointment by the county commissioners but since 1868 such appointments are made by the Governor.[7]

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1. Terr. L. 1855, ch. 44, sec. 23; L. 1861, ch. 25, sec. 5; G.S. 1868, ch. 29, sec. 3; L. 1891, ch. 157, sec. 1; L. 1911, ch. 188, sec. 20; G.S. 1935, ch. 20, sec. 1103; L. 1939, ch. 180, sec. 13.
2. Terr. L. 1855, ch. 44, secs. 1, 4; Terr. L. 1859, ch. 42, sec. 37; Const., art. 3, sec. 8.
3. Terr. L. 1855, ch. 44, secs. 2, 5.
4. Terr. L. 1860, ch. 28, sec. 39; L. 1861, ch. 25, sec. 2; G.S. 1868, ch. 25, sec. 84; L. 1897, ch. 96, sec. 1; G.S. 1935, ch. 19, sec. 1101; L. 1939, ch. 180, sec. 3.
5. Terr. L. 1858, ch. 13, sec. 100; Terr. L. 1860, ch. 28, sec. 125; G.S. 1868, ch. 25, sec. 173; G.S. 1935, ch. 19, sec. 2602.
6. G.S. 1868, ch. 25, sec. 180; G.S. 1935, ch. 19, sec. 2609.
7. Terr. L. 1855, ch. 44, sec. 3; Terr. L. 1860, ch. 28, sec. 41; G.S. 1868, ch. 25, sec. 86; G.S. 1935, ch. 19, sec. 1103; L. 1939, ch. 180, sec. 8.

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Salaries of probate judges vary according to the population of the county. In Shawnee County the salary is fixed at $3,800 per annum. The judge is authorized to appoint one deputy at $1,800 per year, one at $1,500 per year and another at $1,320 per year; one probation officer at $2,100 per year, an assistant probation officer at $1,500, and one lunacy clerk at $900 per year. The county commissioners may allow such extra sums for clerical hire as may in their opinions be necessary to properly expedite the business of the office.[1]

The legislature of 1868 provided that when the probate judge was interested in any estate to be administered in his county, the probate judge of any adjoining county might exercise all the necessary authority pertaining to such estate. This law was repealed in 1939.[2] It was not until 1907 that provision was made for a probate judge pro tempore. An enactment of that year provides that when the probate judge is sick or otherwise absent from his office he may designate some competent elector of the county to serve in his place. When the parties to any proceeding in the probate court, or their attorneys, file in the office of the clerk of the district court an affidavit to the effect that the probate judge is insane or interested in the subject matter of the proceedings then pending, the clerk must select a probate judge pro tempore from among the members of the bar of the county, whose oath, together with a copy of the minutes of the proceedings of his selection, must be certified to the probate court and entered upon its records. The judge this selected is clothed with the same authority in proceedings had before him as that possessed by the regular probate judge.[3]

The first Territorial assembly designated the probate judges as presidents of the boards of county commissioners of their respective counties, but this provision was eliminated by the assembly of 1858.[4] In addition to his duties as judge of the probate court the probate judge is designated as judge of the juvenile court which exercises the parental power of the State in the matter of dependent, neglected, and delinquent children,[5] and as judge of the county court in those counties which, by resolution of the county commissioners, have established such a court under the law of 1923.[6] There is no county court in Shawnee County.

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1. L. 1937, ch. 233, secs. 8, 16.

2. G.S. 1868, ch. 37, sec. 202; G.S. 1935, ch. 22, sec. 1307; L. 1939, ch. 180, sec. 279.

3. Const., art. 3, sec. 8 as amended November 6, 1906; L. 1907, ch. 166, secs. 1-3; G.S. 1935, ch. 20, secs. 1108-1110; L. 1939, ch. 180, secs. 5, 6.

4. Terr. L. 1855, ch. 44, sec. 28; Terr. L. 1858, ch. 13, secs. 3, 9.

5. L. 1905, ch. 190, sec. 1; L. 1917, ch. 154, sec. 1; G.S. 1935, ch. 38, sec. 401.

6. L. 1923, ch. 131, secs. 1, 3; G.S. 1935, ch. 20, secs. 801, 803.

Clerk. The first Territorial assembly provided that the probate judge and county commissioners should appoint a clerk of the county board, who should be commissioned by the Governor and execute a bond in the penal sum of not less than $1,000 conditioned for faithful performance of duty. His commission, with his oath of office endorsed thereon, was recorded in the probate court. The clerk of the board thus appointed was designated as ex officio clerk of the probate court, and in matters pertaining to estates and wills was vested with all the powers and required to perform all the duties of the probate judge in the latter's absence. Upon his return, however, the judge could either reject or affirm the actions of the clerk.[1]

The assembly of 1858, which removed the probate judge as a member of the board of county commissioners, provided that there should be a clerk of the probate court in each organized county who should hold his office 2 years, and that until provision should be made by law for his election or appointment the clerk of the board of county supervisors should be ex officio clerk of the probate court.[2] The assembly of 1859 created the office of county clerk and specified that the county clerk should be ex officio clerk of the probate court.[3] The State Constitution originally provided that the probate judge "shall be his own clerk," and though this clause was removed by an amendment adopted in 1906 the same provisions remained in the statutes. The legislature of 1933, however, authorized the county commissioners to allow him additional clerical assistance when needed.[4] The new probate code adopted by the legislature of 1939 provides that the probate judge shall be clerk of the probate court "and shall have such clerical assistants as may be allowed by law," and appoint one such assistant as deputy clerk. He also may appoint a competent stenographer as reporter in any matter pending before him.[5]

Jurisdiction

General. Since their creation by the first assembly probate courts in Kansas have had original jurisdiction in the matter of the estates of deceased persons, minors, and persons of unsound mind; the commitment of insane persons to institutions; proceedings in habeas corpus; and until 1939, the binding of apprentices and a general control over all

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1. Terr. L. 1855, ch. 44, secs. 33, 41.
2. Terr. L. 1858, ch. 13, secs. 34, 36, 37.
3. Terr. L. 1859, ch. 42, secs. 39, 40.
4. Const., art. 3, sec. 8 as amended November 6, 1906; L. 1861, ch. 25, secs. 3, 6; G.S. 1868, ch. 25, sec. 85; R.S. 1923, ch. 19, sec. 1102; L. 1933, ch. 165, sec. 1; G.S. 1935, ch. 19, sec. 1102.
5. L. 1939, ch. 180, sec. 4.

matters arising under the relationship of master and apprentice.[1] Since 1864 the probate court has had exclusive jurisdiction in proceedings for the adoption of minors;[2] since 1931 in proceedings for the care and hospitalization of crippled children;[3] and from time to time, various minor functions.

The first assembly also clothed the probate courts with certain civil jurisdiction. They were given concurrent jurisdiction with the district court in all actions on bonds, notes, or other liquidated demands for the direct payment of money where the amount claimed, exclusive of interest, did not exceed $1,000; and on all accounts or other unliquidated claims for money or property where the amount claimed exclusive of interest, did not exceed $500. Judgments could be taken by confession in either case where the amount did not exceed $1,000. In such cases the practice and pleadings lawful in the district court were made applicable to the probate court. Concurrent jurisdiction with the district court in equity and in all matters in which executors or administrators were parties, where the amount in controversy did not exceed $100, also was given the probate courts, and the laws governing practice in courts of chancery were made to apply in such cases.[4] However, the assembly of 1859 divested the probate court of jurisdiction in civil matters providing that all judgments, suits, and proceedings theretofore had in any probate court in the Territory, other than those relating to wills, administrations, guardianships, and similar probate court matters, be transferred to the district court. It was made the duty of the probate court clerk to transfer the files and records in such cases to the clerk of the district court, where they were to have the same force and effect as if the cases had been originally commenced there.[5]

Orders and process of the probate court are directed to and executed by the sheriff. The court has power to compel the attendance of witnesses; to issue subpoenas, citations, executions, and attachments; to make orders and render judgments and decrees and enforce them by appropriate procedure; to punish for contempt; and to compel the performance of any duty incumbent upon any fiduciary appointed by or accounting to the court.[6]

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1. Terr. L. 1855, ch. 44, secs. 8, 15; Const., art. 3, sec. 8; L. 1861, ch. 25, sec. 1; G.S. 1868, ch. 29, sec. 1; G.S. 1935, ch. 20, sec. 1101; L. 1939, ch. 180, secs. 17, 280.
2. L. 1864, ch. 83, sec. 1; G.S. 1868, ch. 67, sec. 6; L. 1903, ch. 361, sec. 1; L. 1935, ch. 185, sec. 1; G.S. 1935, ch. 38, sec. 106; L. 1939, ch. 180, secs. 253, 254.
3. L. 1931, ch. 283, secs. 7, 8; G.S. 1935, ch. 65, secs. 5a02, 5a03.
4. Terr. L. 1855, ch. 44, secs. 10, 22.
5. Terr. L. 1859, ch. 41, secs. 1-3.
6. Terr. L. 1855, ch. 44, secs. 20, 21; L. 1869, ch. 38, sec. 1; G.S. 1935, ch. 20, sec. 1105; L. 1939, ch. 180, secs. 12, 18.

Administration of Estates. Subject to certain provisions of law, any person of full age and sound mind may dispose of his property by a written will subscribed by himself or some person at his direction, and attested by two or more competent witnesses who saw the testator subscribe or heard his acknowledgment of the document. To be effectual to pass real or personal property a will must be admitted to probate and if the testator is a resident of the State the application for probate must be made within 1 year after his death. A will executed legally without the State may be admitted to probate in Kansas and has the same force as if executed in this State. A will enclosed in a sealed wrapper endorsed with the name and address of the testator and the day when and the name of the person to whom it is to be delivered, may be deposited in the probate court of the county where the testator resides. The court must give him a certificate and retain the will, and during his lifetime may deliver it only to the testator or upon his written order. After the testator's death the will is opened publicly and notice is given to the executor and such other persons as the court may designate. If the proper venue is in another county a copy of the will must be made and retained by the court in which it was deposited, and the original will transmitted to the probate court of the county having jurisdiction.[1]

Authenticated copies of wills executed and proved outside of Kansas "according to the laws in force in the place where proved," relative to any property in this State, may be admitted to probate and recorded in the probate court of any county where any part of the property may be situated. The estate of a nonresident decedent is administered in the same manner as that of a resident decedent.[2]

Letters testamentary are granted the executor if any is named in the will, and if he is competent and accepts the trust; otherwise letters of administration are granted with the will annexed. Any person interested in the estate of a decedent may petition for probate of his will, or for administration. The court then holds a hearing and grants letters testamentary to the executor if there is a will, or appoints an administrator, and fixes the bond which either must give.[3]

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1. Terr. L. 1855, ch. 164, secs. 1-4, 14, 34, 38; Terr. L. 1859, ch. 131, secs. 1, 5, 14, 18, 20; L. 1865, ch. 86, secs. 1-6, 31; G.S. 1868, ch. 117, secs. 1-6, 29; L. 1911, ch. 336, sec. 1; G.S. 1935, ch. 22, secs. 201, 207, 232; L. 1939, ch. 180, secs. 37, 38, 42, 45, 52, 53, 56, 57.

2. Terr. L. 1855, ch. 164, sec. 34; Terr. L. 1859, ch. 131, sec. 20; L. 1865, ch. 86, sec. 26; G.S. 1868, ch. 117, sec. 24; G.S. 1935, ch. 22, sec. 227; L. 1937, ch. 180, secs. 68, 69.

3. Terr. L. 1855, ch. 1, art. 1, secs. 1-3, 9, 15-17, 21; Terr. L. 1859, ch. 2, secs. 1, 2, 5, 6, 15-17; G.S. 1868, ch. 37, secs. 1, 2, 12, 13; R.S. 1923, ch. 22, sec. 301; G.S. 1935, ch. 22, secs. 301-305, 312, 313; L. 1939, ch. 180, secs. 58, 62, 195-197, 200, 203, 208.

Within 30 days from the date of his letters of appointment every executor or administrator must make an inventory of all the property, real and personal, of the estate of the decedent. The court then appoints three disinterested persons as appraisers, who list opposite each item of property the value thereof and certify the inventory and appraisement under oath to the executor or administrator, who files it with the probate court. The property of any decedent, except the homestead and allowances to the surviving spouse and minor children, is liable for the payment of debts or other lawful demands against the estate. When necessary both real and personal property may be sold in whole or in part. The executor or administrator also may lease the real estate for not more than a year; or for a longer period if in conjunction with the heirs and devisees. Any business of the decedent may be continued in operation for not more than 6 months under such conditions as the court may determine. Mortgages belonging to an estate may be foreclosed in the same manner as other mortgages. Property specifically bequeathed may be delivered to the legatee under bond, but must be refunded if necessary to pay debts and claims against the estate. If a will authorizes the executor to sell real estate he may do so without an order of the court.[1]

Demands against an estate are classified and if the applicable assets are insufficient to pay all demands allowed they are paid in classified order.[2] The inheritance tax levied by the State, if not paid when due, constitutes a lien upon the property of the estate in whatever form. The probate judge must send to the State Inheritance Tax Commission a copy of the inventory and appraisement of the estate within 30 days after it is filed. The Commission determines the amount of tax payable on each distributive share and certifies it to the county treasurer, the probate judge, and the legatees. The tax is payable to the county treasurer, who issues a receipt in triplicate, one copy of which is filed with the probate judge and recorded upon the probate court journal.[3]

Every executor and administrator has one year from the date of his appointment for the settlement of his estate, but the court may extend

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1. Terr. L. 1855, ch. 1, art. 2, secs. 1-4, 13-16, 33-39, art. 3, secs. 1, 9, 27-35; Terr. L. 1859, ch. 2, secs. 55-58, 67-72, 84-94, 121-126; L. 1864, ch. 60, sec. 2; L. 1866, ch. 51, secs. 3-5; L. 1867, ch. 59, sec. 1; G.S. 1868, ch. 37, secs. 39, 42-48, 52, 68-71, 114-133; G.S. 1935, ch. 22, secs. 501, 504-510, 515, 601-603, 801-821; L. 1939, ch. 180, secs. 88, 99-111, 218-221, 256-268.

2. Terr. L. 1855, ch. 1, art. 4, sec. 1; Terr. L. 1859, ch. 2, sec. 151; G.S. 1868, ch. 37, sec. 80; L. 1911, ch. 188, sec. 3; L. 1925, ch. 161, sec. 1; G.S. 1935, ch. 22, sec. 701; L. 1937, ch. 180, sec. 95.

3. L. 1909, ch. 248, secs. 3, 13, 18; L. 1915, ch. 357, secs. 2, 11, 17, 18; L. 1917, ch. 319, sec. 2; L. 1935, ch. 301, sec. 1; G.S. 1935, ch. 79, secs. 1502, 1511, 1517, 1518.

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the time for not more than 1 year at a time for good cause shown. Each year the executor or administrator must present a verified account of his administration, and also at such other times as the court may require. If upon any settlement it appears there is sufficient money to satisfy all demands against the estate he may, upon the court's order, proceed to pay such demands.[1]

The property of a partnership dissolved by the death of any of its members is delivered to the surviving partner who may be disposed to undertake its management according to the conditions of a bond he must execute according to law. He closes the affairs of the partnership, applies its property toward payment of the partnership debts, and renders an account to the probate court when required by it. Should the surviving partner neglect or refuse to give bond, the executor of administrator of the estate of the deceased partner may give bond and take the whole of the partnership estate into his possession and settle it according to law.[2]

Kansas statutes make the father and mother the natural guardians of their children, and when one dies the natural guardianship devolves upon the other. The survivor may by last will appoint a guardian for any of the children. But though both parents are living and of sound mind, if the minor has property not derived from either of them a guardian must be appointed by the probate court. The father or mother may be appointed if the court considers them suitable persons to manage the property. The guardian is at all times subject to the direction and control of the court. He must prosecute and defend for his ward; sell the assets of the estate when his ward's interests require it; possess and manage the estate and collect all debts and claims in favor of his ward; pay all just and lawful debts of his ward, and pay reasonable charges for the support and education of his ward "in a manner suitable to his station in life and the value of his estate." Except where expressly waived by the court every guardian must present annually a verified account covering the period from the date of his appointment or the last accounting.[3]

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1. Terr. L. 1855, ch. 1, art. 5, secs. 1, 11, 12; Terr. L. 1859, ch. 2, secs. 180-190; G.S. 1868, ch. 37, sec. 147; L. 1915, ch. 218, sec. 1; L. 1925, ch. 161, sec. 9; G.S. 1935, ch. 22, secs. 901, 907; L. 1939, ch. 180, secs. 112, 113.

2. Terr. L. 1855, ch. 1, art. 1, secs. 49-56; Terr. L. 1859, ch. 2, secs. 46-52; G.S. 1868, ch. 37, secs. 31-38; L. 1927, ch. 195, sec. 1; G.S. 1935, ch. 22, secs. 401-409; L. 1939, ch. 180, secs. 76-80.

3. Terr. L. 1855, ch. 78, art. 1, secs. 1-8, 11, 12; Terr. L. 1859, ch. 75, secs. 1-9, 19; L. 1865, ch. 86, sec. 72; G.S. 1868, ch. 46, secs. 1-10, 20; L. 1931, ch. 195, sec. 1; G.S. 1935, ch. 38, secs. 201-210, 222; L. 1939, ch. 180, secs. 150-152.

Probate Court - Jurisdiction (Next entry 281, p. 376)

Under early Territorial laws the estates of persons dying intestate and without known heirs were handled by public administrators appointed by the probate court.[1] The legislature of 1865 authorized the county superintendent of any county wherein lands belonging to such estate might lie, to file a petition in the probate court after the lapse of 3 years from the granting of letters of administration, stating all facts concerning the estate. It then was the duty of the probate court to issue an order to the administrator to sell the real estate described in the petition in the same manner as the real property of other estates, and after deducting the costs and 6 percent for himself as commission, to pay the money to the county treasurer "for the benefit of the common schools of the State."[2] Although this law was not repealed until 1935,[3] the legislature of 1913 enacted a statute making it the duty of the State Superintendent and the county superintendent to notify the county attorney whenever they had knowledge of the existence of an estate of a person dying without heirs or bona fide will. The probate judge, when an estate was being administered under supervision of his court and the pretended heirs or devisees were unknown to him, also was required to notify the county attorney. In such cases it was the duty of the county attorney to investigate such estates, prevent their spoilation by fraudulent claimants, and to secure and preserve them for the benefit of the school fund. It was made the duty of the Attorney General to see that this act was enforced and the probate judge was authorized to allow reasonable expenses to the county attorney to be paid from the estate.[4]

The legislature of 1935 repealed both these statutes and enacted a new one, the essential features of which are retained in the 1939 code, providing that when it should be brought to the attention of the probate court of any county that a resident of the county has died without known heir or will, but leaving real or personal estate, that the court should appoint an administrator and notify the county attorney and Attorney General of his action. The estate is administered in the same manner as that of any other intestate decedent, except that if no one claims as heir the administrator must sell the real property, close the estate as in other cases, and pay the proceeds to the State Treasurer for the State school fund. The money is kept as a temporary fund for 10 years, after which it is covered into the perpetual school fund of the State, provided no one in the meantime has established his right as heir. Anyone claiming to be an heir must present his claim within the 10-year period. The court must determine which of several claimants have established their claims and the shares of the estate to which each is entitled. If subsequently other claimants establish their claims and the money already has been paid to the

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1. Terr. L. 1855, ch. 2, sec. 8.
2. L. 1865, ch. 59, secs. 1-3; G.S. 1868, ch. 37, secs. 177-179.
3. L. 1935, ch. 168, sec. 7.
4. L. 1913, ch. 273, secs. 1-3, 6.

earlier claimants, the latter claimants have a cause of action in the district court against the earlier claimants. The State must be made a party in all such proceedings. It is the duty of the county attorney to represent the State and "diligently protect and conserve the estate for the benefit of the State school fund, scrutinize all claims against the estate, and diligently defend against all such claims." The attorney General may assist the county attorney, or take complete charge of the case himself, and may appoint such persons as he deems necessary to "protect, conserve, defend, or handle such estate." Claimants have the burden of proving their claims by "clear and convincing evidence."[1]

Until 1939 the statutes provided that the personal estate of any person under a sentence of imprisonment for life should be administered in all respects as if he were naturally dead. In the case of a person imprisoned in the penitentiary for a term less than his natural life the probate court of the county in which he had last resided could appoint a trustee to take charge of and manage his estate. The trustee was required to convert into money as speedily as possible so much of the estate, real and personal, as necessary for the purposes of the trust and make a full report and statement of his accounts to the court annually. The court declared the dividends to be made among the creditors and could from time to time cause the application of any portion of the proceeds to the support of the convict's family and the education of his children. In the event the convict was lawfully discharged the trustee was required to deliver to him the residue of the estate and money remaining in his hands.[2]

The new probate code, however, provides only for appointment of a trustee for the estates of persons imprisoned for life, and specifies that the laws relating to the guardianship of the estates of incompetents shall apply in such cases. Upon the death of the convict, the commutation of his sentence to one of less than life, or his lawful discharge or parole, the trustee is required to settle his accounts in the same manner as a guardian upon the death or restoration of an incompetent person.[3]

Lunacy Proceedings. From the beginning of county government provisions have existed for appointment by the probate court of guardians of the persons or estates of insane, incompetent, and feeble-minded persons, habitual drunkards, and drug addicts.

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1. L. 1935, ch. 168, secs. 1-7; G.S. 1935, ch. 22, secs. 1207-1212; L. 1939, ch. 180, secs. 71-75.

2. L. 1855, ch. 129, art. 10, secs. 1-3, 16, 17, 22, 23; Terr. L. 1859, ch. 27, secs. 327-329, 340, 341, 346, 347; G.S. 1868, ch. 82, secs. 337-339, 350, 351, 356, 357; G.S. 1935, ch. 62, secs. 2001-2003, 2014, 2015, 2020, 2021.

3. L. 1939, ch. 180, secs. 162-164.

Anyone may petition the probate court for appointment of a guardian of the person or estate of any person believed subject to guardianship. Testimony is heard by a jury of six persons, one of whom since 1876 must be a physician in regular practice and good standing. Beginning in 1876 also the law specifies that the patient shall be entitled to counsel and to challenge any of the jurors except the physician, as in civil cases. If the jury finds that the person is of unsound mind, or an habitual drunkard or drug addict and incapable of managing his own affairs, the probate judge may appoint a guardian.[1] The legislature of 1919 enacted a supplemental law providing that when no jury is demanded or deemed necessary the probate judge may appoint a commission of two qualified physicians to examine the patient and file their conclusions and recommendations with the court.[2]

The guardian is at all times under the direction and control of the court. It is his duty to take charge of the patient and provide for his support and to take possession of all his ward's real and personal property and file an inventory thereof with the court. He must prosecute and defend all suits on behalf of his ward and collect all debts due him. With the approval of the court he may sell, lease, or mortgage real estate belonging to his ward when it is deemed necessary to do so or to the best interests of the ward, and must make an annual accounting and settlement.[3]

Early laws provided that if the patient was so "furiously mad" that there was danger of him injurying himself or others the guardian should confine him until the next sitting of the probate court and that the court then should make such order for his restraint and support as the circumstances might require.[4] In 1863 the legislature made provision for establishing a State insane asylum,[5] and in 1870 passed an act providing procedure for admission of patients to the institution and authorizing probate judges to make such commitments.[6]

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1. Terr. L. 1855, ch. 87, secs. 1-5; Terr. L. 1859, ch. 92, secs. 1-5; G.S. 1868, ch. 60, secs. 1-5; L. 1876, ch. 91, sec. 1; L. 1905, ch. 299, secs. 1, 3; L. 1907, ch. 247, secs. 1, 3; G.S. 1935, ch. 39, secs. 201, 203; L. 1939, ch. 180, secs. 234, 236, 241.

2. L. 1919, ch. 299, sec. 1; G.S. 1935, ch. 39, sec. 236; L. 1939, ch. 180, sec. 237.

3. Terr. L. 1855, ch. 87, secs. 13-31; Terr. L. 1859, ch. 92, secs. 13-31; L. 1867, ch. 83, sec. 2, 3; G.S. 1868, ch. 60, secs. 12-33; L. 1872, ch. 143, sec. 1; L. 1903, ch. 327, sec. 1; L. 1905, ch. 299, secs. 7-23, ch. 300, secs. 1-3; L. 1907, ch. 247, secs. 7-23; L. 1925, ch. 181, sec. 1; L. 1927, ch. 228, sec. 1; L. 1935, ch. 187, sec. 1; G.S. 1935, ch. 39, secs. 207-223; L. 1939, ch. 180, secs. 152-159.

4. Terr. L. 1855, ch. 87, sec. 19; Terr. L. 1859, ch. 92, sec. 41; G.S. 1868, ch. 60, sec. 43.

5. L. 1863, ch. 30.

6. L. 1870, ch. 20.

 (Next entry 281, p. 376)

The laws of 1876 specified that if the patient was found by the jury to be insane and a fit person to send to the insane asylum, that it was the probate judge's duty to enter an order to that effect and make application to the superintendent of the asylum for his admission.[1]

Since 1901 the law has provided that upon receiving proper complaint that anyone in the county is insane the probate judge may appoint a qualified physician to examine the person and may direct a writ to the sheriff commanding him to bring the allegedly insane person into court. If no jury is demanded a lunacy commission of two qualified and regularly practicing physicians appointed by the probate judge may examine the patient and report their findings. If the patient is adjudged to be insane the judge must enter an order committing him to a State hospital for the treatment of the insane and make the proper application to the superintendent. If the patient owns property the judge may appoint a guardian of his estate, who proceeds as in the case of habitual drunkards and feeble-minded persons.[2]

Minors. The power to bind apprentices was vested by law in the probate court from 1855 until the system was abolished by the legislature of 1939. Any minor having no parent or guardian could, with the court's approval endorsed on the indenture, bind himself as an apprentice until he was 18 years old; or in the case of girls, 16 years old. Any poor child who had no visible means of support or whose parents if living were unfit persons to care for their children, could be bound by the court in the same manner. Guardians whose wards' estates were insufficient for their maintenance could bind them as apprentices under the order and direction of the probate court, and the law required that the counterpart of the indenture be deposited with the court. It was the duty of the court to see that the terms of such indentures were fulfilled and the children properly treated, and to inquire into and redress any grievances in a manner prescribed by law.[3]

The first adoption law in Kansas was enacted in 1864 and remains unchanged in principle. Any adult, or husband and wife jointly, may appear in the probate court of the county of their residence and offer to adopt any minor child. Any parent, with the approval of the probate judge obtained in open court, may relinquish all right to his or her minor child or children to any other person desirous of adopting them. Until 1939 the law provided that if the consent of all parties concerned was freely given the probate judge should enter the proceedings on the

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1. L. 1876, ch. 91, sec. 1.
2. L. 1901, ch. 353, secs. 52-62; G.S. 1935, ch. 76, secs. 1205-1215; L. 1939, ch. 180, secs. 236-241, 247-249.
3. Terr. L. 1855, ch. 6, secs. 1-9; Terr. L. 1859, ch. 13, secs. 1-9; G.S. 1868, ch. 5, secs. 1-9; G.S. 1935, ch. 5, secs. 101-109; L. 1939, ch. 180, sec. 280.

journal and declare the minor child to be the child and heir of the adopting person. However, the judge could refuse to permit the adoption if he found upon investigation that the persons offering to adopt were unfit or financially unable to assume the relation of parent.[1]

The law of 1939 requires that a petition for adoption be filed with the probate court, together with the written consents required by law, whereupon the probate judge shall fix the time for hearing, not less than 30 days nor more than 60 days from the date of filing, and immediately transmit to the State Board of Social Welfare a copy of the petition and consents. The State board investigates the advisibility of the adoption and reports its findings to the court. It is authorized to examine the child as to mental development and physical condition and determine if there are obvious or latent conditions which should be known to the person adopting, and also to investigate the petitioners and their home. If, upon hearing, the court decides from the reports of the State board and the testimony that the adoption should be made, the judge makes an interlocutory order which cannot be made final for 6 months, and delivers the child to the petitioner. The State board may, as often as it deems prudent within the 6 months, investigate the condition of the child in the home and report to the court its findings and the advisibility of making the order final. Another hearing then is held, after notice to all the parties concerned. If the court considers it to the best interests of the child, a final order of adoption is made; otherwise, the interlocutory order is set aside and the petition dismissed.[2] Any child adopted assumes the surname of the person adopting and is entitled to the same rights of person and property as a natural child, and is subject to the same liabilities. All rights of the natural parents of the child, including the right to inherit, are relinquished.[3]

During the Territorial period and early years of Statehood the only general law applicable to the care of destitute and orphan children was that which authorized any minor without parents or guardian to bind himself as an apprentice with the approval of the probate court until he arrived at the age of majority.[4] After 1861 several special acts were passed from time to time authorizing certain counties to establish and maintain orphan asylums. In 1868 the legislature enacted a law providing that all orphan asylums then existing or thereafter

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1. L. 1864, ch. 83, sec. 1; L. 1867, ch. 89, sec. 1; G.S. 1868, ch. 67, secs. 5, 6; L. 1903, ch. 361, sec. 1; L. 1935, ch. 185, sec. 1; G.S. 1935, ch. 38, secs. 105, 106; L. 1939, ch. 180, secs. 173, 174.
2. L. 1939, ch. 180, secs. 253, 254.
3. L. 1867, ch. 89, sec. 1; G.S. 1868, ch. 67, secs. 5, 7; G.S. 1935, ch. 38, secs. 105, 107; L. 1939, ch. 180, sec. 175.
4. Terr. L. 1855, ch. 6, sec. 2; Terr. L. 1859, ch. 13, sec. 2; G.S. 1868, ch. 5, sec. 2; G.S. 1935, ch. 5, sec. 102; L. 1939, ch. 180, sec. 280.

established in counties with 25,000 or more inhabitants should have the same rights and privileges as those conferred upon the Leavenworth Protestant Orphan Asylum and Home for Friendless Children by an act approved February 26, 1867.[1] This act, which incorporated the home, authorized it to receive and retain orphan, destitute, and friendless children over whom it was given all the rights pertaining to natural or legal guardianship. The board could, in its discretion, make proper provision for the care and custody of a child and could appear in the probate court and consent to the adoption of a child under its care by some suitable person, or bind out the child as an apprentice according to law.[2]

In 1885 the State soldiers' orphans' home was established at Atchison for the maintenance and education of the indigent children of ex-Union soldiers and sailors who were idsabled or who had died in indigent circumstances, and for other indigent orphan children of the State. The legislature of 1889 provided that applications for admission to the home should be made to the probate court of the county of the child's residence by the parent or guardian, or any officer who by virtue of his office was a supervisor of the poor. The probate judge could call upon the county attorney to conduct the examination at the hearing and was required to record his findings. This act extended the right of admission to the home to "all children with sound minds and bodies over the age of 2 years and under the age of 14 years" who were dependent upon the public for support, or who were abandoned, neglected, or ill-treated so that their condition was an object of public concern. This law has been retained to the present day, except that the legislature of 1935 removed the minimum age requirement. The name of the institution was changed in 1909 to "the State Orphan's Home."[3] Since 1907 applications for admission must be made to the juvenile court.[4]

The home is under the jurisdiction of the State Board of Social Welfare which in 1939 succeeded to the duties of the State Board of Administration with respect to the State benevolent institutions. The statutes make the State Board the legal guardian of all children in the home and empower it to place children in suitable private homes and to consent to their adoption. The State Board may retain a child in the home until the age of 16 years and then return it to the county of residence; or may sooner remove the child from the home for good reason, in its discretion.[5]

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1. G.S. 1868, ch. 10, sec. 1; G.S. 1935, ch. 76, sec. 1801.
2. L. 1867, ch. 93, secs. 1, 2; G.S. 1935, ch. 76, secs. 1802,1803.
3. L. 1885, ch. 185, secs. 1-4; L. 1889, ch. 236, secs. 1, 2; L. 1909, ch. 115, sec. 1; L. 1935, ch. 289, sec. 1; G.S. 1935, ch. 76, secs. 1701, 1702, 1704, 1705.
4. L. 1907, ch. 177, sec. 14; G.S. 1935, ch. 38, sec. 425.
5. L. 1885, ch. 185, secs. 5-7; L. 1889, ch. 236, secs. 3, 4, 7; G.S. 1935, ch. 76, secs. 1706, 1708, 1711.

The legislature of 1889 authorized any corporation then existing and having for its purpose the establishment and maintenance of a children's home to receive destitute and friendless children and provide for them until the age of majority. Parents unable to provide for their children may relinquish their rights to such corporations in writing; and such corporations have the legal custody of all children committed to them by a legal or natural guardian or by any magistrate of the county.[1] They also are authorized to appear in the probate courts and consent to the adoption of children in their custody.[2]

The legislature of 1879 provided for establishment of the boys' industrial school at Topeka.[3] The legislature of 1881 provided that "courts of record and probate courts of the State" may commit to the institution boys under 16 years old who are liable to punishment by imprisonment under any State law; a boy, with consent of the parent or guaridan, who has committed a misdemeanor; or any boy who is incorrigible.[4] The industrial school for girls at Beloit was established by the laws of 1889, and the same provisions were enacted concerning commitment to the institution of girls under 18 years old.[5] By custom such cases were handled almost exclusively through the probate courts until 1905, when a juvenile court was created in each county to exercise the parental power of the State in all cases of dependent, neglected, and delinquent children.[6]

The legislature of 1907 provided for erection on the grounds of the orphans' home at Atchison of a cottage for crippled children "of sound minds" and specified that the Board of Control of State Charitable Institutions should admit to it all the crippled children up to 14 years old who have resided the required length of time in the State, upon the same proceedings as provided by law for admission to the orphans' home proper.[7]

In 1931 the legislature created the crippled children's commission of five members appointed by the Governor to coordinate the efforts of all persons and agencies interested in the discovery, care, and education of the crippled children of the State, and to have general

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1. L. 1889, ch. 134, secs. 1-3; G.S. 1935, ch. 38, secs. 112-114.
2. L. 1925, ch. 272, sec. 1; L. 1927, ch. 224, sec. 1; G.S. 1935, ch. 38, sec. 117; L. 1939, ch. 180, sec. 174.
3. L. 1879, ch. 170, secs. 2, 3.
4. L. 1881, ch. 129, sec. 4; G.S. 1935, ch. 76, sec. 2105.
5. L. 1889, ch. 158, secs. 1-7, 11; L. 1917, ch. 303, sec. 1; G.S. 1935, ch. 76, sec. 2207.
6. L. 1905, ch. 190, sec. 1; L. 1917, ch. 154, sec. 1; G.S. 1935, ch. 38, sec. 401; see Juvenile Court, p. 388.
7. L. 1907, ch. 44, secs. 1, 3; G.S. 1935, ch. 76, secs. 1713, 1715.

supervision of the administration of the act.[1] The probate judge of each county is required, upon complaint filed by an elector, to direct the county or city health officer or an other qualified physician to personally examine any child in the county named in the complaint and file a written report within 30 days. If the judge finds upon proper hearing that the child is a crippled child within the meaning of the law and that the parents or guardians are unable to pay the expense of the necessary care and treatment he may, unless the guardian or child object, enter an order directing the child to be taken to a hospital approved by the commission for surgical care and treatment. All costs of the hearing, transportation, treatment, and applicances are paid by the county and the county commissioners are directed to levy an annual tax of 1 mill for the purpose.[2] However, in imposing the retailers' sales tax law in 1937 the legislature provided that $200,000 per year should be set aside "for use with the crippled children's commission in lieu of funds raised by ad valorem tax, under such regulations as the State Board of Social Welfare may prescribe."[3]

Marriage. The marriage contract is considered in law as a civil contract to which the consent of the parties is essential, and though the ceremony may be regarded as either a civil ceremony or a religious sacrament the marriage relation may be entered into, maintained, or abrogated only as provided by law. Every judge, justice of the peace, or licensed preacher of the gospel may perform the marriage ceremony and since 1870 all marriages solemnized by the Society of Friends, or Quakers, are declared legal and valid.[4] From 1855 to 1859 every person performing a marriage ceremony was required to keep a record thereof and transmit a certificate to the county recorder, whose duty it was to record it in a book kept for that purpose. Beginning in 1859, this duty was transferred to the county clerk.[5]

Since 1867 the statutes have made it illegal for anyone in Kansas to join in marriage any persons to whom a marriage license has not been issued by the probate judge of some county. It is the duty of the probate judge to issue a license to anyone legally entitled thereto and to keep a copy in a book provided for that purpose, together with

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1. L. 1931, ch. 283, secs. 1-5, 12; G.S. 1935, ch. 74, secs. 3401-3406.
2. L. 1931, ch. 283, secs. 6-11, 13; L. 1933, ch. 222, sec. 2; G.S. 1935, ch. 65, secs. 5a01-5a07.
3. L. 1937, ch. 374, sec. 21; L. 1939, ch. 334, sec. 1.
4. Terr. L. 1855, ch. 108, secs. 1, 6; Terr. L. 1859, ch. 93, secs. 1, 5; L. 1867, ch. 84, secs. 1, 10; G.S. 1868, ch. 61, secs. 1, 10; L. 1870, ch. 75, sec. 1; G.S. 1935, ch. 23, secs. 101, 116.
5. Terr. L. 1855, ch. 108, secs. 9, 10; Terr. L. 1859, ch. 93, secs. 7, 8.

a copy of the return of the person performing the ceremony. The legislature of 1867 required the various county clerks to deliver all marriage records to the probate judges within 30 days after taking effect of the act.[1]

The law originally forbade marriage where the male was under 21 years and the female under 18 years old, except with the consent of the parents or guardians,[2] but this provision was omitted from the law of 1867 which first required a marriage license. There was no further restriction on the ages of parties to the marriage contract until 1905, when the legislature forbade issuance of a license to any male under 21 or female under 18 years old except with the consent of the parents or guardians evidenced by a certificate in writing. Even with this consent the probate judge could refuse a license, in his discretion, if the male was under 17 and the female under 15 years old. Since 1913 he may refuse to issue a license to applicants under the ages of 18 and 16 years, respectively. The probate judge may issue a license upon the affidavit of the applicant, or some responsible person for him, that the parties are of legal age and is authorized to administer oaths for this purpose.[3]

Beginning in 1913 the statutes have required that all marriages be registered with the State Registrar of Vital Statistics at the State capital. The registrar is required to furnish the probate judges with the license forms, which have a stub to be kept by the judge and a part to be detached and returned to the State Registrar, beside the license which is given to the applicant. The 1913 law required the probate judge to make his return to the State Registrar not later than the third day of each month, stating in brief the facts regarding the applicants and the name of the person expected to perform the ceremony. The latter was required to endorse the license and forward it to the State Registrar within 72 hours. This system was slightly changed by the legislature of 1917, which requires the person performing the ceremony to return the license, with his certificate of marriage endorsed thereon, to the probate judge within 10 days. The probate judge enters it on the marriage record and forwards it to the State Registrar.[4]

Marriage of persons within certain degrees of consanguinity is declared by law to be incestuous and void. The 1867 law gave the probate judge authority to examine applicants and witnesses under oath when he

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1. L. 1867, ch. 84, secs. 4-6, 13; G.S. 1868, ch. 61, secs. 4-6, 13; L. 1901, ch. 163, sec. 1; G.S. 1935, ch. 23, secs. 104, 106, 112, 119.

2. Terr. L. 1855, ch. 108, sec. 7; Terr. L. 1859, ch. 93, sec. 6.

3. L. 1905, ch. 302, sec. 1; L. 1913, ch. 224, sec. 2; G.S. 1935, ch. 23, sec. 106.

4. L. 1913, ch. 224, secs. 1, 3-5, 7; L. 1917, ch. 236, sec. 1; L. 1925, ch. 201, sec. 2; G.S. 1935, ch. 23, secs. 103, 109.

believed there might be such legal impediment to the marriage, and he was subject to a fine of not exceeding $1,000 if he granted a license to anyone not legally entitled thereto. The legislature of 1886 made it mandatory that he require the applicant to subscribe an oath to the effect that no legal reason exists why the license should not be granted, under penalty of a fine not exceeding $1,000 for failure to do so. He still may examine witnesses under oath, in his discretion.[1]

Incorporation of Towns. Although town companies commonly were chartered by special acts of the legislature, authority to incorporate towns and villages was vested in the probate judge until 1871. Upon receiving a petition signed by a majority of the inhabitants of any town or village, setting forth its metes and bounds, the probate court could declare the town or village incorporated and thenceforth the inhabitants were deemed to be a body corporate and politic, with all the rights and privileges incident thereto. The probate judge could disincorporate the town upon petition of three-fourths of the inhabitants if notice of the application had been published for at least 8 successive weeks prior thereto. He was required to appoint a trustee to take charge of and close the affairs of the city and the trustee was required to make a report to him at each term of court.[2] This law was repealed by the legislature of 1871, which provided for incorporation of towns of more than 500 and not more than 2,000 inhabitants as cities of the third class by the judge of the district court. In 1886 this power was transferred to the board of county commissioners.[3]

School Land Settlers. When the State school lands were placed on the market in 1864 it was provided that persons who had settled upon any portion of such lands prior to their appraisement should be given preference if they desired to purchase that particular tract. The settler was authorized to file a petition with the probate judge setting forth his claim. If it was the finding of the court that he had actually settled upon and improved the land as set forth in his petition he was permitted to purchase not exceeding one quarter section at the appraised value exclusive of improvements. This law was repealed in 1915 after practically all the school lands had been sold.[4]

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1. Terr. L. 1855, ch. 108, sec. 2; Terr. L. 1859, ch. 93, sec. 2; L. 1867, ch. 84, secs. 2, 8; G.S. 1868, ch. 61, sec. 8; L. 1886, ch. 124, sec. 1; G.S. 1935, ch. 23, sec. 114.

2. Terr. L. 1855, ch. 155, art. 1, secs. 1, 26-33; G.S. 1868, ch. 108, secs. 1, 26-33.

3. L. 1871, ch. 60, secs. 2, 96; L. 1872, ch. 102, sec. 1; L. 1886, ch. 66, sec. 2; L. 1905, ch. 123, sec. 1; L. 1923, ch. 101, sec. 1; L. 1929, ch. 134, sec. 1; G.S. 1935, ch. 15, sec. 102.

4. L. 1864, ch. 102, secs. 4-6; L. 1866, ch. 112, secs. 1-3; G.S. 1868, ch. 94, secs. 4-6; L. 1871, ch. 140, sec. 1; L. 1872, ch. 188, sec. 1; L. 1873, ch. 130, sec. 1; L. 1875, ch. 138, sec. 1; L. 1886, ch. 152, sec. 1; L. 1899, ch. 241, sec. 1; L. 1909, ch. 218, secs. 4-6; L. 1915, ch. 322, sec. 14.

Schoolhouse Sites. The legislature of 1874 provided that in case any school district could not otherwise obtain title to desired land as a schoolhouse site it should be the duty of the probate judge to appoint three disinterested freeholders to appraise and condemn such site, not exceeding 1 acre. The legislature of 1885 made this remedy available also to cities of the second class. The legislature of 1909 transferred the power of appointing appraisers to the judge of the district court, and since 1923 such proceedings have been had under the general condemnation law.[1] It was provided in 1872 that when a schoolhouse had been built on public lands to which a settler afterward acquired title that the school board could not remove the building unless the settler donated at least 1 acre as a schoolhouse site. The legislature of 1873 supplemented this law with the provision that if the building were of stone or brick the probate judge should appoint three disinterested persons to appraise and condemn 1 acre of the land on which the building was situated. The legislature of 1876 added that similar procedure could be taken in the case of a frame building costing not less than $500. This law was repealed by the revision of the statutes in 1923.[2]

Prohibitory Liquor Law. The legislature of 1881 enacted a law prohibiting the manufacture or sale in Kansas of any intoxicating liquor except for medical, scientific, or mechanical purposes. No druggist could legally sell liquor without a permit. To obtain such permit he was required to file with the probate judge a petition signed by at least twelve citizens certifying to his good character, and a bond in the sum of $2,500 conditioned for faithful observance of the law. The judge in his discretion then could grant the permit for a period of 1 year and enter the permit and order on the court journal. Any physician, before he could legally write a prescription for liquor for medical purposes, was required to file with the probate judge an affidavit to the effect that he would prescribe intoxicating liquor only in case of actual sickness where it was needed, and would otherwise observe the law. Such affidavits were required to be renewed every 5 years. Liquor for scientific and mechanical purposes could be purchased only upon the sworn application of the person proposing to use it. The druggist retained the applications and filed them every 30 days with the probate judge, who was required to keep them on file for 2 years. Liquor manufacturers also were required to obtain a permit from the probate judge in the same manner as druggists and file a bond of $10,000 conditioned for faithful observance of the law. They were required to keep records of all sales and file abstracts thereof in the probate court quarterly.[3]

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1. L. 1874, ch. 122, sec. 3; L. 1885, ch. 174, sec. 1; L. 1909, ch. 86, sec. 2; L. 1917, ch. 273, sec. 1; R.S. 1923, ch. 72, sec. 4702; G.S. 1935, ch. 72, sec. 4702.

2. L. 1872, ch. 187, sec. 1; L. 1873, ch. 128, sec. 1; L. 1876, ch. 122, art. 4, sec. 32; Supplemental Report of Commission to Revise the General Statutes, Topeka, 1922, p. 15.

3. L. 1881, ch. 128, secs. 1-5.

The legislature of 1885 eliminated the requirement for the druggist's bond and the physician's affidavit.[1] The legislature of 1887, however, required that the druggist furnish a $1,000 bond and specified that his petition to the court must be signed by 25 electors and 25 reputable women over 21 years of age, residents of the township or city ward. The same number of persons could petition for the cancellation of the permit, whereupon the judge was required to hold a hearing as upon the original application; or in his discretion, he could cancel the permit on his own motion. The act provided that sales could be made only upon the sworn application of the person proposing to use the liquor for medical, scientific, or mechanical purposes. Books of numbered affidavit blanks were obtained from the county clerk, who endorsed them with the date of delivery, and the pharmacist and his assistants were empowered to administer oaths. The druggist retained the affidavits in the books, which he was required to file on or before the first of each month with the probate judge, who checked the numbers against those supplied him by the county clerk. At the time of filing the affidavits the druggist was required to file an inventory of all liquor on hand, the amount purchased during the month, and the names of those from whom he had purchased it. The judge collected $1.50 for each series of affidavits filed.[2] In 1891 the probate judge was given authority to grant permits, upon proper petition, to wholesale dealers in drugs, chemicals, or photographers' supplies to sell alcohol, and to revoke such permits in his discretion. Affidavits of sales were required to be filed with the probate court as in the case of ordinary liquors.[3] Both these laws were repealed by enactment of the "bone-dry law" in 1909.[4]

Contested Elections. The probate judge is presiding officer of the court for the trial of contested elections for county offices, and selects two disinterested persons to be associated with him. The court has all the powers incident to the district court which may be necessary to the right hearing, conduct, and determination of the matter before it. Process may be issued and served in the same manner as in the district court. The contestor must first file a bond with the probate judge, conditioned to pay all costs if the election is confirmed or the prosecution fails. The court pronounces judgment as to whether the contestee or any other person was duly elected, and the person so declared elected is entitled to his certificate, upon qualification. If the judgment is against the contestee and he already has received his certificate, the judgment annuls it. If the court finds that no person is duly elected the judgment must be that the election is set aside. The county clerk acts as clerk of the court and records its proceedings.[5]

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1. L. 1885, ch. 149, secs. 1, 2.
2. L. 1887, ch. 165, secs. 1, 2; L. 1903, ch. 339, sec. 1.
3. L. 1891, ch. 2, secs. 1-3.
4. L. 1909, ch. 164, sec. 9.
5. Terr. L. 1855, ch. 66, secs. 25-33; L. 1861, ch. 34, secs. 13-27; G.S. 1868, ch. 36, secs. 87-101; G.S. 1935, ch. 25, secs. 1413-1427.

Examination of Treasury. Since 1874 it has been the duty of the probate judge, when so ordered by the county commissioners, to examine and count the funds in the hands of the county treasurer and "make such other examinations of his books and accounts as he shall deem proper." The county commissioners appoint two other citizens and taxpayers of the county to assist the probate judge. Should the examiners find a shortage in the treasurer's funds the commissioners may take such action as they deem proper. In either event the examiners file their report with the county clerk.[1]

In Absence of District Judge. The law provides that in certain instances the probate judge shall act for the district judge in the absence or illness of the latter. No attachment without bond may be levied against any common carrier without the approval of the court, and in the absence of the district judge the probate judge may authorize such attachment.[2] He may grant an injunction under the same circumstances as the district judge,[3] and may make an order for the control of property pending adjudication of a divorce action when the district judge is ill or absent.[4]

Appeals in Drainage Cases. Appeals from the action of the board of county commissioners in the formation of taxing districts for the constructing of ditches, drains, or watercourses are taken to the probate court. It is the probate judge's duty to impanel a jury of six disinterested freeholders to hear the testimony, view the premises affected, and report their findings. The probate judge must record the proceedings and make such orders as may be appropriate to the findings of the jury.[5] The same methods are followed in appeals from actions of township trustees in the establishment of such districts.[6]

Extension of Corporate Charters. A law enacted in 1868 provided that when a company had been incorporated under a limited charter for the purpose of making a public improvement and required more time in which to complete the work it could petition the probate judge who, for good cause shown, could extend the charter for such a period "as shall appear to such court just and reasonable." This jurisdiction was transferred to the Secretary of State by the new corporation code of 1939.[7]

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1. L. 1874, ch. 8, secs. 3, 4 (Special Session); L. 1905, ch. 187, sec. 1; G.S. 1935, ch. 19, secs. 522, 523.
2. L. 1921, ch. 214, sec. 1; G.S. 1935, ch. 60, sec. 904.
3. Terr. L. 1858, ch. 11, sec. 239; Terr. L. 1859, ch. 25, sec. 248; G.S. 1868, ch. 80, sec. 239; L. 1901, ch. 281, sec. 1; L. 1909, ch. 182, sec. 251; G.S. 1935, ch. 60, sec. 1103.
4. L. 1905, ch. 331, sec. 1; L. 1909, ch. 182, sec. 669; L. 1919, ch. 236, sec. 1; G.S. 1935, ch. 60, sec. 1507.
5. L. 1886, ch. 161, secs. 7-12; G.S. 1935, ch. 24, secs. 308-313.
6. L. 1879, ch. 100, secs. 7-12; G.S. 1935, ch. 24, secs. 207-212.
7. G.S. 1868, ch. 23, sec. 35; G.S. 1935, ch. 17, sec. 237; L. 1939, ch. 152, secs. 132-134, 280.

Appeals. The first assembly allowed appeals from justices of the peace courts to the probate court or district court, in the discretion of the appellant. Since 1859, however, appeals from justice courts lie only to the district court of the county.[1]

Appeals from the probate court originally lay either to the district court or the Supreme Court. The assembly of 1859 provided that they should lie only to the district court, and this provision was incorporated in the State Constitution.[2] The party intending to appeal must give notice in open court and make proof of service of such notice by affidavit, and also must file a bond in such sum and with such security as the probate judge may require, conditioned that he will prosecute the appeal and pay all damages and costs that may be adjudged against him. After such affidavits and bond have been filed the appeal is granted, and the probate judge must transmit to the clerk of the district court a complete transcript of all proceedings in the case. The district court tries the case anew, and after a decision is rendered all papers and a transcript of the district court proceedings must be certified to the probate court, which must proceed according to the decision.[3]

Records

The first assembly, which conferred certain jurisdiction in certain civil matters on the probate court,[4] made no specific provision for the records to be kept in civil cases. The assembly of 1858, adopting a new civil code, specified that "the clerk of the probate court shall keep at least five books, to be called the appearance docket, the trial docket, the journal, the record, and execution docket," and that the same provisions, so far as practicable, should apply to other courts of record.[5] The assembly of 1859, which divested the probate court of jurisdiction in civil matters,[6] re-enacted the same provisions with respect to "clerks of courts of record,"[7] so that they continued to apply to the probate court. In 1868 the statute was made to apply specifically to the clerk of the district court, but also in so far as practicable to the clerks of all courts of record. The "record," however,

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1. Terr. L. 1855, ch. 44, sec. 12; Terr. L. 1859, ch. 41, sec. 5; Const., art. 3, sec. 10.
2. Terr. L. 1859, ch. 41, sec. 5; Const., art. 3, sec. 10.
3. Terr. L. 1859, ch. 2, secs. 232-239; L. 1867, ch. 4, secs. 1-8; G.S. 1868, ch. 37, secs. 188-195; L. 1872, ch. 128, sec. 1; R.S. 1923, ch. 22, sec. 1101; G.S. 1935, ch. 22, secs. 1101-1108; L. 1939, ch. 182, secs. 269, 272-277.
4. Terr. L. 1855, ch. 44, secs. 10, 11.
5. Terr. L. 1858, ch. 11, secs. 304, 589.
6. Terr. L. 1859, ch. 41, secs. 1-3.
7. Terr. L. 1859, ch. 25, sec. 314.

was changed to "judgment docket," and it was specified that in addition to the five books named the clerk should keep "such other books as may be ordered by the court or required by law."[1]

By authority of this law the probate court keeps a journal of all daily proceedings, and most probate courts also keep an appearance docket of all cases filed. The latter does not appear in Shawnee County, though a docket of cases set for hearing was kept from 1897 to 1921. The law of 1939 specifically requires an appearance docket "in which shall be listed under the name of the decedent, ward, insane person, or other person involved all documents pertaining thereto and in the order filed. Such list shall show the nature of the document, the date of the filing thereof, shall give a reference to the volume and page of any other book in which any record shall have been made of such document, and shall state the charge therefor."[2]

In addition to an index to each book of record the legislature of 1939 specifically required the probate court to keep a general index in which files pertaining to estates of decedents shall be indexed under the name of the decedent; those pertaining to guardianships under the name of the ward; those pertaining to insane persons under the name of the patient, and those pertaining to adoption of children under both the family name and the adopted name of the child.[3] Nevertheless, a similar general index has been kept by most probate courts of the State since very early times, and in Shawnee County since 1859.

The laws either imply or specifically require the filing and preservation of a large number of original instruments in the administration of estates of decedents, minors, and incompetents. These include the bonds and oaths of executors, administrators, and testamentary trustees;[4] proofs of publication of notices of appointments;[5] the bonds of surviving partners and administrators of partnership estates;[6] inventories and appraisements of the real and personal property of estates;[7] sale bills

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1. G.S. 1868, ch. 80, secs. 703, 715; L. 1909, ch. 182, secs. 729, 740; G.S. 1935, ch. 60, secs. 3801, 3812.
2. L. 1939, ch. 180, sec. 14.
3. Ibid.
4. Terr. L. 1855, ch. 1, art. 1, sec. 20; Terr. L. 1859, ch. 2, secs. 12-17; G.S. 1868, ch. 37, secs. 13-17; G.S. 1935, ch. 22, secs. 313-316; L. 1939, ch. 180, sec. 81.
5. G.S. 1868, ch. 37, secs. 29, 30; G.S. 1935, ch. 22, secs. 329, 330; L. 1939, ch. 180, sec. 187.
6. Terr. L. 1855, ch. 1, art. 1, secs. 51, 54; Terr. L. 1859, ch. 2, sec. 47; G.S. 1868, ch. 37, secs. 33, 36; G.S. 1935, ch. 22, secs. 403, 406; L. 1939, ch. 180, secs. 76, 77.
7. Terr. L. 1855, ch. 1, art. 2, secs. 1-5, 13-16; Terr. L. 1859, ch. 2, secs. 56-58, 67-70; G.S. 1868, ch. 37, secs. 39, 52; G.S. 1935, ch. 22, secs. 501, 515; L. 1939, ch. 180, secs. 88-90.

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of personal property;[1] petitions for the lease of real estate for oil and gas purposes and returns of proceedings;[2] lists of demands against estates, judgments established, and affidavits of claims;[3] petitions to sell real estate and returns of proceedings under orders of sale;[4] reports of the administration of estates;[5] oaths and bonds of guardians of the estates of minors, inventories of their property, and petitions for the sale of real estate;[6] oaths and bonds of guardians of the persons or estates of insane persons and inventories of their property,[7] and numerous other papers.

Wills enclosed in sealed wrappers and left with the probate judge by the testator for safekeeping are filed in the probate court. Wills proved and allowed in other States or countries and all wills admitted to probate are filed and must be recorded at length.[8] Though not specifically required in the new probate code, the laws formerly specified that the testimony of witnesses to the signing of the will and that of other witnesses should be reduced to writing and subscribed by them.[9] In Shawnee County the petition for the probate of the will[10]

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1. Terr. L. 1855, ch. 1, art. 2, sec. 42; Terr. L. 1859, ch. 2, sec. 93; G.S. 1868, ch. 37, sec. 77; G.S. 1935, ch. 22, sec. 609; L. 1939, ch. 180, secs. 218-221.

2. L. 1925, ch. 159, secs. 1, 7; G.S. 1935, ch. 22, secs. 6a07.

3. Terr. L. 1855, ch. 1, art. 4, secs. 6, 7; Terr. L. 1859, ch. 2, secs. 155-157; G.S. 1868, ch. 37, secs. 85-88.

4. Terr. L. 1855, ch. 1, art. 3, secs. 9, 32; Terr. L. 1859, ch. 2, secs. 121, 139; G.S. 1868, ch. 37, secs. 115, 132; G.S. 1935, ch. 22, secs. 802, 819; L. 1939, ch. 180, secs. 258, 264.

5. G.S. 1868, ch. 37, sec. 150; L. 1903, ch. 237, sec. 1; L. 1911, ch. 188, sec. 17; L. 1913, ch. 196, sec. 1; L. 1915, ch. 217, sec. 1; G.S. 1935, ch. 22, sec. 904; L. 1939, ch. 180, sec. 113.

6. Terr. L. 1855, ch. 78, secs. 17, 18; Terr. L. 1859, ch. 75, secs. 6, 7, 11; G.S. 1868, ch. 46, secs. 7, 8, 12; G.S. 1935, ch. 38, secs. 207, 208, 212; L. 1939, ch. 180, secs. 81, 90, 154, 155.

7. Terr. L. 1855, ch. 87, secs. 9, 15-17; Terr. L. 1859, ch. 92, secs. 9-11, 15; G.S. 1868, ch. 60, secs. 9, 10, 15-17; L. 1905, ch. 299, secs. 6, 8; L. 1907, ch. 247, secs. 6, 8; G.S. 1935, ch. 39, secs. 206, 208.

8. Terr. L. 1855, ch. 44, sec. 17; Terr. L. 1859, ch. 131, secs. 14, 19, 20; L. 1865, ch. 86, secs. 3, 4, 16, 29; G.S. 1868, ch. 37, sec. 204; ch. 117, secs. 3, 4, 16, 27; G.S. 1935, ch. 22, secs. 204, 205, 219, 230, 1309; L. 1939, ch. 180, secs. 14, 15, 56.

9. L. 1865, ch. 86, secs. 12, 16; G.S. 1868, ch. 117, secs. 12, 16; L. 1905, ch. 526, sec. 1; G.S. 1935, ch. 22, secs. 213, 219; L. 1939, ch. 180, sec. 200.

10. G.S. 1868, ch. 37, sec. 204; G.S. 1935, ch. 22, sec. 1309; L. 1939, ch. 180, sec. 200.

is recorded, together with the court's orders and the testimony of the witnesses. Since 1934 the acceptance of the widow under provisions of the will[1] has been recorded separately.

The statutes require the recording of all letters testamentary and of administration before they are issued, and all bonds of executors and administrators,[2] as well as the appointments and bonds of guardians of minors,[3] and guardians of incompetent or insane persons and habitual drunkards.[4] Records also must be made of all inventories, appraisements, and sale bills and the proceedings and other papers connected with the sale of property of estates of decedents, minors, and incompetents,[5] as well of the inventory and appraisal of estates made for the State Inheritance Tax Commission.[6] Until 1939 the statutes required the probate court to keep an abstract of all claims filed and judgments established against estates. The new probate code requires that a claims docket be kept in which all claims filed shall be listed under the name of the estate.[7] The annual and final accounts of administrators, executors, and guardians also must be recorded.[8]

No specific provision for the keeping of separate records of lunacy proceedings was made until 1901. The statutes, however, always have required that statements to the probate judge that a person is insane

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1. Terr. L. 1855, ch. 63, secs. 5-7; Terr. L. 1859, ch. 63, secs. 5-7; L. 1865, ch. 86, sec. 44; G.S. 1868, ch. 117, sec. 42; G.S. 1935, ch. 22, sec. 246; L. 1939, ch. 180, secs. 209-211.
2. Terr. L. 1855, ch. 1, art. 1, secs. 20, 24; ch. 44, sec. 17; Terr. L. 1859, ch. 2, secs. 20, 21; G.S. 1868, ch. 37, sec. 204; G.S. 1935, ch. 22, sec. 1309; L. 1939, ch. 180, sec. 14.
3. G.S. 1868, ch. 46, sec. 7; L. 1911, ch. 200, sec. 1; G.S. 1935, ch. 22, sec. 1310; L. 1939, ch. 180, sec. 14.
4. Terr. L. 1855, ch. 44, sec. 17; Terr. L. 1859, ch. 92, secs. 9-11; G.S. 1868, ch. 60, secs. 9, 10; L. 1905, ch. 299, sec. 6; G.S. 1935, ch. 22, sec. 1310; L. 1939, ch. 180, sec. 14.
5. Terr. L. 1855, ch. 44, sec. 17; Terr. L. 1859, ch. 2, sec. 139; G.S. 1868, ch. 37, secs. 204, 205; G.S. 1935, ch. 22, secs. 1309, 1310; L. 1939, ch. 180, sec. 14.
6. L. 1909, ch. 248, sec. 13; L. 1915, ch. 357, sec. 11; L. 1935, ch. 301, sec. 1; G.S. 1935, ch. 79, sec. 1511; L. 1939, ch. 180, sec. 14.
7. Terr. L. 1855, ch. 1, art. 4, sec. 21; Terr. L. 1859, ch. 2, sec. 171; G.S. 1868, ch. 37, sec. 100; R.S. 1923, ch. 22, sec. 721; G.S. 1935, ch. 22, sec. 721; L. 1939, ch. 180, sec. 14.
8. Terr. L. 1855, ch. 1, art. 5, sec. 1; Terr. L. 1859, ch. 2 sec. 179; G.S. 1868, ch. 37, secs. 150, 204, 205; L. 1903, ch. 237, sec. 1; L. 1911, ch. 188, sec. 17; L. 1913, ch. 196, sec. 1; L. 1915, ch. 217, sec. 1; G.S. 1935, ch. 22, sec. 904, 1309, 1310; L. 1939, ch. 180, sec. 14.

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must be made in writing, and the law of 1939 required that the request for the commitment of an insane person must be by petition.[1] The legislature of 1876 specified that the verdict of the jury in lunacy inquests should be recorded at length by the probate judge, whether the person were found sane or insane.[2]

The legislature of 1901 specified that "each probate judge shall keep a separate docket of proceedings in inquests in lunacy upon which shall be made such entries as will, together with the papers filed, preserve a perfect record of each case." The original statements and applications for inquests, the writs and returns incident thereto, the findings of the lunacy commission or jury and, if the subject of the inquests is found to be insane, a copy of the medical certificate, should be filed with the court, the law specified. This provision was repealed by the new probate code of 1939 but no other specific provision for the keeping of records in lunacy cases was made.[3]

There is no specific provision of law for records in the matter of applications for the admission of epileptic and deaf persons to State institutions other than that specifying that the State Board of Administration shall provide forms for the admission of feeble-minded persons to the State Training School, "and may include in them such interrogatories as they think necessary or useful to have answered," and that they shall be sent "in sufficient number to the probate judges of the several counties."[4] Nevertheless, several different original instruments involved in such cases are preserved in the files and the proceedings, of course, must be entered on the journal of the court. In addition, the probate court of Shawnee County keeps a separate record of feeble-minded, epileptic and deaf persons sent to State institutions and a separate record of cases of incompetents.

In adoption cases the law has required from the beginning that the probate judge record the proceedings, but no other records or instruments were specifically required except affidavits in certain cases. The code of 1939, however, specifies that a petition for adoption must be filed and that the consent of the parties relinquishing the child must be in writing. This code also provides that the files and records in adoption cases shall not be open to inspection or copy by persons other than the parties in interest and the State Board of Social Welfare,

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1. Terr. L. 1855, ch. 87, sec. 1; Terr. L. 1859, ch. 92, sec. 1; G.S. 1868, ch. 60, sec. 1; L. 1901, ch. 353, sec. 52; G.S. 1935, ch. 76, sec. 1205.

2. L. 1876, ch. 91, sec. 1; L. 1901, ch. 353, sec. 61; G.S. 1935, ch. 76, sec. 1214.

3. L. 1901, ch. 353, sec. 63; G.S. 1935, ch. 76, sec. 1216; L. 1939, ch. 180, sec. 280.

4. L. 1881, ch. 35, sec. 7; G.S. 1935, ch. 76, sec. 1606.

except upon express order of the court.[1] Beside the original instruments, the Shawnee County probate court keeps a separate record of adoption proceedings in addition to those recorded in the journal.

The law relating to the care and treatment of crippled children implies the making of several original instruments, including the complaint and the written report of the physician examining the child before treatment. It specifically provides that a copy of the written report of any physician refusing to treat the child upon arrival at the hospital must be filed with the probate court.[2] In Shawnee County the files or original documents are preserved and the proceedings entered on the journal.

The law governing the apprenticing of minors, repealed in 1939, provided for the filing of a master's affidavit, the consent of the parent or guardian, and the proof of power to give consent.[3] These, together with agreements and other original instruments were preserved by the Shawnee County probate court in the few such cases before it.

The statutes provide that in proceedings for the admission of children to the State Orphans' Home at Atchison "proper blanks for the use of said probate court shall be furnished by the State Board of Administration," and that they shall include an affidavit to be made by the county physician setting forth the physical and mental soundness of any child deemed eligible for admission.[4] In some counties separate records of orphan cases are kept by the probate court.

Original papers in commitments to the State industrial school for boys[5] and the State industrial school for girls[6] may be found in the probate court files. In some counties separate records of such commitments are kept by the probate judge, but in Shawnee County they have been entered only in the journal.

Under the law of 1867 the records of marriages which had been kept by the county clerks since the beginning of county government were required to be turned over to the probate court.[7] The law of 1867, which

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1. L. 1864, ch. 83, sec. 1; G.S. 1868, ch. 67, sec. 6; L. 1903, ch. 361, sec. 1; L. 1935, ch. 185, sec. 1; G.S. 1935, ch. 38, sec. 106; L. 1939, ch. 180, secs. 253-255.
2. L. 1931, ch. 283, secs. 7-9; G.S. 1935, ch. 65, secs. 5a02-5a04.
3. Terr. L. 1855, ch. 6, secs. 3-5; G.S. 1868, ch. 5, secs. 3-5; G.S. 1935, ch. 5, secs. 103, 105.
4. L. 1889, ch. 236, sec. 2; G.S. 1935, ch. 76, sec. 1705.
5. L. 1881, ch. 129, sec. 4; G.S. 1935, ch. 76, sec. 2105.
6. L. 1889, ch. 158, sec. 11; L. 1917, ch. 303, sec. 1; G.S. 1935, ch. 76, sec. 2207.
7. Terr. L. 1855, ch. 108, sec. 10; Terr. L. 1859, ch. 93, sec. 8; L. 1867, ch. 84, sec. 13.

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first required that a license be obtained from the probate judge before the marriage of any couple could be legalized, specified that "the probate judge shall keep a copy of all marriage licenses by him issued, in a book to be provided for that purpose, together with a copy of the return endorsed on such license by the person performing the marriage ceremony." This provision was omitted from the law of 1913 but was restored, in effect, by the law of 1917. Original marriage licenses may be found in the records of the probate court until 1913, when the law required that they be returned to the State Registrar by the person performing the ceremony. Since 1917 they have been returned to the probate judge but forwarded by him to the State Registrar after being entered on the marriage record. Stubs of licenses issued by him, however, have been retained by the probate judge since 1913.[1] Since 1886 the law has required that every applicant for a marriage license subscribe an affidavit to the effect that no legal impediments to the proposed marriage exist.[2] These affidavits also are found in the court records.

Until 1871 petitions for the incorporation and the disincorporation of towns and villages were filed with the probate judge. In the case of disincorporated towns the oaths and bonds and the reports of the trustees were filed with the court, as were the books, papers, and deeds of the dissolved corporation when its affairs were wound up by the trustees.[3]

From 1864 until 1915 petitions of settlers for the right to purchase school lands on which they had settled were filed with the probate court, together with affidavits, proofs and other papers not specifically required by law.[4] Appointments of appraisers to condemn sites for schoolhouses, 1874-1909,[5] and of appraisers to condemn schoolhouse sites on school lands where a school building had been erected and the title afterward acquired by a settler, 1874-1923, by implication of the statutes are entered upon the records of the probate court.[6]

Under the terms of the prohibitory liquor law enacted in 1881 the petitions of druggists for permits to sell intoxicating liquor for

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1. L. 1867, ch. 84, secs. 5, 6; L. 1913, ch. 224, secs. 3, 5; L. 1917, ch. 237, sec. 1; G.S. 1935, ch. 23, secs. 107, 109.

2. L. 1886, ch. 124, sec. 1; G.S. 1935, ch. 23, sec. 114.

3. Terr. L. 1855, ch. 155, art. 1, secs. 1, 26, 30, 32, 33; G.S. 1868, ch. 108, secs. 1, 26, 30, 32, 33.

4. L. 1864, ch. 102, secs. 4, 5; L. 1866, ch. 112, secs. 1, 2; G.S. 1868, ch. 94, secs. 4, 5; L. 1909, ch. 218, secs. 4, 5; L. 1915, ch. 322, sec. 14.

5. L. 1874, ch. 122, sec. 3; L. 1885, ch. 174, sec. 1; L. 1909, ch. 86, sec. 2.

6. L. 1873, ch. 128, sec. 1; L. 1876, ch. 122, art. 4, sec. 32; Supplemental Report of Commission to Revise the General Statutes, Topeka, 1922, p. 15.

medicinal, scientific, and mechanical purposes; their surety bonds given when the permits were granted; and the affidavits of physicians prescribing liquor were filed with the probate court.[1] The druggists' bonds and physicians' affidavits were eliminated in 1885,[2] but druggists again were required by the law of 1887 to file bonds for faithful observance of the law and also to file monthly inventories of stocks of liquor on hand.[3] Applications of customers to purchase liquor originally were filed every 30 days by the druggist with the probate judge, who was required to keep them on file for 2 years,[4] but the law of 1887, which required affidavits, specified that they should be kept intact in the book and the books filed monthly with the probate court.[5] Beginning in 1881 petitions to manufacture liquor and the surety bonds of such manufacturers, together with the affidavits of those purchasing from the manufacturer, were required to be filed with the probate court.[6] Under the law of 1891 wholesale dealers in drugs, chemicals, and photographers' supplies filed with the probate judge their applications for permits to sell alcohol.[7] In Shawnee County a separate record of permits issued was kept until these laws were repealed in 1909.[8]

The record of proceedings in the trial of contested county elections, kept by the county clerk as clerk of the contest court over which the probate judge presides, together with other papers in such cases,[9] usually are found among the records of the probate court and often entered on the journal, though the statutes do not specifically state where the records shall be filed when the contest is decided.

Though not required by law the probate judge sometimes preserves copies of his reports to the county commissioners of his examination of the books of the county treasurer, when he is called upon to make such examination.[10]

Petitions, bonds, and other papers in appeals from decisions of the board of county commissioners in creation of taxing districts for drainage purposes are filed with the probate court and the proceedings entered on its journal.[11] The same is true in appeals from actions of township trustees in establishing such districts.[12]

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1. L. 1881, ch. 128, secs. 2-5.
2. L. 1885, ch. 149, secs. 1, 2.
3. L. 1887, ch. 165, secs. 1, 2.
4. L. 1881, ch. 128, sec. 4.
5. L. 1887, ch. 165, sec. 2.
6. L. 1881, ch. 128, secs. 4, 5.
7. L. 1891, ch. 2, secs. 2, 3.
8. L. 1909, ch. 164, sec. 9.
9. L. 1861, ch. 34, secs. 13-15; G.S. 1868, ch. 36, secs. 87-89; G.S. 1935, ch. 25, secs. 1413-1415.
10. L. 1874, ch. 8, sec. 4 (Special Session); G.S. 1935, ch. 19, sec. 523.
11. L. 1886, ch. 161, secs. 7-12; G.S. 1935, ch. 24, secs. 308-313.
12. L. 1879, ch. 100, secs. 7-12; G.S. 1935, ch. 24, secs. 207-212.

By implication of the law the petitions of limited corporations engaged in making public improvements, for extensions of their charters, were probate court records until 1939.[1]

General Index

281. (General) INDEX, 1859--. 19 vols. (1-19). General index to journal, entry 282; petition for Probate Will, entry 288; Handwriting Subscribing Testimony of Witness, entry 289; Order Appointing Executor (Acceptance of Provisions of Will by Widow), entry 290; Administrators' and Guardians' Appointment Record, entry 291; Letters of Administration and Bonds, entry 292; Inventory and Appraisement Record, entry 294; Inventory Record (Inheritance) Tax Commission, entry 295; Sale of Real Estate, Decedent, entry 296; Sale of Real Estate, entry 300; Annual Accounts (and Settlements of Administrators, Executors, and Guardians), entry 304; Petition for Final Settlement, entry 306; Final Settlement and Disbursement of Estate, entry 307; Journal Entry - Final Discharge, entry 308; Record of Lunacy, entry 312; Record of Feeble Minded-Epileptic-Deaf, entry 315; Record of Incompetents, entry 316; Adoption Record, entry 318; Kansas Crippled Children, entry 319; Publication Record, entry 327. Shows name of estate or case, case number, date and nature of instruments filed, and reference to volume and page numbers of books where recorded. Arr. num. by case nos. and chron. thereunder by filing dates of instruments. Indexed alph. by names of estates and titles of case. Hdw. on pr. fm. Aver. 640 pp. 18 x 14 x 3. Pro. ct. lower va.

Proceedings

282. JOURNAL, 1855--. 69 vols. (one unlabeled; 1-5, 3, 4, 19, 20, 23-25, 28, 29, 33-35, 37, 41, 44, 47, 50, 53, 54, 56, 57, 62, 65, 67, 72, 75, 77, 82, 86, 93, 95, 99, 103, 104, 109, 113, 119, 121, 125, 131, 134, 140, 142, 148, 152, 158, 162, 166, 173, 178, 185, 191, 195, 200, 208, 215, 223, 227, 230, 239, 242, 244, 250). Title varies: Transcribed Journal, 1861-67. Journal of all proceedings of probate court pertaining to administration of estates of deceased, minors, and insane persons; care and hospitalization of crippled children; adoption of minors, lunacy cases, and habeas corpus, showing name of estate or title of case, case number, nature and dates of instruments filed, names of parties concerned, reports made and orders issued, account of all actions taken, fees, costs, and final disposition of case. Arr. chron. by dates of proceedings. Indexed alph.

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1. G.S. 1868, ch. 23, sec. 35; G.S. 1935, ch. 17, sec. 237; L. 1939, ch. 180, sec. 280.

by names of estates or titles of cases; for separate index, see entry 281. Hdw., hdw. on pr. fm., and typed. Aver. 640 pp. 18 x 14 x 3. 30 vols., 1855-1908, upper va.; 39 vols., 1908--, pro. ct. lower va.

283. PROBATE JUDGE'S DOCKET, 1897-1921. 28 vols. Discontinued. Title varies: Judge's Docket, 1897-98, 1903-4, 1909-21.

Probate judge's docket of cases set for hearing, showing case number, title and nature of case, date for hearing, notations of proceedings and orders, disposition of case, and remarks. Arr. chron. by dates of scheduled hearings. No index. Hdw. and hdw. on pr. fm. Aver. 350 pp. 14 1/2 x 9 1/2 x 2 1/2. Attic.

Estates

Case Files

284. PROBATE (Estate Cases), 1862--. 588 f. drs. (labeled by contained case nos. 1-12798). 1858-60, 1869-78, 1880-85, 1889-90, 1894-95, 1898 also in (Miscellaneous Papers), entry 325.

Original instruments filed in estate cases, including last wills and testaments, affidavits of death, petitions for and letters of administration and guardianship; oaths and bonds of executors, administrators, and guardians; inventories and appraisements, claims, accounts, and settlements; inheritance tax statements, orders of sale, publication notices, journal entries, and other miscellaneous papers, showing nature of instrument, name of estate; names of administrators, executors, guardians, and heirs; amounts of claims, value of property, date of sale amount realized, annual and final settlements, orders of court, and date of filing. The instruments in each case are enclosed in a jacket labeled with number and title of case. Also contains: (Guardians' Reports of Sale of Real Estate), 1867--, entry 298. Arr. num. by case nos. No index. Hdw., and hdw. and typed on pr. fm. 10 x 5 x 14. 439 f. drs., 1862-1928, pro. ct. upper va.; 149 f. drs., 1928--, pro. ct. lower va.

Wills

285. RECORD OF WILLS, 1872--. 10 vols. (16, 27, 38, 48, 73, 111, 145, 183, 210, 231). 1855-72 in Record, entry 310.

Copies of last wills and testaments filed for probate, showing names of testator, beneficiaries, executor, and witnesses; date and place of signing, date filed; conditions of will, appointment of executor, testimony of subscribing witnesses, and signature of probate judge. Arr. chron. by filing dates. Indexed alph. by names of testators; for separate index, see entry 281. Hdw. on pr. fm., 1872-1906; typed 1906--. Aver. 640 pp. 18 x 14 x 3. 4 vols., 1872-1906, pro. ct. upper va.; 6 vols., 1906--, pro. ct. lower va.

For separate record of testimony of subscribing witnesses, 1936--, see entry 289.

286. RECORD OF WILLS ON DEPOSIT, 1869--. 1 vol.
Record of wills on deposit for safekeeping, showing date of deposit, name of testator, by whom delivered, to whom to be delivered, date, and name of recipient. Arr. alph. by names of estators. No index. Hdw. on pr. fm. 350 pp. 18 x 14 x 2. Pro. ct. lower va.

287. FOREIGN TRANSCRIPTS (of Wills), 1894--. 7 vols. (46, 68, 92, 115, 136, 156, 184).
Transcripts of last wills and testaments of non-resident testators owning property in Shawnee County, showing name of estate or guardianship, title of transcript; names of court, county, and State; copy of will, petition and order to admit to probate, petition for authority to sell real estate, description of property, testimony of subscribing witnesses, and date of filing. Arr. chron. by filing dates. No index. Hdw., and typed. 640 pp. 18 x 14 x 3. 2 vols., 1894-1910, pro. ct. upper va.; 5 vols., 1910--, pro. ct. lower va.

288. PETITION FOR PROBATE WILL, 1897--. 11 vols. (52, 78, 106, 122, 143, 161, 163, 197, 205, 216, 241).
Copies of petitions for probate of wills, showing names of deceased and petitioners, date of death, order for hearing, proof of will, order admitting will to probate, testimony of subscribing witnesses, and date filed. Arr. chron. by filing dates. For index, see entry 281. Hdw. on pr. fm. Aver. 640 pp. 18 x 14 x 3. 1 vol., 1897-1907, pro. ct. upper va.; 10 vols., 1908--, pro. ct. lower va.
For separate record of testimony of subscribing witnesses, 1936--, see entry 289.

289. HANDWRITING SUBSCRIBING TESTIMONY OF WITNESS, 1936--. 1 vol.
Testimony of witnesses to signing of last wills and testaments, showing date; name, oath, testimony, and signature of witness; signature of probate judge, and date filed. Arr. chron. by filing dates. For index, see entry 281. Hdw. on pr. fm. 640 pp. 18 x 14 x 3. Pro. ct. lower va.
For prior related records, see entries 285, 288.

290. ORDER APPOINTING EXECUTOR (Acceptance of Provisions of Will by Widow), 1934--. 1 vol.
Record of acceptance and renunciation by widows under terms of will, showing name of estate, acceptance or renunciation, signature of widow, date subscribed and sworn, and signature of probate judge. Arr. chron. by dates subscribed. For index, see entry 281. Hdw. on pr. fm. 640 pp. 18 x 14 x 3. Pro. ct. lower va.

Letters and Bonds

291. ADMINISTRATORS' AND GUARDIANS' APPOINTMENT RECORD, 1912--. 7 vols. (100, 123, 169, 190, 209, 210, 232).
Copies of orders appointing administrators and guardians, showing names of deceased, minors, and incompetents; value of real estate and personal property; name of petitioner, date of petition; orders of court,

and signatures of notary public and probate judge. Arr. chron. by dates of appointments. For index, see entry 281. Hdw. on pr. fm. 640 pp. 18 x 14 x 3. Pro. ct. lower va.

For related records, 1855--, see entries 292, 293.

292. LETTERS OF ADMINISTRATION AND BONDS, 1872--. 11 vols. (9, 30, 35, 52, 58, 70, 81, 96, 112, 155, 211). 1855-72 in Record, entry 310.

Copies of petitions for and record of letters testamentary, letters of administration, and bonds of executors and administrators of estates, showing name and oath of administrator, date of appointment, name of estate, affidavit of death, amount and conditions of bond, affidavits of sureties, and signature of probate judge. Arr. chron. by dates of letters. Indexed alph. by names of estates; for separate index, see entry 281. Hdw. on pr. fm. 640 pp. 18 x 14 x 3. 5 vols., 1872-1907, pro. ct. upper va.; 6 vols., 1907--, pro. ct. lower va.

For separate record of orders appointing administrators, 1912--, see entry 291.

293. LETTERS OF GUARDIANSHIP AND BONDS, 1872--. 9 vols. (10, 31, 49, 80, 133, 170, 188, 207, 212). 1855-72 in Record, entry 310.

Copies of petitions for and record of letters of guardianship and bonds of guardians of minors, incompetents, and insane persons, showing name and oath of guardian, date of appointment, names of estate and ward, amount and conditions of bond, affidavits of sureties, and signature of probate judge. Arr. chron. by dates of letters. Indexed alph. by names of wards; for separate index, see entry 281. Hdw. on pr. fm. 640 pp. 18 x 14 x 3. 3 vols., 1872-1909, pro. ct. upper va.; 6 vols., 1909--, pro. ct. lower va.

For separate record of orders appointing guardians, 1912--, see entry 291.

Inventory and Appraisement

294. INVENTORY AND APPRAISEMENT RECORD, 1872--. 14 vols. (12, 18, 22, 39, 40, 62, 77, 105, 129, 149, 176, 202, 217, 231). 1855-72 in Record, entry 310.

Record of inventory and appraisement of estates, showing name of estate; name of administrator, executor, or guardian; description and value of real estate, items and value of personal property, bonds, notes, mortgages and other securities; signatures, approval of court, and date filed. Arr. chron. by dates of appraisement. For index, see entry 281. Hdw. on pr. fm. Aver. 600 pp. 17 x 15 x 2 1/2. 6 vols., 1872-1910, pro. ct. upper va.; 8 vols., 1910--, pro. ct. lower va.

295. INVENTORY RECORD (Inheritance) TAX COMMISSION, 1909--. 9 vols. (85, 97, 130, 154, 168, 182, 196, 213, 222).

Record of inventory and appraisement of estates prepared by probate court and transmitted to State Inheritance Tax Commission to be used as a basis for taxation, showing name of estate, statement of all goods and

chattels, bonds, mortgages, notes, and other securities; moneys, bank bills, and other circulating medium; description and value of real estate, total value of estate, debts and expenses of administration allowed, names and relationship of heirs, shares of each, signature of executor, and attestation of court. Arr. chron. by dates of reports. For index, see entry 281. Hdw. on pr. fm. Aver. 640 pp. 18 x 14 x 3. Pro. ct. lower va.

For statements of Inheritance Tax Commission to county treasurer, 1922--, see entry 415.

Sale of Property

296. SALE OF REAL ESTATE, DECEDENT, 1893--. 4 vols. (42, 84, 147, 225). 1855-72 in Record, entry 310; 1873-93 in Sale and Sale Bills, entry 299.

Record of sales of real estate of decedents by administrators and executors, showing name of estate, petitions for authority to sell, court's order for notice, order for sale, administrator's appraisement, additional bond of administrator or order of sale of real estate, verification of sureties, report of sale, confirmation of sale and order for deed, approval of deed, and date, and attestation of court. Arr. chron. by dates of sales. For index, see entry 281. Hdw. on pr. fm. Aver. 640 pp. 18 x 14 x 2. 1 vol., 1893-1909, pro. ct. upper va.; 3 vols., 1910--, pro. ct. lower va.

297. SALE OF REAL ESTATE, MINOR, 1893--. 6 vols. (43, 66, 91, 137, 172, 224). 1855-72 in Record, entry 310; 1873-93 in Sale and Sales Bills, entry 299.

Record of sales of real estate by guardians, showing names of estate and minor, petition for authority to sell, court's order to give notice, guardian's notice of petition to sell, order for sale, guardian's appraisement, order for additional bond of guardian, bond of guardian on order of sale, verification of sureties, report of sale, confirmation of sale and order for deed, approval of deed, and date and attestation of court. Arr. chron. by dates of sales. For index, see entry 281. Hdw. on pr. fm., 1893-1926; typed 1926--. Aver. 640 pp. 18 x 14 x 3. 2 vols., 1893-1911, pro. ct. upper va.; 4 vols., 1911--, pro. ct. lower va.

298. (GUARDIANS' REPORTS OF SALE OF REAL ESTATE), 1927-30. 2 cb. ft. 1867-- in Probate (Estate Cases), entry 284.

Reports of sales of real estate by guardians, showing name of estate, names of minor and guardian, petition for authority to sell, description of real estate, value of personal property, amount of debts, date of sale, notices to persons interested, and signature of guardian. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. 12 x 14 x 20. Attic.

299. SALE AND SALE BILLS, 1873--. 2 vols.

Record of sales of personal property of estates by administrators, executors, and guardians, showing names of estate, administrator,

executor, guardian, and clerk of sale; date and place of sale; itemized list of articles, appraised value; whether sold or not sold; name of purchaser, cash or note, name of security, and amount. Also contains: Sale of Real Estate, Decedent, 1873-93, entry 296; Sale of Real Estate, Minor, 1873-93, entry 297. Arr. chron. by dates of sales. Indexed alph. by names of estates; for separate index, see entry 281. Hdw. on pr. fm. Aver. 480 pp. 18 x 12 x 2. Pro. ct. upper va.

300. MORTGAGE OF REAL ESTATE, 1929--. 1 vol.
Reports of mortgages of real estate by guardians, showing names of deceased and heirs, approval of mortgage, petition of guardian to mortgage property, court's order to give notice, notice of guardian to minor, order for guardian to mortgage property, order for additional bond, bond of guardian on order of mortgage, verification of sureties, and date and attestation of court. Arr. chron. by dates of reports. For index, see entry 281. Hdw. on pr. fm. 640 pp. 18 x 14 x 3. Pro. ct. lower va.

Claims and Settlements

301. CLAIMS PRESENTED AND ALLOWED (Minor Estates), 1870-89. 1 vol.
Record of claims presented and allowed, showing name of estate, dates of presentation and allowance, amount of claim, by whom presented, date paid, amount paid, and remarks. Arr. chron. by dates of presentation. Indexed alph. by names of estates. Hdw. on pr. fm. 250 pp. 16 x 11 x 2. Pro. ct. upper. va.

302. JOURNAL RECORD OF CLAIMS, 1897--. 13 vols. (51, 71, 83, 102, 117, 128, 153, 174, 186, 199, 218, 235, 247).
Record of claims against estates of decedents, showing name of estate, proof of demand, date filed, name of claimant, exhibit of demand, affidavit or service, acknowledgment of service, acknowledgment of notice to heirs and legatees, waiver of notice, order of hearing, allowance of claim, order of adjournment, and signature of probate judge. Arr. chron. by filing dates. No index. Hdw. on pr. fm. Aver. 640 pp. 18 x 14 x 3. 1 vol., 1897-1906, pro. ct. upper. va.; 12 vols., 1906--, pro. ct. lower va.

303. DOCKET (of Executors, Administrators, and Guardians), 1855-84. 1 vol.
Docket of executors, administrators, and guardians, showing name of estate, minor, administrator, executor, and guardian; date of letter; first, second, and third annual reports, and remarks. Arr. chron. by recording dates. Indexed alph. by names of estates or minors. Hdw. on pr. fm. 240 pp. 16 x 11 x 2. Pro. ct. upper va.

304. ANNUAL ACCOUNTS (and Settlements of Executors, Administrators, and Guardians), 1872--. 37 vols. (11, 17, 21, 26, 32, 36, 45, 55, 61, 62, 69, 76, 87, 94, 101, 107, 114, 120, 126, 127, 141, 146, 159, 160, 165, 167, 181, 187, 189, 192, 201, 206, 221, 229, 233, 243, 248). 1855-72 in Record, entry 310.
Record of annual accounts and settlements of estates by administrators,

executors, and guardians, showing name of estate, dates of settlements, items of debits and credits, balances, and signatures and oaths. Arr. chron. by dates of accounting. Indexed alph. by names of estates; for separate index, see entry 281. Hdw. 1872-1915; hdw. on pr. fm., 1915--. Aver. 640 pp. 18 x 14 x 3. 9 vols., 1872-1905, pro. ct. upper va.; 28 vols., 1906--, pro. ct. lower va.

305. RECORD OF ACCOUNTS WHEN DUE, 1895-98. 1 vol. Discontinued.
Record of settlements of estates by administrators, executors, and guardians, showing name of estate, first, second, third, and final settlements, items of debits and credits, date due, and date filed. Arr. chron. by filing dates. Indexed alph. by names of estates. Hdw. on pr. fm. 300 pp. 18 x 12 x 3. Pro. ct. upper va.

306. PETITION FOR FINAL SETTLEMENT, 1922--. 5 vols. (144, 175, 191, 214, 228).
Petitions for final settlement of estates, showing name of deceased; names, relationship, and address of heirs, devisees, and legatees; oath of executor, date subscribed and sworn, and signature of notary public. Arr. chron. by filing dates. For index see entry 281. Hdw. on pr. fm. Aver. 640 pp. 18 x 14 x 3. Pro. ct. lower va.

307. FINAL SETTLEMENT AND DISBURSEMENT OF ESTATE, 1912--. 7 vols. (98, 116, 135, 150, 164, 234, 245).
Record of final settlements and disbursements of estates, showing case number, name of estate, journal entry of final settlement, disbursement of estate, total amount of estate, and attestation of court. Arr. chron. by dates of settlements. For index, see entry 281. Hdw. on pr. fm. 640 pp. 18 x 14 x 3. Pro. ct. lower va.

308. JOURNAL ENTRY-FINAL DISCHARGE, 1916--. 6 vols. (118, 139, 157, 164, 204, 246).
Record of orders for final discharge of administrators, executors, and guardians, showing names of deceased, minor heirs, incompetents, administrators, executors, and guardians; date of hearing, consideration, order and judgment of court, final discharge, and signature of probate judge. Arr. chron. by dates of orders. For index, see entry 281. Hdw. on pr. fm. Aver. 640 pp. 18 x 14 x 3. Pro. ct. lower va.

309. (UNSETTLED ESTATES), 1903-12. 1 vol. Discontinued.
Record of unsettled estates, showing case number, name of estate, names of executor, administrator, and guardian; date of appointment, date of inventory, and date of last account. Arr. alph. by names of estates. No index. Condition fair. Hdw. on pr. fm. 250 pp. 16 x 16 x 1 1/2. Attic.

310. RECORD, 1855-72. 9 vols. (1, 1-4, 3, 6-8). Title varies: Transcribed Record, 1855-67.
This is a combination of miscellaneous records pertaining to the settlement of estates, subsequently kept separately: Record of Wills, entry 285; Letters of Administrations and Bonds, entry 292; Letters of

Guardianship and Bonds, entry 293; Inventory and Appraisement Record, entry 294; Sale of Real Estate, Decedent, entry 296; Sale of Real Estate, Minor, entry 297; Annual Accounts (and Settlements of Executors, Administrators, and Guardians), entry 304. Arr. chron. by dates of entries. Indexed alph. by names of estates and wards. Hdw. Aver. 450 pp. 17 x 12 x 2. Pro. ct. upper va.

Lunacy
(See also entries 18, 30)

311. INSANE (Case Files), 1881--. 114 f. drs. (labeled by contained case nos. 1-4424). 1869, 1871-77, 1880-81, 1883, 1889-90, 1896-99 also in (Miscellaneous Papers), entry 325.
Original instruments filed in lunacy proceedings, including reports, warrants in lunacy, journal entries; orders appointing counsel, fixing fees of counsel and compensation of examining physician, and for hearing and inquest by commission; notices to members of commission, counsel, examining physician, and patient; report of examining physician; affidavits of witnesses; affidavits as to condition of patient; financial statement; certificate of residence; affidavit of lunacy, precept, and notice to probate judge, showing date, case number; names of patient, physicians, witnesses, and examiners; findings of commission, fees and disposition of case. Arr. num. by case nos. No index. Hdw. on pr. fm. 10 x 5 x 14. Pro. ct. upper va.

312. RECORD OF LUNACY, 1881--. 20 vols. (one unlabeled; A-E, G-T). Title varies: Insanity Record, 1897-1900.
Record of insanity cases, showing name of patient, case number, affidavit of lunacy, order for hearing, notice to patient, report of examining physician, order for inquest by commission, hearing, report of commission, judgment, certificate of residence, financial statement, and order restoring citizenship. Arr. num. by case nos. Indexed alph. by names of patients; for separate index, see entry 281. 19 vols., 1881--, hdw. on pr. fm.; 1 vol., 1897-1900, hdw. 400 pp. 14 x 10 x 1 1/2 to 640 pp. 18 x 14 x 3. 19 vols., 1881--, pro. ct. lower va.; 1 vol., 1897-1900, attic.

313. FEEBLE-MINDED (Case Files), 1911--. 2 f. drs.
Original instruments filed in cases of feeble-mindedness, showing date, name of patient, case number, information and instructions from State home for the feeble-minded, application of parent or guardian, verification as to residence; general, medical, personal, and family history; county commissioners' agreement, warrant to convey, disposition of case, and correspondence from State Board of Administration. Arr. num. by case nos. No index. Hdw. on pr. fm. 10 x 5 x 14. Pro. ct. upper va.

314. EPILEPTICS (Case Files), 1910--. 1 f. dr.
Original instruments filed in cases of epileptics and deaf persons, showing date, name of patient, case number, and regulations of State

hospital for epileptics; application for admission, verification as to residence, financial statement, medical examination, patient's family history, county commissioners' agreement, date filed, and correspondence from State Board of Administration. Arr. num. by case nos. No index. Hdw. and typed on pr. fm. 10 x 5 x 14. Pro. ct. upper va.

315. RECORD OF FEEBLE-MINDED - EPILEPTIC - DEAF, 1911--. 1 vol.
Record of applications for admission of feeble-minded, epileptic, and deaf persons to State institutions, showing names of patient, parents or guardian, personal and family history, financial statement, verification as to residence, county commissioners' agreement, and bond for private patients. Arr. chron. by dates of applications. Indexed alph. by names of patients; for separate index, see entry 281. Hdw. on pr. fm. 640 pp. 18 x 14 x 3. Pro. ct. lower va.

316. RECORD OF INCOMPETENTS, 1911--. 1 vol.
Record of persons deemed to be mentally incompetent, showing names of patient, parents or guardian, case number, information, order for hearing, notice to patient, hearing, and affidavits of witnesses and jurors. Arr. num. by case nos. Indexed alph. by names of patients; for separate index, see entry 281. Hdw. on pr. fm. 640 pp. 18 x 12 x 3. Pro. ct. lower va.

Minors
(See also entry 325-iii)

317. ADOPTIONS (of Minors), 1903--. 12 f. drs. (labeled by contained case nos. 1-1691). 1871-77, 1879, 1887, 1890, 1894, 1898 in (Miscellaneous Papers), entry 325.
Original instruments filed in adoption proceedings, including offer or proposition to adopt, consent or relinquishment by parents or guardian, and certificate of adoption, showing case number, date, names of child, parents or guardian, and of persons adopting; agreements, date of relinquishment, change of name, date of filing, and signature of probate judge. Arr. num. by case nos. No index. Hdw. on pr. fm. 10 x 5 x 14. Pro. ct. upper va.

318. ADOPTION RECORD, 1891--. 6 vols. (A, 64, 74, 124, 177, 193).
Record of orders of adoption issued by probate court, showing date, case number, names of child, parents or guardian and of persons adopting; offer or proposition to adopt, relinquishment, proof of death or disappearance of parents, date of release, order of court, change of name, and date of order. Arr. chron. by dates of orders. Indexed alph. by names of minors; for separate index, see entry 281. Hdw. on pr. fm. Aver. 600 pp. 18 x 14 x 3. 2 vols., 1891-1907, pro. ct. upper va.; 4 vols., 1908--, pro. ct. lower va.

319. KANSAS CRIPPLED CHILDREN, 1932--. 18 f. drs. (labeled by contained case nos. 1-735).
Complaints, orders for physician's examination, physicians' case reports, orders for court hearings, orders for commitment to hospital, permission for treatment and operation, and other original instruments filed in proceedings for treatment and hospitalization of crippled children, showing date, case number; names of complaint, parents or guardian, and child; date of appointment of physician, date of hearing, orders of court, to what hospital committed, and statement of fees and costs. Arr. num. by case nos. For index, see entry 281. Hdw. on pr. fm. 10 x 5 x 14. Pro. ct. lower va.

Marriage
(See also entry 323)

320. MARRIAGE LICENSES (Certificates, and Affidavits), 1859--. 89 f. drs. (labeling varies).
Certificates of marriage, 1859-67; marriage licenses and returns, 1867-1913; and affidavits of marriage, 1886--. Certificates show names, ages, and addresses of contracting parties; date and place of marriage, and certification and signature of person performing ceremony. Licenses and returns show date of issue; names, ages, and addresses of contracting parties; consent of parent or guardian if under age, authorization to marry, signature of probate judge; date and place of marriage; certification and signature of person performing ceremony, and date of return. Affidavits show oath that no legal impediment to marriage exists, date, and signatures of contracting parties. Arr. alph. by names of grooms, 20 f. drs., 1859-95; arr. num. by license nos., 62 f. drs., 1895-1905, 1909--; no obvious arr., 7 f. drs., 1898-1908. No index. Hdw. on pr. fm. 10 x 5 x 14. Pro. ct. upper va.

321. MARRIAGE LICENSE RECORD, 1856--. 43 vols. (1-24, 1-19). Title varies: Marriage Record, 1856-85.
Record of marriages, showing license number; names, addresses, and ages of contracting parties; date of license, names of parents or guardian consenting, endorsement of party performing ceremony, date of return, and signature of probate judge. Arr. num. by license nos. Indexed alph. by names of brides and grooms. Hdw., and hdw. on pr. fm. Aver. 600 pp. 17 x 12 x 3. Pro. ct. lower va.
For record of returns of marriages to county board of health, 1894-1910, see entry 507-iii.

Fees and Costs

322. CASH (Fee) BOOK, 1899--. 21 vols. (six unlabeled; 1, 2, 2-14).
Record of fees paid to probate court, showing date, amount, purpose, by whom paid, total for day, amount disbursed, amount deposited in bank,

and remarks. Arr. chron. by dates of payment. No index. Hdw. on pr. fm., 1899-1900, 1913--; hdw., 1900-1913. Aver. 350 pp. 16 x 7 x 1 1/2. 14 vols., 1899-1900, 1915-37, pro. ct. lower va.; 6 vols., 1900-1913, attic; 1 vol., 1938--, pro. judge's off.

For quarterly reports of fees collected, 1880--, see entry 470.

323. (MARRIAGE FEES COLLECTED), 1921-25. 1 vol. Discontinued. Record kept by clerk of probate court of fees collected for performance of marriage ceremonies by probate judge, showing date of ceremony, names and addresses of contracting parties, amount collected for services, and date paid. Arr. chron. by dates of ceremonies. No index. Hdw. 150 pp. 14 x 8 x 1. Pro. ct. lower va.

324. COST BOOK-PROBATE COURT, SHAWNEE COUNTY, 1856-62. 1 vol. Discontinued.
Cost book for probate court proceedings, showing title and cause, verdict rendered, fees of probate judge, jury fees, sheriff's fees, summons of jury, witness fees, and total amount of costs. Arr. alph. by names of plaintiffs. No index. Hdw. 150 pp. 13 x 8 x 3/4. Pro. ct. lower va.

Miscellaneous

325. MISCELLANEOUS PAPERS, 1858-61, 1868-87, 1889-90, 1893--. 4 f. drs. (one unlabeled; 1-063, 064-0120, 0120-0180).
Miscellaneous instruments filed in probate court proceedings, containing:

i. Commitments to industrial schools, 1874, 1893-95, 1897-99. Affidavits, applications, warrants to convey, notices to interested persons, findings of the court, and other original instruments filed in proceedings of commitment, showing name of complainant, witnesses, and child; charges for which committed, orders of court, and date of filing. For instruments in juvenile court proceedings, 1905--, see entry 330.

ii. Habeas Corpus Cases, 1861, 1870-71, 1873-74, 1876-77, 1880, 1884-87, 1889-90, 1894-95, 1898. Information, petitions, affidavits, instructions, motions and other original instruments filed in habeas corpus proceedings, showing date, name of prisoner, by whom restrained, for what reason, order to bring prisoner into court, testimony of witnesses, agreed statement of facts, names of witnesses and sheriff, and order of court.

iii. Indenture of apprenticeship, 1868, 1874-75, 1882. Masters' affidavits, proof of power to give consent, agreements and other original instruments filed in proceedings pertaining to apprenticeship of minors, showing name and age of minor, to whom bound, names of parents or guardian, kind of trade or service, conditions of agreement, date of filing, and signatures of master and probate judge.

Also contains: Probate (Estate Cases), 1858-60, 1869-78, 1880-85, 1889-90, 1894-95, 1898, entry 284; Insane (Case Files), 1869, 1871-77, 1880-81, 1883, 1889-90, 1896-99, entry 311; Adoptions (of Minors), 1871-77, 1879, 1887, 1890, 1894, 1898, entry 317. Arr. num. by case nos. No index. Hdw. and typed on pr. fm. 10 x 5 x 14. Pro. ct. upper va.

326. (CORRESPONDENCE), 1909-20, 1933--. 24 letter files. Miscellaneous correspondence pertaining to estates, marriages, commitments, and other business of probate court; correspondence of inquiry, and duplicate copies of letters of probate judge pertaining to business of the office. Arr. chron., 1909-20; arr. alph. by names of correspondents, 1933--. No index. Hdw. and typed. Aver. 12 x 3 1/2 x 13 1/2. 22 letter files, 1909-20, attic; 2 letter files, 1933--, pro. ct. upper va.

327. PUBLICATION RECORD, 1930--. 3 vols. (194, 198, 238). Record of affidavits of publication of notices of appointments, orders approving appointments, orders approving publication notices, and notices of final settlements, showing name of publication, printer's fees, dates of first, second, third, and fourth insertions, names of deceased and executors or administrators, and signature of probate judge. Arr. chron. by dates of affidavits. For index, see entry 281. Hdw. on pr. fm. Aver. 640 pp. 18 x 14 x 3. Pro. ct. lower va.

328. ATTORNEY'S RECEIPT FOR PAPERS, 1909-17, 1921--. 4 vols. (one unlabeled; 2-4). Record of original papers pertaining to estates taken from probate court by attorney, showing case number, name of estate, instrument taken, date received, by whom received, date returned, and office receipt. Arr. alph. by names of estates. No index. Hdw. on pr. fm. Aver. 225 pp. 17 x 12 1/2 x 2. 1 vol., 1909-17, attic; 3 vols., 1921--, pro. ct. lower va.

329. JOURNAL RECORD OF PERMITS (to Sell Liquor), 1881-1909. 5 vols. (one unlabeled; 1, 26, 60, 64). Discontinued. Record of permits issued to druggists to sell intoxicating liquors for medical mechanical, and scientific purposes, showing name and address of druggist, date of application and permit; date, amount, and conditions of bond, and verification of sureties. Arr. chron. by dates of applications. Indexed alph. by names of druggists. Hdw. on pr. fm. Aver. 400 pp. 18 x 12 x 3. Pro. ct. upper va.

For record of blank liquor purchase affidavits issued, 1887-1903, 1905-9, see entry 138.

(Next entry 330, p. 394)

VIII. JUVENILE COURT

Structural Organization and Evolution

Creation. Prior to 1905 jurisdiction in matters relating to neglected, dependent, destitute, delinquent, and incorrigible children was not confined to any particular courts, but by custom was exercised chiefly by the probate courts of the various counties.[1] To exercise the parental power of the State in cases of dependent, neglected, and delinquent children the legislature of 1905 created in each county a juvenile court. An amendment in 1917 provides that the court "shall be open at all times for the transaction of business."[2]

Judge. The law designates the probate judge of the county as judge of the juvenile court and provides that he shall be furnished by the county commissioners, at county expense, with such dockets, records, and blanks as may be necessary. He may collect for his services the same fees allowed the probate judge for like services. Under the 1905 law he was permitted to retain these fees, which were repaid to him from the county treasury in addition to his salary as probate judge, but since 1917 the law requires that fees collected by him be paid into the county treasury for the use of the county general fund.[3]

Probation Officers. The law provides that the court "shall appoint or designate one or more discreet persons of good character to serve as probation officers during the pleasure of the court." The regular truant officer may be appointed to this post and when so appointed he must perform the duties of this office in addition to those of his own, and without additional renumeration. Probation officers are paid from the county treasury a sum to be fixed by the court. This sum may not exceed $2 per day, except in cities with more than 15,000 inhabitants they may receive not exceeding $3 per day.[4] However, a law was enacted in 1929 providing that in counties of more than 70,000 population, which includes Shawnee County, there shall be three probation officers, one of whom shall be a woman, and one of whom shall be designated as chief probation officer and have supervision over the other two. The salary of the chief probation officer is fixed at $2,100 per year and that of the two assistants at $1,500 per year each, payable monthly from the county treasury. The act also permits expenditures of $900 per year for clerk hire, payable from the county treasury on the order of the judge of the court.[5]

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1. See Probate Court, p. 347.
2. L. 1905, ch. 190, sec. 1; L. 1917, ch. 154, sec. 1; G.S. 1935, ch. 38, sec. 401.
3. Ibid.
4. L. 1905, ch. 190, sec. 3; G.S. 1935, ch. 38, sec. 408.
5. L. 1929, ch. 154, secs. 1-3; G.S. 1935, ch. 38, secs. 430-432.

Jurisdiction

The juvenile court law applies only to children under 16 years old who are not inmates of any State institution or any institution incorporated under the laws of the State; but when the court has acquired jurisdiction it may continue for the purposes of the act until the child has attained the age of majority. The terms "dependent child" and "neglected child" are defined as "any child who for any reason is destitute or homeless or abandoned, or dependent upon the public for support, or has not proper parental care of guardianship, and has idle and immoral habits, or who habitually begs or receives alms, or who is found living in any house of ill fame or with any vicious or disreputable persons; or whose home, by reason of neglect, cruelty, or depravity on the part of its parents, guardian, or other person in whose care it may be found is an unfit place for such a child; or any child under the age of 10 years who is found begging, peddling, or selling any article, or singing or playing any musical instrument upon the street, or who accompanies or is used in aid of any person so doing." The term "delinquent child" is defined as any child who violates a State law or city ordinance; "or who is incorrigible; or who knowingly associates with thieves, vicious or immoral persons; or who is growing up in idleness or crime; or who knowingly patronizes any pool rooms or place where gambling devices are operated."[1]

The judge of the juvenile court has authority to issue subpoenas for witnesses and compel their attendance by attachment as for contempt and to issue all other process that may be necessary in any case, the same as justices of the peace are authorized to do in misdemeanor cases. All writs and process of the court are served by the probation officer, or in his absence by some person especially deputized by the court for that purpose. It is the probate judge's duty to notify the probation officer in advance, if possible, when any child is to be brought before the court. It is the probation officer's duty to be present and represent the interests of the child when the case is heard; to make such investigation as the court may direct and furnish the information and such assistance as the judge may require, and to take charge of the child before and after trial as the judge may direct.[2]

Any reputable person residing in the county who has knowledge of a child who appears to be dependent, neglected, or delinquent within the meaning of the act may file with the juvenile court a petition setting forth the facts, verified by affidavit. Unless the parties concerned appear voluntarily in court a summons must issue requiring the child and the person or persons having its control and custody to appear in court. The parents, guardian, or nearest relative of the child must be notified if possible. If they fail to obey a warrant may be issued

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1. L. 1905, ch. 190, sec. 2; G.S. 1935, ch. 38, sec. 402.
2. L. 1905, ch. 190, secs. 1, 3; G.S. 1935, ch. 38, secs. 401, 403.

for the persons having custody of the child, or for the child itself, and upon return of the process the court must proceed to hear and dispose of the case "in a summary manner" and enter final judgment. However, the hearing may be continued from time to time as necessity requires, and in the meantime the child may remain in the custody of the probation officer, or in its own home, or in care of some suitable person subject to supervision of the probation officer, as the court may direct.[1]

When a child is found to be dependent or neglected within the meaning of the act the juvenile court may make an order committing it to some suitable institution or to some suitable person of good moral character; or to some children's protective institution, or to a training or industrial school. If the health of the child requires it the court may order it placed in a public hospital for treatment, or in a private hospital which will receive it without charge. Any person or institution in whose custody the child is placed becomes the legal guardian of its person.[2]

The same procedure may be followed in the case of a delinquent child as in the case of a dependent or neglected child; or the court may commit the child to a suitable institution for the care of delinquent children, though the commitment may not extend beyond the age of majority. The board of managers of the institution has power to parole the child on such conditions as it may prescribe; or upon recommendation of such board the court also has power to discharge the child from custody whenever its reformation is deemed complete. In any case, however, where a child has been committed to an individual or institution the court may cause the child and the person having its custody to be brought before it and make an order changing such custody if it appears that it would be to the child's best interest to do so.[3]

The law requires that when any child under 16 years old is arrested it must be brought before the juvenile court of the county rather than before any justice of the peace, police magistrate, or any other judge having jurisdiction of the offense.[4] The State Supreme Court has held that under this law the juvenile court has exclusive jurisdiction of children under 16 years of age,[5] even to the exclusion of the district court in a criminal matter;[6] that the district court is without jurisdiction to sentence a child under 16 years old to the reformatory,[7] and that the judgment of a police court on a child under 16 years old is void.[8]

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1. L. 1905, ch. 190, secs. 5, 6; G.S. 1935, ch. 38, secs. 405, 406.
2. L. 1905, ch. 190, secs. 7, 8; G.S. 1935, ch. 38, secs. 407, 408.
3. L. 1905, ch. 190, secs. 9, 10; G.S. 1935, ch. 38, secs. 409, 410.
4. L. 1905, ch. 190, sec. 11; G.S. 1935, ch. 38, sec. 411.
5. 136 Kan. 283-285; 15 Pac. 2d 443.
6. 75 Kan. 799-801; 90 Pac. 231.
7. 121 Kan. 886-888; 250 Pac. 316.
8. 114 Kan. 712; 220 Pac. 299.

Juvenile Court - Jurisdiction (Next entry 330, p. 394)

The act provides that it shall be liberally construed to the end that the care, custody, and discipline of a child shall approximate, as nearly as may be, proper parental care, and that in all cases where it can be properly done a child shall be placed in an approved family home by adoption or otherwise. It specifies that "in no case shall any proceedings, order, or judgment of the juvenile court in cases coming within the purview of this act be deemed or held to import a criminal act on the part of the child; but all proceedings, orders and judgments shall be deemed to have been taken and done in the exercise of the parental power of the State."[1] The purpose of the law, the Supreme Court has held, is not that of punishment, but correction and prevention.[2]

In addition to its jurisdiction over the children themselves the juvenile court has jurisdiction to impose, suspend, or remit in its discretion any punishment fixed by State laws or city ordinances for offenses committed in cases of dependent, neglected, or delinquent children under 16 years old. The legislature of 1907 gave the court power to punish any person contributing to the delinquency, dependency, or neglect of a child by a fine not exceeding $1,000 or a jail sentence not exceeding 1 year, or both.[3] Procedure in the trial of any such person is substantially the same as that provided for the trial of misdemeanors before justices of the peace.[4]

The act of 1907, supplementing the juvenile court law of 1905, authorized the county commissioners of any county with a population of more than 20,000 to provide a detention home or juvenile farm for children under 16 years old in the custody of the judge of the juvenile court, and until such a home could be provided the commissioners were authorized to rent a suitable building for the purpose for a term not exceeding 5 years at one time. The legislature of 1923 made the commissioners' powers in this respect dependent upon a favorable vote of the electors of the county, and provided for admission of children up to 18 years old.[5]

By authority of this law the Shawnee County commissioners established a detention home in rented quarters on December 21, 1914, paying $25 per month rent for the building and 50 cents for each child for its board and care.[6] On August 22, 1927 the commissioners levied a tax of .061 of a mill on all taxable property in the county to purchase a site and

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1. L. 1905, ch. 190, sec. 15; G.S. 1935, ch. 38, sec. 415.
2. 94 Kan. 115-120; 145 Pac. 871.
3. L. 1905, ch. 190, sec. 14; L. 1907, ch. 177, sec. 1; R.S. 1923, ch. 38, sec. 416; G.S. 1935, ch. 38, secs. 414, 416.
4. L. 1911, ch. 236, sec. 1; G.S. 1935, ch. 38, sec. 428.
5. L. 1907, ch. 177, sec. 7; L. 1923, ch. 108, sec. 1; G.S. 1935, ch. 38, sec. 501.
6. Commissioners' Journal, vol. P, p. 50, see entry 2.

erect a building. The contract was let October 14, 1929 to L. K. Bowers & Son.[1] This law provides that the detention home shall be in charge of a matron, or of a man and his wife, who shall be under the supervision of the judge of the juvenile court and that the inmates shall be controlled so far as possible through parental care. The children must be placed in schools where possible, or the county commissioners may provide for separate instruction within the home. The act asserts that "the detention home is to supplement the work of the juvenile court and to be used in lieu of any jail or prison, but it shall be the policy of the judge of the juvenile court, probation officer, and the matron or superintendent . . . to make the said house of detention a temporary home, and as soon as possible to provide for the return of the inmates of the home to their natural parents or to parents by adoption." All expenses of the detention home are accorded as a part of the expense of the juvenile court.[2]

The legislature of 1915 authorized the county commissioners of any county having a city of not less than 80,000 inhabitants to procure the necessary ground and erect a suitable parental home for homeless, dependent, neglected, or delinquent children under the age of 16, and to levy a tax of not more than 3 cents on the $100 valuation for that purpose, and subsequently not more than 1 1/2 cents on the $100 valuation for its maintenance. The legislature of 1919 made this action mandatory on the part of the commissioners when petitioned by 30 percent of the electors and extended provisions of the law to counties having a city of not less than 53,000 population.[3] Another act passed in 1923 provided for establishment of juvenile farms for neglected, dependent, or delinquent boys under the age of 16 years in counties having a city of not less than 70,000 population, on majority vote of the electors.[4]

The legislature of 1889 provided that applications for admission to the Soldiers' Orphans' Home at Atchison should be made to the probate court of the county in which the child resided.[5] This law has not been repealed but it has been superceded in effect by another enactment which specifies that all applications for admission to the State Orphans' Home, as the institution now is known, shall be made to the juvenile court.[6]

Appeals. An appeal from a final order of commitment of the juvenile court must be allowed on the part of a child to the district court within 10 days after the final order complained of is made and may be

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1. Commissioners' Journal, vol. R, pp. 48, 192, 193.
2. L. 1907, ch. 177, secs. 8, 10; G.S. 1935, ch. 38, secs. 502, 504.
3. L. 1915, ch. 276, sec. 1; L. 1919, ch. 211, sec. 1; G.S. 1935, ch. 38, sec. 505.
4. L. 1923, ch. 114, sec. 1; G.S. 1935, ch. 38, sec. 511.
5. L. 1889, ch. 236, sec. 2; G.S. 1935, ch. 76, sec. 1705.
6. L. 1907, ch. 177, sec. 14; G.S. 1935, ch. 38, sec. 425.

demanded on the part of the child by its parent, guardian, custodian, or any relative within the third degree of kinship. Upon the filing of a written notice of appeal the judge of the juvenile court must transmit to the clerk of the district court all papers and a transcript of the records in the case. In the district court the case "shall be heard and disposed of in the spirit of this act and in the exercise of all the powers and discretion herein given to the juvenile court." In cases of felony the judge of the juvenile court may remand the person apprehended to the district or county court for trial.[1] Anyone convicted of contributing to the delinquency, dependency, or neglect of a child may appeal to the district court in substantially the same manner as appeals are perfected from justice of the peace courts in misdemeanors.[2]

Records

Although it is not specifically provided that they shall be preserved, the juvenile court law implies the filing of several original documents in cases before it. These include the written petition or complaint, and the supporting affidavits; the summonses and notices to the parties concerned; the orders of the court, including orders of commitment; warrants, fee and cost bills, and notices of appeal.[3] The law of 1907 requires that the judge of the juvenile court make a report to the Governor on July 1 each year giving a complete history of proceedings during the previous year; statistics of the number, nature, and disposition of the cases, and a complete financial statement.[4] Copies of these reports sometimes are kept by the judge, as they are in Shawnee County. In addition, the Shawnee County juvenile court keeps an appearance docket of cases filed, and a separate record of proceedings. The probation officers file personal records of children taken into custody. The law requires that the matron or superintendent of the detention home keep a complete record of all inmates of the home and make a monthly report to the judge of the juvenile court.[5] In Shawnee County the duplicates are retained in the files of the court and the originals filed with the county commissioners as vouchers for costs to be paid by the county. A record of applications and proceedings for admission to the State Orphans' Home at Atchison also has been kept by the Shawnee County juvenile court since 1909.[6]

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1. L. 1905, ch. 190, sec. 12; G.S. 1935, ch. 38, sec. 412.
2. L. 1911, ch. 236, sec. 2; G.S. 1935, ch. 38, sec. 429.
3. L. 1905, ch. 190, secs. 4-12; G.S. 1935, ch. 38, secs. 404-412.
4. L. 1907, ch. 177, sec. 11; G.S. 1935, ch. 38, sec. 422.
5. L. 1907, ch. 177, sec. 9; G.S. 1935, ch. 38, sec. 503.
6. L. 1907, ch. 177, sec. 14; G.S. 1935, ch. 38, sec. 425.

330. (DEPENDENT, NEGLECTED, AND DELINQUENT CHILDREN), 1905--. 62 f. drs. (labeled by contained case nos. 1-3790).
Petitions, notices, summonses, continuances, warrants, orders, and other original instruments filed in cases pertaining to dependent, neglected, and delinquent children, showing case number, date of filing; names of child, petitioner, witnesses, and probation officer; orders for custody and support; fees, costs, disposition of case, and volume and page reference to appearance dockets. Arr. num. by case nos. No index. Hdw. on pr. fm. 4 1/2 x 4 x 14. Off. pro. ct.
For instruments in probate court proceedings, 1874, 1893-95, 1897-99, see entry 325-i.

331. APPEARANCE DOCKET, 1905--. 3 vols. (1-3).
Appearance docket of cases filed in juvenile court, showing date, case number, nature of case, names and addresses of parent and child, date of filing, title of action, dates and nature of instruments filed and process issued, and orders of court. Arr. num. by case nos. Indexed alph. by names of children. Hdw. on pr. fm. 600 pp. 18 x 14 x 3. Off. pro. ct.

332. JUVENILE COURT RECORD, 1905--. 15 vols. (1-15).
Record of juvenile court proceedings in the matter of dependent, neglected, and delinquent children, showing case number, date of filing, names of child and petitioner, dates notices issued to probation officer and interested persons, date of hearing, warrants issued, orders of court, and disposition of case. Arr. chron. by filing dates. Indexed alph. by names of children. Hdw. and typed on pr. fms. 600 pp. 18 x 14 x 3. Off. pro. ct.

333. (PERSONAL RECORDS OF PROBATION OFFICER), 1930--. 2 f. drs. Prior records destroyed.
Probation officers' personal records of children brought into office for questioning or investigation, showing date of complaint, history of case; whether dependent, neglected, or delinquent child; name, age, and address of child; and name and address of parent or guardian. Arr. alph. by names of children. No index. Typed. 3 x 4 x 14. Off. pro. ct.

334. DETENTION HOME RECORD, 1915--. 50 vols.
Duplicate copies of record of children committed to county detention home, showing information as in entry 14-i. Arr. chron. by dates of commitments. Indexed alph. by names of children. Hdw. on pr. fm. Aver. 275 pp. 16 x 11 x 2. 2 vols., 1915-21, off. pro. ct.; 48 vols., 1922--, detention home off.

335. RECORD OF ADMISSION TO STATE ORPHANS' HOME, 1909--. 1 vol.
Record of applications and proceedings for admission of children to State Orphans' Home at Atchison, showing date, names of applicant and child, certificate of residence, copy of application, name of child, findings of court, consent of parents or guardian, court orders, and remarks. Arr. chron. by dates of applications. Indexed alph. by names of children. Typed. 640 pp. 18 x 14 x 3. Off. pro. ct.

336. JUVENILE COURT - ANNUAL REPORT, 1915--. 1 f. dr.
Copies of annual reports of probate judge to Governor, showing date, complete history of proceedings of court for preceding year; number of delinquent, dependent, and neglected children; number of adults contributing toward delinquency; nature and disposition of each case, financial statement, and signature of judge. Arr. chron. by dates of reports. No index. Typed. 10 x 5 x 14. Upper va. pro. ct.

IX. COURT OF TOPEKA

Structural Organization and Evolution

Creation. As a means of relieving the Shawnee County district court of a mass of detail work in the trial of small civil and criminal cases, the legislature of 1899 created the Court of Topeka in City of Topeka Township.[1]

A law enacted by the legislature of 1868 provides that no city of more than 2,000 population shall be a part of the township in which it is located, but in itself shall constitute a township for the purpose of electing justices of the peace and constables, and for the exercise of their powers and jurisdiction.[2] The act creating the Court of Topeka vested it with the same jurisdiction as that possessed by justices of the peace, but specified that thenceforth justices in City of Topeka Township should have no jurisdiction whatever in criminal matters, and that their jurisdiction in civil matters should be limited to cases wherein the amount involved, exclusive of costs, should not exceed $1. The terms of the judge, clerk, and marshal of the court were fixed at 2 years each.[3]

At that time the State Constitution provided 1-year terms for all township officers.[4] In a suit attacking the constitutionality of the act creating the city court it was alleged that the law sought to create township officers with a tenure longer than 1 year. The State Supreme Court held, however, that the law did not create a township office, but that it created a tribunal designated "the Court of Topeka," which it had authority to do under article 3, section 1 of the Constitution, which provides that in addition to the courts therein named the legislature may create "other courts, inferior to the Supreme Court."

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1. L. 1899, ch. 129, sec. 1; G.S. 1935, ch. 20, sec. 1901.
2. G.S. 1868, ch. 110, sec. 48; G.S. 1935, ch. 80, sec. 1404.
3. L. 1899, ch. 129, secs. 2, 23; G.S. 1935, ch. 20, secs. 1902, 1930.
4. Const., art. 9, sec. 4.

 (Next entry 337, p. 400)

The Supreme Court also refused to declare the act invalid because it restricted jurisdiction of justice of the peace, which is a constitutional office.[1]

Judge. The law of 1899 provided that the Court of Topeka should have one presiding judge whose style of office should be "judge of the Court of Topeka," and that he should be a qualified voter of the city of Topeka at the time of his election and reside in the city during his term of office.[2] Since 1921, however, the candidate for judge need only be a qualified voter of Shawnee County.[3] The term of office was fixed at 2 years and it was originally provided that the first judge should be elected at the regular Topeka city election in 1899. This section was amended in 1929 to provide for his election at the county general election.[4]

The judge may not draw any fee in any case pending in court nor act as attorney for any person in any such case. He must take an oath to faithfully support the Constitution and laws of the United States and the State of Kansas. Any vacancy in the office is filled by appointment by the Governor until the next election of city officers occuring more than 30 days after such appointment.[5] In event of the absence, sickness, or disability of the judge he may appoint another person as judge pro tempore, who must take the same oath as the regular judge and is clothed with the same powers.[6]

The judge receives a salary of $2,100 per year payable in monthly installments by Shawnee County from the county treasury.[7]

Clerk. The act provides for a clerk of the court to serve a term of 2 years. Like the judge, he formerly was elected at the regular city election but since 1929 at the general county election. He must be a qualified voter of the county and must take the same oath of office as

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1. 61 Kan. 94-100; 58 Pac. 993. For later Supreme Court decisions in respect to city courts, see Governmental Organization and Records System, p. 54.
2. L. 1899, ch. 129, secs. 1, 4; G.S. 1935, ch. 20, secs. 1901, 1905.
3. L. 1921, ch. 175, sec. 4; G.S. 1935, ch. 20, sec. 1905.
4. L. 1899, ch. 129, sec. 23; L. 1929, ch. 168, sec. 1; G.S. 1935, ch. 20, sec. 1930.
5. L. 1899, ch. 129, secs. 15, 16, 24; G.S. 1935, ch. 20, secs. 1922, 1923, 1931.
6. L. 1899, ch. 129, sec. 14; L. 1901, ch. 168, sec. 1; G.S. 1935, ch. 20, sec. 1921.
7. L. 1899, ch. 129, sec. 6; L. 1901, ch. 168, sec. 2; L. 1911, ch. 153, sec. 1; L. 1919, ch. 181, sec. 1; L. 1921, ch. 175, sec. 1; G.S. 1935, ch. 20, sec. 1910.

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that prescribed for the judge.[1] Before entering upon the duties of his office he must execute and deposit with the county clerk a bond in the sum of $2,000 to be approved by the county commissioners and conditioned for faithful performance of duty.[2] The clerk is forbidden to draw any fee in any case pending in court, or act as counsel for any person in such cases.[3]

The judge may, whenever in his judgment the needs of the court require, appoint two persons recommended by the clerk to serve as first and second deputy clerks, the former at a salary of $100 a month, the latter at $75 a month, both sums payable monthly from the county treasury. Both must take the same oath as the clerk.[4] The clerk's salary now is fixed at $1,800 per year, payable monthly from the county treasury.[5] A vacancy in the office of clerk is filled by appointment by the Governor until the next regular city election occuring more than 30 days after appointment.[6]

Marshal. A marshal of the court is elected for a 2-year term at the same time the judge and clerk are elected. He must take an oath to uphold the Constitution and laws of the United States and the State, and must execute to the State and deposit with the county clerk a bond in the penal sum of $2,000, to be approved by the county commissioners and conditioned for faithful performance of duty. The marshal must be a qualified voter of Shawnee County at the time of his election.[7] The marshal is authorized to appoint two deputy marshals who have the authority and power to perform any duty required of the marshal. They must take an official oath of office, and the marshal is liable on his bond for the acts of any deputy appointed by him.[8] Since 1917 the marshal also has been empowered to appoint special deputies for the purpose of serving process outside the city of Topeka.[9]

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1. L. 1899, ch. 129, secs. 1, 4, 16, 23; L. 1921, ch. 175, sec. 4; L. 1929, ch. 168, sec. 1; G.S. 1935, ch. 20, secs. 1901, 1905, 1923, 1930.
2. L. 1899, ch. 129, sec. 1; G.S. 1935, ch. 20, sec. 1929.
3. L. 1899, ch. 129, sec. 15; G.S. 1935, ch. 20, sec. 1922.
4. L. 1899, ch. 129, sec. 8; L. 1905, ch. 195, sec. 9; L. 1915, ch. 194, sec. 1; L. 1917, ch. 163, sec. 1; L. 1919, ch. 181, sec. 3; L. 1921, ch. 175, sec. 3; L. 1927, ch. 181, sec. 1; G.S. 1935, ch. 20, sec. 1915.
5. L. 1899, ch. 129, sec. 6; L. 1901, ch. 168, sec. 2; L. 1911, ch. 153, sec. 1; L. 1919, ch. 181, sec. 1; L. 1921, ch. 175, sec. 1; G.S. 1935, ch. 20, sec. 1910.
6. L. 1899, ch. 129, sec. 24; G.S. 1935, ch. 20, sec. 1931.
7. L. 1899, ch. 129, secs. 4, 16, 22, 23; L. 1921, ch. 175, sec. 4; L. 1929, ch. 168, sec. 1; G.S. 1935, ch. 20, secs. 1905, 1923, 1929, 1930.
8. L. 1899, ch. 129, sec. 7; L. 1901, ch. 168, sec. 3; L. 1905, ch. 195, secs. 1, 2; L. 1923, ch. 134, sec. 1; G.S. 1935, ch. 20, secs. 1911, 1912.
9. L. 1917, ch. 162, sec. 2; G.S. 1935, ch. 20, sec. 1914.

The salary of the marshal of the Court of Topeka at present is fixed at $1,800 per year; that of the first deputy at $1,500 per year, and that of the second deputy at $1,200 per year. In serving process outside the city of Topeka the marshal and his deputies are allowed their actual and necessary traveling expenses, payable from the county treasury.[1]

Jurisdiction

Civil Cases. The legislature decreed that "the court hereby established shall have the same jurisdiction, civil and criminal, as justices of the peace now have in this State." All the laws of the State relating to the powers, duties, and jurisdiction of justices of the peace and the mode of practice before them were made applicable to the Court of Topeka and its judge. Justices of the peace in City of Topeka Township were shorn of their jurisdiction in civil matters except in cases where the amount claimed, exclusive of costs, does not exceed $1.[2]

All writs and process of every kind in cases brought or pending in the Court of Topeka must be issued by the judge, or in his absence by the clerk in the name of the judge, and in the same manner as such writs are issued by justices of the peace. The act originally provided that they must be directed "to the marshal of said court or any constable of said township," and returned in the same manner as in justice courts. A law of 1905, however, requires that all process, except in criminal cases, must be directed to and served by the marshal in person or by deputy.[3]

Before summons may be issued in any civil action brought in the court the plaintiff must deposit $3 with the clerk as costs, and the judge in his discretion may require such further security as he deems necessary. However, anyone having a just cause of action but unable to make the deposit may file an affidavit of his poverty, in which case the security is not required. All money paid into court must be paid to the clerk, who must disburse it to the proper persons.[4]

In all cases the clerk must tax the same fees as are allowed by law in such cases before justices of the peace, and remit them on the first Monday of each month to the county treasurer, who credits them

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1. L. 1899, ch. 129, sec. 7; L. 1905, ch. 195, sec. 3; L. 1911, ch. 153, sec. 2; L. 1915, ch. 197, sec. 1; L. 1917, ch. 162, sec. 1; L. 1919, ch. 181, sec. 2; L. 1921, ch. 175, sec. 2; L. 1923, ch. 134, sec. 2; G.S. 1935, ch. 20, sec. 1913.
2. L. 1899, ch. 129, sec. 2; G.S. 1935, ch. 20, sec. 1902.
3. L. 1899, ch. 129, secs. 3, 5; L. 1905, ch. 195, sec. 6; G.S. 1935, ch. 20, secs. 1903, 1906, 1907.
4. L. 1899, ch. 129, secs. 17, 20; G.S. 1935, ch. 20, secs. 1924, 1927.

to the county funds; except that fees of witnesses, jurors, and the county attorney must be paid direct by the clerk to whom they are due. The clerk must make duplicate receipts for money paid in, giving one copy to the payee and delivering the other to the county clerk, together with detail statements as to the items of cost, the title of the case, and the names of the persons paying.[1]

It is the duty of the clerk to assist the judge in recording the proceedings of the court, making out writs and other papers to be signed or issued by the judge, to administer oaths required in judicial proceedings before the court, to approve all bonds filed, to file the papers in all cases, to docket cases and set them for trial in the judge's absence, and to perform such other clerical duties in relation to the court proceedings as the judge may order.

Criminal Cases. In vesting the Court of Topeka with the same criminal jurisdiction as justices of the peace, the legislature divested justices of the peace in City of Topeka Township of all jurisdiction in criminal matters.[2]

The legislature of 1905 required that all prosecutions under State laws for misdemeanors committed within the city of Topeka should thereafter be tried either in the Court of Topeka or the district court of Shawnee County. It required that all warrants issued by the judge or clerk of the Court of Topeka in criminal cases where the crime charged is a felony shall be directed to the marshal of the court and the sheriff of Shawnee County. The sheriff is allowed the same fees for serving such warrants as he would receive in the case of any other court.[3] The marshal of the court and his deputies are vested with the same powers and duties as those provided by law for constables and deputy constables.[4] A general law enacted in 1925 authorizes the judge of any city court to grant and revoke paroles in misdemeanor cases, and require the defendant to give bond for his appearance, but not more than two paroles may be granted the same person under the same conviction.[5]

Appeals. An appeal may be taken from the Court of Topeka to the district court of the county in the same manner as provided by law for appeals from justice of the peace courts. In any civil case a change of venue may be taken to any justice of the peace of any township, upon payment of all costs that have accrued, in the same manner as in justice courts.

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1. L. 1899, ch. 129, sec. 19; G.S. 1935, ch. 20, sec. 1926.
2. L. 1899, ch. 129, sec. 2; G.S. 1935, ch. 20, sec. 1902.
3. L. 1905, ch. 195, secs. 6-8; G.S. 1935, ch. 20, secs. 1907-1909.
4. L. 1899, ch. 129, sec. 9; G.S. 1935, ch. 20, sec. 1916.
5. L. 1935, ch. 152, sec. 1; G.S. 1935, ch. 20, sec. 1444.

Records

The only records specifically required by law of 1899 to be kept by the court of Topeka are "a civil docket and a criminal docket, which shall be furnished by the county, in which docket must be entered by the judge or clerk every cause brought or pending in said court, and all the proceedings had or done therein shall be entered in the same manner in all respects as is provided by law relating to the dockets of justice of the peace; and said county shall furnish all necessary and proper stationery for the use of the court."[1]

However, the clerk files and preserves the bills of particulars and other original instruments required in all cases.[2] The papers in each case are kept together in a jacket labeled with the case number and title of the cause. The clerk also preserves copies of receipts issued by him for cash paid in, and keeps a daily record and permanent ledger of receipts and disbursements. He also preserves copies of his monthly reports to the county commissioners of fees and fines collected and uncollected.[3]

Civil Cases

337. (CIVIL CASE FILES), 1899--. 9 cb. bs., 201 f. drs. (labeled by contained case nos. 15219-46625).
Bills of particulars, pleadings, motions, affidavits, summonses, subpoenas, journal entries, and other miscellaneous instruments in civil cases, showing case number, title and cause, nature of instrument, date of filing; names of attorneys, witnesses, and jurors; fees, costs, and disposition of case. The instruments in each case are enclosed in a jacket labeled with the case number and title of the cause. Arr. num. by case nos. No index. Hdw. and typed on pr. fms. Cb. bs. 20 x 22 x 28; f. drs. 10 x 5 x 14. 9 cb. bs., 1899-1919, attic;,201 f. drs., 1919--, clk's. off.

338. CIVIL DOCKET, 1899--. 99 vols. (1-99).
Docket of civil cases filed, showing date, case number, title and cause, attorneys, date and nature of pleadings filed and writs issued and returned, fees and costs, amounts paid and unpaid, and disposition of case. Arr. num. by case nos. and chron. thereunder by filing dates. Indexed alph. by names of plaintiffs and defendants. Hdw. on pr. fm. 600 pp. 18 x 12 x 3. Clk's. off.

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1. L. 1899, ch. 129, sec. 10; G.S. 1935, ch. 20, sec. 1917.
2. L. 1899, ch. 129, sec. 8; G.S. 1935, ch. 20, sec. 1915.
3. L. 1899, ch. 129, secs. 19, 20; G.S. 1935, ch. 20, secs. 1926, 1927.

339. (BONDS IN CIVIL AND CRIMINAL CASES), 1926--. 3 wooden bs., 2 f. bs.
Bonds in attachment, replevin, garnishment, and injunction; bonds for appeal and bonds for costs in civil cases, showing nature of undertaking, date of execution, case number, title and cause, name of principal, amount and conditions of bond, affidavits and signatures of sureties, and approval of judge. Also, recognizance bonds executed by defendants in criminal cases, showing date, case number, name of principal, nature of charge, amount and conditions of bond, affidavits and signatures of sureties, date for appearance, and approval of judge. Arr. chron. by filing dates. No index. Hdw. on pr. fms. Wooden bs. 12 x 16 x 18; f. bs. 10 x 5 x 10. 3 wooden bs., 1926-33, attic; 2 f. bs., 1934--, clk's. off.

Criminal Cases

340. (CRIMINAL CASE FILES), 1899--. 9 cb. bs., 63 f. drs. (labeled by contained case nos. 9900-14600).
Informations, complaints, warrants, affidavits, motions, subpoenas, journal entries and other original instruments filed in criminal cases, showing case number, name of defendant, nature of instrument, date filed, nature of crime charged; names of witness, jurors, and attorneys; fees, costs, and disposition of case. The papers in each case are enclosed in a jacket labeled with the case number and title of the cause. Arr. num. by case nos. and chron. thereunder by filing dates. No index. Hdw. and typed on pr. fms. Cb. bs. 20 x 22 x 28; f. drs. 10 x 5 x 14. 9 cb. bs., 1899-1927, attic; 63 f. drs., 1927--, clk's. off.

341. CRIMINAL DOCKET, 1899--. 33 vols. (1-33).
Docket of criminal cases filed, showing date, case number, name of defendant, crime charged, dates and nature of pleadings filed and writs issued and returned; names of attorneys, jurors, and witnesses; fees, costs, and disposition of case. Arr. num. by case nos. and chron. thereunder by filing dates. Indexed alph. by names of defendants. Hdw. on pr. fm. 600 pp. 18 x 12 x 3. Clk's. off.

Receipts and Disbursements

342. CASH AND FEE BOOK, 1905-34. 5 vols. (A-E).
Court clerk's daily record of fees and other cash paid in, showing date, case number, title of case, date filed, amount deposited, by whom, date of judgment, amount paid, by whom, total paid, and amount due. Arr. chron. by dates of payments. No index. Hdw. on pr. fm. 450 pp. 14 x 10 x 2. Clk's. off.
For subsequent record, see entry 343.

343. RECEIPTS (for Daily Cash Received), 1934--. 10 bdls.
Duplicate copies of court clerk's receipts for cash paid in, showing date, case number, receipt number, by whom paid, purpose, and clerk's signature. Arr. num. by receipt nos. No index. Hdw. on pr. fm. 6 x 6 x 8. Clk's. off.
For prior record of cash paid in, see entry 342.

344. DAILY CASH RECEIPTS AND DISBURSEMENTS), 1935--. 2 vols.
Clerk's daily loose-leaf record of cash receipts and disbursements, showing date, case number, particulars, debits and credits; amounts of deposits, judgments, witness and jury fees, and court costs. Arr. chron. by dates of transactions. No index. Hdw. on pr. fm. 600 pp. 16 x 12 x 2. Clk's. off.

345. (LEDGER), 1934--. 12 bdls.
Clerk's ledger of cash receipts and disbursements, showing case number, title of cause, amounts received, purpose, by whom paid; amounts disbursed, date, purpose, to whom paid, and check number. Arr. num. by case nos. and chron. thereunder by dates of transactions. No index. Hdw. on pr. fm. 4 x 10 x 18. Clk's. off.

346. (MONTHLY REPORTS TO COUNTY COMMISSIONERS OF FEES AND FINES COLLECTED), 1920--. 2 f. drs., 1 cb. b.
Copies of court clerk's monthly reports to county commissioners of fees and fines collected and uncollected, showing date of report, case number, date filed, amount of deposit, total costs, amounts paid and unpaid, totals, remarks, and certification and signature of clerk. Arr. chron. by dates of reports. No index. Hdw. and typed on pr. fms. F. drs. 10 x 5 x 14; cb. b. 14 x 16 x 18. 2 f. drs., 1920-26, 1935--, clerk's off.; 1 cb. b., 1926-34, attic.

347. CHECK STUBS, 1935--. 1 f. dr.
Stubs of checks written by court clerk, showing check number, date, name of bank, to whom payable, case number, purpose, amount, and balance. Arr. num. by check nos. No index. Hdw. on pr. fm. 10 x 5 x 10. Clk's. off.

348. CANCELED CHECKS, 1936--. 2 f. drs.
Checks written by court clerk which have been paid, canceled, and returned by banks, showing date, check number, name of bank, to whom payable, amount, case number, purpose, signature of clerk, endorsements, and date paid. Arr. num. by check nos. No index. Hdw. on pr. fm. 10 x 5 x 10. Clk's. off.

349. CASES FILED AND DISPOSITION OF DEPOSITS, 1909-26. 1 vol. Discontinued.
Record of deposit and disposition of fees and costs in civil and criminal cases, showing case number, title of cause, amount paid in, amount deposited with county treasurer, and balance. Arr. num. by case nos. No index. Hdw. on pr. fm. 300 pp. 14 x 10 x 1 1/2. Clk's. off.

Correspondence

350. LETTER FILE, 1926---. 5 f. drs.
Letters and copies of letters to and from clerk of city court, attorneys, officials, firms, and individuals pertaining to litigation and other business of court. Arr. chron. by dates correspondence. No index. Hdw. and typed. 10 x 5 x 14. Clk's. off.

X. JUSTICE OF THE PEACE

Structural Organization and Evolution

Selection and Term. The office of justice of the peace, primary unit in the Kansas judicial system, was provided for in the Organic Act[1] and established by the first Territorial legislative assembly in 1855. The assembly decreed that each municipal township should be entitled to four justices, each of whom should hold his office for a term of 5 years within the township for which he was commissioned.[2] The office was made appointive by the board of county commissioners.[3]

The assembly of 1857 reduced the number of justices in each township to two, except townships containing incorporated cities, which were still entitled to four. But the office was made elective by the people for a term of 4 years, beginning with the election that year for members of the legislative assembly.[4] The assembly of 1860 reduced the term to 2 years.[5]

The State Constitution provides that "two justices of the peace shall be elected in each township, whose term of office shall be 2 years and whose powers and duties shall be prescribed by law. The number of justices of the peace may be increased in any township by law."[6] Prior to 1868 several special acts were passed increasing or decreasing the number of justices in specific townships. The 1868 legislature, however, passed the present law providing that the county commissioners, when petitioned by a majority of the voters of a township, shall make an order for such additional justices in that township as they may deem necessary, the magistrates to be elected at the next regular township

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1. 10 Stat. 286.
2. Terr. L. 1855, ch. 93, art. 1, secs. 1, 2.
3. Ibid., ch. 44, sec. 34.
4. Terr. L. 1857, pp. 56, 57, secs. 3, 4.
5. Terr. L. 1860, ch. 128, sec. 2.
6. Const., art. 3, sec. 9.

(Next entry 351, p. 414)

election. The number of justices in any township may be decreased by similar procedure. No justice may be deprived of his office through any change or alteration of township boundaries, but in such cases is deemed a justice of the township into which he may be thrown by reason of such alteration, until his term expires.[1]

Justices of the peace are elected at the township elections, which were held annually on varying dates until 1902, when an amendment to the Constitution required that they be held biennially at the same time as the general election for county, State, and National officers, which is the Tuesday succeeding the first Monday in November of each even-numbered year.[2] An exception to this rule is in cities of the first and second class. A law enacted in 1868 provides that no city with more than 2,000 inhabitants shall be included within the corporate limits of any municipal township, but shall in itself constitute a township for the purpose of electing justices of the peace and constables, and for the exercise of their powers and jurisdiction as provided by law. In such cities justices are chosen at the regular city elections.[3] Cities of the third class, however, remain a part of the municipal townships in which they are located, hence justices therein are elected at the general election.[4]

In addition to City of Topeka Township there are 12 townships in Shawnee County, but in only four of them were justices of the peace elected in 1938. They were: Rossville, Silver Lake, Tecumseh, and Williamsport Townships.[5]

Qualifications, Oath, Bond. The statutes prescribe that the justice of the peace must be a qualified elector of the township at the time of his election.[6] It is unlawful for him to perform any service as attorney for any person in any case pending before him, or be interested in any profits or emoluments arising out of any practice in his own court, except costs.[7] The justice must subscribe and file with the county clerk within 20 days after notification of his election, an oath of office,[8] and must execute to the State and file with the county clerk a bond in a penal sum not less than $500 nor more than $5,000 to

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1. G.S. 1868, ch. 110, secs. 35, 36, 49; G.S. 1935, ch. 80, secs. 602, 603, 1405.
2. Const., art. 4, sec. 2 as amended November 4, 1902; L. 1901, ch. 176, sec. 1; G.S. 1935, ch. 25, sec. 101.
3. G.S. 1868, ch. 110, sec. 48; G.S. 1935, ch. 80, sec. 1404.
4. L. 1871, ch. 60, sec. 4; G.S. 1935, ch. 80, sec. 205.
5. Oaths and Bonds of County and Township Officers, see entry 119.
6. L. 1883, ch. 146, sec. 1; G.S. 1935, ch. 80, sec. 202.
7. L. 1867, ch. 98, sec. 1; G.S. 1868, ch. 31, p. 387, sec. 1; G.S. 1935, ch. 21, sec. 1601.
8. G.S. 1868, ch. 110, sec. 16; G.S. 1935, ch. 80, sec. 202.

be approved by the county commissioners, conditioned that he will faithfully perform the duties of the office and pay over to the proper person or authority all money coming into his possession by virtue of his office.[1] Any person so elected who shall enter upon the duties of the office without having filed such oath and bond is subject to a fine of not more than $100.[2]

Compensation. Justices of the peace receive as compensation only the fees which they are authorized by statute to collect. These fees range from 5 to 25 cents for issuing writs, transcripts, and certificates; making docket entries, acknowledging oaths, approving bonds, filing papers in pending cases, and similar transactions. They receive $1 per day for holding trials, and $2 for performing the marriage ceremony and making return to the probate judge.[3]

Removal and Vacancies. A justice of the peace may be removed from office, for cause, by civil action instituted by the Attorney General or the county attorney of the county in which he serves.[4] His office becomes vacant if he becomes a nonresident of the township in which he was elected.[5] A vacancy in the office is filled by appointment by the Governor until the next regular election occuring within 30 days after such appointment.[6]

In case of the illness or other disability of a justice, or his necessary absence at a time appointed for trial, another justice of the same township may at his request attend in his behalf. The attending justice is vested with all the powers of the justice before whom the summons was returnable, but all entries must be made in the latter's docket. If the case is adjourned, the regular justice must resume jurisdiction.[7]

Jurisdiction

Civil Matters. The Organic Act specified that justices of the peace should not have jurisdiction in any controversy where the title or

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1. Terr. L. 1860, ch. 128, sec. 23; G.S. 1868, ch. 110, sec. 19; L. 1933, ch. 328, sec. 1; G.S. 1935, ch. 80, sec. 205.
2. G.S. 1868, ch. 110, sec. 45; G.S. 1935, ch. 80, sec. 1401.
3. L. 1862, ch. 99, sec. 17; G.S. 1868, ch. 39, sec. 33; L. 1885, ch. 127, sec. 1; L. 1897, ch. 131, sec. 20; L. 1899, ch. 141, sec. 1; G.S. 1935, ch. 28, sec. 127.
4. L. 1911, ch. 237, secs. 1, 2; G.S. 1935, ch. 60, secs. 1609, 1610.
5. L. 1883, ch. 146, sec. 1; G.S. 1935, ch. 80, sec. 202.
6. Const., art. 3, sec. 11.
7. Terr. L. 1858, ch. 42, sec. 210; Terr. L. 1859, ch. 87, sec. 192; G.S. 1868, ch. 81, sec. 195; G.S. 1935, ch. 61, sec. 1510.

boundaries of land might be in dispute, nor where the debt or sum claimed should exceed $100. Otherwise, the Act specified, their jurisdiction should be "as limited by law."[1]

The first legislative assembly gave justices jurisdiction coextensive with the county in actions of debt, contracts, and damages not exceeding $100; actions in trespass and injury to person or personal property where the amount claimed did not exceed $50, and acts involving a penalty under the Territorial statutes not exceeding $100. Judgment by confession could be entered in larger amounts, but they had no cognizance in actions in detinue, replevin, slander, malicious prosecution, or false imprisonment, nor against executors or administrators, nor where the title to real estate was in dispute.[2]

Since adoption of the new civil code by the first Free-State assembly in 1858 there has been little change in the jurisdiction of justices of the peace. The State Constitution specified that their powers and duties "shall be prescribed by law."[3] Under certain limitations they have original jurisdiction to try and determine civil actions for the recovery of money only where the amount claimed does not exceed $300; to try actions for the forcible entry and detention, or detention only, of real property, to issue orders of attachment and proceed against the goods and effects of debtors in certain cases; to issue subpoenas for witnesses and compel their attendance in causes pending before them, or other causes wherein they may be required to take depositions; to issue executions on judgments rendered by them; to proceed against security for costs and bail for the stay of execution before them, according to law; and to proceed against constables failing to make return, making false return, or failing to pay over money collected on execution.[4]

Justices have no cognizance of any action to recover damages for assault or assault and battery; any action for slander or malicious prosecution; actions against justices of the peace or other officers for misconduct in office, except constables; actions on contract for real estate; and actions where the title to real estate is sought to be recovered, or may be drawn in question.[5] Justices have jurisdiction in actions for trespass on real estate where damages demanded do not exceed $100,[6] but if in any action commenced before a justice it

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1. 10 Stat. 286.
2. Terr. L. 1855, ch. 93, art. 2, secs. 1, 3, 4.
3. Const., art. 3, sec. 9.
4. Terr. L. 1858, ch. 42, sec. 2; Terr. L. 1859, ch. 87, sec. 2; G.S. 1868, ch. 81, sec. 2; L. 1870, ch. 88, sec. 1; G.S. 1935, ch. 61, sec. 102.
5. Terr. L. 1858, ch. 42, sec. 10; Terr. L. 1859, ch. 87, sec. 9; G.S. 1868, ch. 81, sec. 8; G.S. 1935, ch. 61, sec. 108.
6. Terr. L. 1858, ch. 42, sec. 9; Terr. L. 1859, ch. 87, sec. 7; G.S. 1868, ch. 81, sec. 6; G.S. 1935, ch. 61, sec. 106.

appears to his satisfaction that the title or boundaries of land are in dispute, the cause must be stayed and within 10 days the justice must certify the case and transmit all papers and process therein to the clerk of the district court.[1]

Actions before justices of the peace may be commenced by summons, or by appearance and agreement of the parties without summons. The summons must be directed to the constable of the proper township, must specify the time for appearance, must be returnable not more than 12 days from its date, and must be served at least 3 days before appearance time. If served in another county it must be returnable not more than 30 days from its date and served within 20 days of appearance time.[2] In all cases the plaintiff must file a bill of particulars of his demand, and the defendant, if required by the plaintiff, must file a like bill of particulars he may claim as a setoff.[3]

The case may be tried by the justice, or either party may demand a trial by jury consists of "six good and lawful men having the qualifications of jurors in the district court, unless the parties shall agree on a less number." Jurors are summoned by the constable upon summons issued by the justice.[4] Upon a verdict, the justice must immediately render judgment accordingly. Unless the case has been appealed or docketed in the district court, or execution stayed, the justice must issue execution within 10 days, without demand on the part of the judgment creditor, and proceed to collect the judgment. However, execution may issue upon demand at any time within 5 years. The execution must be directed to and served by the constable.[5] A transcript of a judgment rendered by a justice of the peace may be filed by the judgment creditor with the clerk of the district court, where it must be entered on the judgment docket and becomes a lien upon any real estate owned by the judgment debtor in the same manner as if rendered in the district court. The clerk may issue an execution thereon to the sheriff, who makes return the same as in other executions.[6]

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1. Terr. L. 1859, ch. 87, sec. 8; G.S. 1868, ch. 81, sec. 7; G.S. 1935, ch. 61, sec. 107.
2. Terr. L. 1858, ch. 42, secs. 11-14; Terr. L. 1859, ch. 87, secs. 10-13; G.S. 1868, ch. 81, secs. 9-12; L. 1887, ch. 168, sec. 2; G.S. 1935, ch. 61, secs. 201-204.
3. Terr. L. 1858, ch. 42, sec. 54; Terr. L. 1859, ch. 87, sec. 53; G.S. 1868, ch. 81, sec. 71; G.S. 1935, ch. 61, sec. 601.
4. Terr. L. 1858, ch. 42, secs. 73-79; Terr. L. 1859, ch. 87, secs. 72-78; G.S. 1868, ch. 81, secs. 93-99; G.S. 1935, ch. 61, secs. 814-820.
5. Terr. L. 1858, ch. 42, secs. 107, 154, 155, 165; Terr. L. 1859, ch. 87, secs. 99, 147-149; G.S. 1868, ch. 81, secs. 115, 137-139; G.S. 1935, ch. 61, secs. 903, 1201-1203.
6. Terr. L. 1858, ch. 11, secs. 489-491; Terr. L. 1859, ch. 25, secs. 501-503; G.S. 1868, ch. 80, secs. 518-520; L. 1909, ch. 182, secs. 517-519; G.S. 1935, ch. 60, secs. 3480-3482.

The statutes specify that the provisions of the code of civil procedure which in their nature are applicable to the jurisdiction and proceedings before justices of the peace, shall be used where no special provision is made.[1]

The legislature of 1868 decreed that no city with more than 2,000 inhabitants should be included in the corporate limits of any municipal township, but should in itself constitute a township for the purpose of electing justices of the peace and constables, and the exercise of their jurisdiction and powers.[2] In 1899 the legislature created the Court of Topeka in City of Topeka Township, vesting it with the same jurisdiction and powers as those given by law to justices of the peace, and providing that henceforth justices in the city township should not have jurisdiction in any civil matter wherein the amount claimed, exclusive of costs, should exceed $1.[3] Hence the office of justice in the city of Topeka is dormant. Another act of the 1899 legislature provides that in any county wherein a city court has been created, justices outside the city wherein such court is located shall not have jurisdiction of cases in which any defendant resides within the city.[4]

Criminal Matters. The first assembly gave justices of the peace jurisdiction in cases of simple assault, assault and battery, and breaches of the peace, except that in cases punishable by imprisonment under the Territorial laws, or in which the fine exceeded $100 the justice was required to admit the prisoner to bail until the next term of the court having jurisdiction in that county.[5] Exclusive original jurisdiction, coextensive with their counties, in all cases of misdemeanor in which the fine could not exceed $500 and the imprisonment 1 year, was given justices by the legislature of 1867, but since 1869 this jurisdiction has been concurrent with that of the district court.[6]

From the beginning of county government justices of the peace have been vested with "power to cause to be kept all laws made for the preservation of the public peace, and in the execution of that power to require persons to give security to keep the peace." Upon sworn complaint made to him in writing that any person is about to commit any offense against the person or property of another and it appears there is reason to fear the commission of such offense, it is the duty of the justice to issue a warrant commanding the person to whom it is directed to apprehend the

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1. Terr. L. 1858, ch. 42, sec. 402; Terr. L. 1859, ch. 87, sec. 184; L. 1867, ch. 48, sec. 2; G.S. 1868, ch. 81, sec. 185; R.S. 1923, ch. 61, sec. 1501; G.S. 1935, ch. 61, sec. 1501.
2. G.S. 1868, ch. 110, sec. 48; G.S. 1935, ch. 80, sec. 205.
3. L. 1899, ch. 129, secs. 1, 2; G.S. 1935, ch. 20, secs. 1901-1902.
4. L. 1899, ch. 93, sec. 1; G.S. 1935, ch. 61, sec. 601.
5. Terr. L. 1855, ch. 93, art. 1, sec. 6; ch. 94, secs. 1, 2.
6. L. 1867, ch. 49, sec. 1; G.S. 1868, ch. 83, sec. 1; L. 1869, ch. 61, sec. 1; G.S. 1935, ch. 63, sec. 101.

person named and bring him before the magistrate. When the accused is brought before him it is the duty of the justice to examine all witnesses which either party may require, and if it appears to his satisfaction that there is reason to fear commission of the offense he must require the accused to give bond in a sum not exceeding $5,000 to appear before the district court on the first day of its next term. Every recognizance so taken must be transmitted by the justice to the clerk of the district court.[1]

A justice may try a person accused of crime only upon filing of a written complaint.[2] Whenever a sworn complaint is filed with him charging any person with the commission of any misdemeanor, he must issue his warrant for the arrest of the accused to the sheriff or constable, commanding him to bring the accused before him for trial. When an offense is committed within his view he may order the offender taken into custody, but no person may be detained more than 1 hour unless arrested upon a warrant.[3] The charge against the defendant must be read to him distinctly by the justice, and he must plead thereto. The defendant, complainant, or county attorney may demand a jury, but if no jury is demanded the cause is tried by the justice. As in the case of civil trials before justices, the jury may consist of six persons instead of twelve, if the defendant consents.[4] A justice of the peace may require the county attorney to appear before him and prosecute a defendant on a misdemeanor charge[5] but in his discretion the county attorney may remove the case to the district court.[6]

A judgment of a justice of the peace in a criminal case is executed by the sheriff or by any constable, by virtue of a warrant directed to him by the justice. Where no special provision is made, the provisions of the code of civil procedure govern criminal proceedings before justices so far as they are applicable.[7]

If during any criminal proceeding before a justice of the peace it appears to him that the defendant ought to be put upon trial for an offense nor cognizable before a justice, he must immediately stop the

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1. Terr. L. 1855, ch. 129, art. 1, secs. 1-7; Terr. L. 1859, ch. 27, secs. 1-7; G.S. 1868, ch. 82, secs. 7-12; G.S. 1935, ch. 62, secs. 201-206.
2. 65 Kan. 125-128, 69 Pac. 187; 124 Kan. 143-145, 257 Pac. 731.
3. Terr. L. 1855, ch. 94, secs. 3, 4; Terr. L. 1859, ch. 86, secs. 3, 4; G.S. 1868, ch. 82, secs. 2, 3; G.S. 1935, ch. 63, secs. 201, 202.
4. G.S. 1868, ch. 83, secs. 9-13; G.S. 1935, ch. 63, secs. 301-305.
5. G.S. 1868, ch. 83, sec. 29; G.S. 1935, ch. 63, sec. 505.
6. 123 Kan. 774, 766; 256 Pac. 804.
7. G.S. 1868, ch. 83, secs. 19, 20; G.S. 1935, ch. 63, secs. 311, 312.

proceedings and proceed as in other cases not cognizable before him.[1] Whenever a conviction is had before him, the justice must within 20 days file in the office of the county clerk a certificate stating the offense charged and the judgment thereon, and the amount of the fine collected, if any.[2] When a fine is imposed and the money is paid by the defendant before he is committed it may be received by the justice, but if paid after commitment it must be paid to the sheriff. It is the duty of the justice or the sheriff to pay over such moneys to the county treasurer and take a receipt therefor in duplicate, one copy of which they must file with the county clerk.[3]

Appeals. The first assembly provided that appeals from judgments of justices of the peace might be taken to either the probate court or the district court, in the discretion of the appellant.[4] Since 1858 such appeals lie only to the district court of the county.[5] Appeals in civil cases are by notice of appeal, specifying the order, ruling, decision, or judgment complained of, and must be filed with the justice within 10 days. The appellant must file a sufficient bond with the justice unless by reason of poverty, attested by affidavit, he is unable to do so. The justice must make a complete transcript of the proceedings and transmit it, together with all the papers in the case, to the clerk of the district court, where it is tried in the same manner as if originally filed there.[6] An appeal may be taken from a justice of the peace in any civil case except on judgments rendered on confession or in jury trials where neither party claims in his bill of particulars a sum exceeding $20.[7]

In criminal cases the defendant has the right of appeal from any judgment imposing fine or imprisonment, or both, but no appeal may be granted or proceedings stayed unless the defendant within 24 hours enters into a recognizance with the State in such sum and with such

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1. Terr. L. 1855, ch. 94, sec. 9; Terr. L. 1859, ch. 86, sec. 9; G.S. 1868, ch. 83, sec. 24; G.S. 1935, ch. 63, sec. 501.
2. Terr. L. 1855, ch. 94, sec. 23; Terr. L. 1859, ch. 86, sec. 23; G.S. 1868, ch. 83, sec. 25; G.S. 1935, ch. 63, sec. 502.
3. Terr. L. 1860, ch. 80, sec. 2; G.S. 1868, ch. 83, sec. 26; G.S. 1935, ch. 63, sec. 503.
4. Terr. L. 1855, ch. 44, sec. 12.
5. Terr. L. 1858, ch. 11, secs. 511, 513; Terr. L. 1859, ch. 25, secs. 523, 525; L. 1864, ch. 93, sec. 1; G.S. 1868, ch. 80, secs. 540, 541; L. 1909, ch. 182, sec. 564; G.S. 1935, ch. 60, sec. 3301.
6. Terr. L. 1858, ch. 11, secs. 111-113; Terr. L. 1859, ch. 87, secs. 103-105; G.S. 1868, ch. 81, secs. 120-122; L. 1870, ch. 88, sec. 7; L. 1885, ch. 152, sec. 4; L. 1931, ch. 229, secs. 1, 2, 4; L. 1933, ch. 84, sec. 1 (Special Session); G.S. 1935, ch. 61, secs. 1001-1003.
7. Terr. L. 1858, ch. 42, sec. 123; Terr. L. 1859, ch. 87, sec. 115; G.S. 1868, ch. 81, sec. 132; L. 1870, ch. 88, sec. 10; G.S. 1935, ch. 61, sec. 1010.

sureties as the justice may approve, conditioned for his appearance at the next term of the district court. In such appeals the justice must certify the complaint, warrant, recognizances and other papers to the clerk of the district court, where the case is tried on the original complaint.[1]

Miscellaneous Functions. The first assembly empowered justices of the peace to administer oaths[2] and perform the marriage ceremony,[3] and they have since been vested with these powers.[4] Where there is no coroner, or in case of his absence or disability, any justice of peace in the county is authorized to perform the duties of coroner in relation to dead bodies and holding inquests.[5] Since 1857 justices of the peace have had authority to acknowledge deeds and conveyances of real property.[6]

The first assembly required the county commissioners to appoint one or more justices of the peace in each township to lay off the roads therein into convenient road districts and allot to the road overseers the persons in the district subject to work on the roads, but the assembly of 1859 transferred these duties to the township supervisors who, by virtue of their offices, became commissioners of highways in their respective townships.[7]

In the absence of the probate judge, who by law is presiding officer of the court for the trial of contested county elections,[8] a justice of the peace may serve in his place.[9]

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1. Terr. L. 1855, ch. 94, sec. 15; Terr. L. 1859, ch. 86, sec. 15; L. 1867, ch. 49, sec. 4; ch. 50, sec. 1; G.S. 1868, ch. 83, secs. 21, 22; G.S. 1935, ch. 63, secs. 401, 402.
2. Terr. L. 1855, ch. 167, sec. 2.
3. Ibid., ch. 108, sec. 6.
4. Terr. L. 1858, ch. 42, sec. 2; Terr. L. 1859, ch. 87, sec. 2; G.S. 1868, ch. 81, sec. 2; L. 1870, ch. 88, sec. 1; G.S. 1935, ch. 61, sec. 102.
5. Terr. L. 1855, ch. 86, secs. 13, 16; Terr. L. 1858, ch. 42, art. 1, sec. 8; Terr. L. 1860, ch. 28, sec. 102; G.S. 1868, ch. 25, sec. 133; G.S. 1935, ch. 19, sec. 1016.
6. Terr. L. 1857, p. 56, sec. 1; Terr. L. 1858, ch. 42, sec. 2; Terr. L. 1859, ch. 87, sec. 2; G.S. 1868, ch. 81, sec. 2; G.S. 1935, ch. 61, sec. 102.
7. Terr. L. 1855, ch. 139, secs. 28, 29; Terr. L. 1859, ch. 77, sec. 1.
8. Terr. L. 1855, ch. 66, sec. 31; Terr. L. 1858, ch. 26, sec. 4; Terr. L. 1859, ch. 66, sec. 5; L. 1861, ch. 34, sec. 13; G.S. 1868, ch. 36, sec. 87; G.S. 1935, ch. 25, sec. 1413.
9. Terr. L. 1858, ch. 42, sec. 2; Terr. L. 1859, ch. 87, sec. 2; G.S. 1868, ch. 81, sec. 2; G.S. 1935, ch. 61, sec. 102.

Stray Animals. Justices of the peace always have had jurisdiction in the taking up and proving of ownership of stray animals. Any person taking up a stray must post a bond with a justice of the peace in a sum double the value of the animal and post notices in at least three places in the township for 30 days, and send one notice to the county clerk. If the animal is not claimed within 10 days the taker-up must go before a justice of the peace and file an affidavit to the effect that the stray was taken up on his premises, or that of some other person, and state its description and cash value. Within 60 days the justice must summon three disinterested householders to appraise the animal, and must certify the description and value to the county clerk, who advertises it in the official county paper. Within 60 days from the time of taking up the owner may prove his claim before some justice of the peace, who, if satisfied that the claim is correct, must deliver the animal to the owner upon payment of all costs. If the owner fails to establish his claim within 60 days, ownership of the animal vests in the taker-up, who must pay one-half its value to the county treasurer for the use of the school fund, less the costs of the proceedings. Justices of the peace are charged with enforcement of the law in their respective counties.[1]

Records

The statutes require the filing of several different instruments in actions before justices of the peace. The justice is required to keep all the papers in each action together "in packages of a proper and convenient size," and in the order in which the cases are numbered on his docket.[2] These papers include bills of particulars;[3] summonses;[4] bonds, forthcoming bonds, inventories, orders, and other papers in attachment proceedings;[5] depositions, instructions to juries, jury verdicts, and motions for new trials;[6] bonds, forthcoming bonds,

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1. Terr. L. 1855, ch. 153; L. 1861, ch. 83; G.S. 1868, ch. 105, art. 3; L. 1870, ch. 114, secs. 1, 2; L. 1874, ch. 127, secs. 1-7; L. 1887, ch. 229, secs. 1, 2; L. 1927, ch. 236, secs. 1; L. 1929, ch. 210, secs. 1-5; G.S. 1935, ch. 47, art. 2.

2. Terr. L. 1858, ch. 42, sec. 205; Terr. L. 1859, ch. 87, sec. 187; G.S. 1868, ch. 81, sec. 190; G.S. 1935, ch. 61, sec. 1506.

3. Terr. L. 1858, ch. 42, sec. 54; Terr. L. 1859, ch. 87, sec. 53; G.S. 1868, ch. 81, sec. 71; G.S. 1935, ch. 61, sec. 601.

4. Terr. L. 1858, ch. 42, sec. 13; Terr. L. 1859, ch. 87, sec. 12; G.S. 1868, ch. 81, sec. 11; G.S. 1935, ch. 61, sec. 203.

5. Terr. L. 1858, ch. 42, secs. 29-34; Terr. L. 1859, ch. 87, secs. 28-33; G.S. 1868, ch. 81, secs. 29-33; G.S. 1935, ch. 61, secs. 402-406.

6. Terr. L. 1858, ch. 42, secs. 72, 86, 89; Terr. L. 1859, ch. 87, secs. 71, 85, 88; G.S. 1868, ch. 81, secs. 92, 106, 108, 111.

summonses, writs, and other instruments in replevin cases;[1] and executions.[2] Papers filed in criminal cases include complaints, warrants, summonses,[3] and receipts for fines, of which the justice often keeps copies.[4]

The justice also must keep a docket of cases filed with him and the proceedings therein. This was required by the first assembly, which also required him to keep a registry of executions.[5] Since 1858 the statutes provide that every justice of the peace must keep a book denominated a docket, which shall be furnished by the proper township, in which must be entered by him the proper title of every action, the date of the writ and time of its return; any order of arrest or attachment of property; the filing of the bill of particulars of either party; which parties, if either, appear at the trial; and every adjournment, at whose request, and to what time. If trial is by jury he must record the names of the jurors who appear and those sworn; the names of all witnesses sworn and at whose request; exceptions to his rulings, taken by either party, on matters of law; and the verdict of the jury and when received. He must enter the judgment in the case, specifying the items of cost, and the time rendered; the issuance of the execution and orders to sell, and any renewals thereof; the return and when made; a statement of any money paid to the justice, and by whom; whether a transcript is given for filing in the district court; if an appeal is taken, a record of the undertaking, by which party, and the time; and how and when the judgment is satisfied.[6]

The items to be recorded must be entered under the title of the action to which they relate and at the time they occur, except that a bill of exceptions in regard to rulings on questions of law and evidence need not be entered until after the judgment, unless requested by one of the parties. Each justice must keep an alphabetical index of his docket. He must enter the name of each party in alphabetical order according to the first letter of the surname, with appropriate reference

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1. Terr. L. 1858, ch. 42, secs. 141-143, 146; Terr. L. 1859, ch. 87, secs. 133-135, 138; G.S. 1868, ch. 81, secs. 57-60; G.S. 1935, ch. 503-506.

2. Terr. L. 1858, ch. 42, sec. 165; Terr. L. 1859, ch. 87, sec. 149; G.S. 1868, ch. 81, sec. 139; G.S. 1935, ch. 61, sec. 1202.

3. Terr. L. 1858, ch. 94, secs. 3, 10; Terr. L. 1859, ch. 86, secs. 3, 10; G.S. 1868, ch. 83, secs. 2, 8; G.S. 1935, ch. 63, secs. 201, 207.

4. Terr. L. 1860, ch.80, sec. 2; G.S. 1868, ch. 83, sec. 26; G.S. 1935, ch. 63, sec. 503.

5. Terr. L. 1855, ch. 93, art. 3, sec. 3.

6. Terr. L. 1858, ch. 42, sec. 203; Terr. L. 1859, ch. 87, sec. 185; G.S. 1868, ch. 81, sec. 188; G.S. 1935, ch. 61, sec. 1504.

to the page upon which the entry is made. He must number the cases progressively on his docket, and correspondingly number the papers in each case.[1]

Upon the expiration of his term of office it is the duty of every justice to deliver all official dockets, files, papers, and statutes in his possession and pertaining to his office, to his successor, who must keep them as public records and property. If he has no successor, or if the office becomes vacant for any reason before a successor is elected, the records must be deposited with the nearest justice in the township; and if there is none in the township, then the nearest one in the county, there to be safely kept and returned to a successor if one is elected.[2]

In this inventory appear only dockets of City of Topeka Township justices used prior to creation of the Court of Topeka, and subsequently placed for safekeeping with the county records in the attic of the courthouse.

351. JUSTICE (Civil) DOCKET, 1875-99. 71 vols. 1864-75 in Justice Docket, entry 353.
Docket of civil cases filed with justice of the peace, showing case number, title and cause, attorneys, dates and nature of pleadings filed and writs issued and returned, names of justice and constable, motions, orders, fees and costs, and disposition of case. Arr. chron. by filing dates. Indexed alph. by names of plaintiffs and defendants. Hdw. on pr. fm. Aver. 450 pp. 16 x 10 1/2 x 2. Attic.

352. JUSTICE (Criminal) DOCKET, 1879-99. 22 vols. 1864-79 in Justice Docket, entry 353.
Docket of criminal cases before justice of the peace, showing case number, date of complaint; names of defendant, complainant, attorneys, witnesses, justice of peace, and constable; crime charged, amount of bond, dates of hearings and continuances, decisions of court; fees, costs, and disposition of case. Arr. chron. by filing dates. Indexed alph. by names of defendants. Hdw. on pr. fm. Aver. 450 pp. 16 x 10 1/2 x 2. Attic.

353. JUSTICE DOCKET, 1864-79. 9 vols.
This is a combination docket of civil and criminal cases subsequently kept separately: Justice (Civil) Docket, 1864-75, entry 351; Justice (Criminal Docket, entry 352. Arr. chron. by filing dates. Indexed alph. by names of plaintiffs and defendants. Hdw. on pr. fm. Aver. 450 pp. 16 x 10 1/2 x 2. Attic.

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1. Terr. L. 1858, ch. 42, secs. 204, 205; Terr. L. 1859, ch. 87, secs. 186, 187; G.S. 1868, ch. 81, secs. 189, 190; G.S. 1935, ch. 61, secs. 1505, 1506.

2. Terr. L. 1858, ch. 42, sec. 206; Terr. L. 1859, ch. 87, sec. 188; G.S. 1868, ch. 81, sec. 191; G.S. 1935, ch. 61, sec. 1507.

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XI. CONSTABLE

Structural Organization and Evolution

Selection and Term. The office of constable was created by the first Territorial assembly in 1855 with the provision that the county commissioners should appoint a constable for each township, who should be commissioned by the Governor.[1]

The assembly of 1858 increased the number of constables in each township to four, specifying that they should be elected for terms of 1 year by the voters at their annual township meeting on the fourth Monday in March.[2] The assembly of 1859 reduced the number of constables to two in each township,[3] and the legislature of 1868 also specified two "except in townships which are by law entitled to elect more than two justices of the peace, in which townships a number of constables shall be elected equal to the number of justices."[4] The Constitution specifies that two justices shall be elected in each township but that the number may be increased in any township by law.[5] Several special acts were passed between 1861 and 1868 increasing the number of justices in certain townships. The 1868 legislature provided that the county commissioners might increase or decrease the number in any township upon being petitioned by a majority of the township electors to do so.[6]

Constables continued to be elected for 1-year terms at the township elections, the dates of which were changed from time to time by statute, until 1902, when an amendment to the Constitution specified that township elections should be held biennially on the same date as the election for National, State, and county officers, and that all county and township officers should serve terms of 2 years.[7] However, there is an exception to this rule in city townships. The legislature of 1868 had enacted a law providing that no city of more than 2,000 population

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1. Terr. L. 1855, ch. 23, sec. 2; ch. 44, sec. 34.
2. Terr. L. 1858, ch. 71, sec. 6.
3. Terr. L. 1859, ch. 130, sec. 32; Terr. L. 1860, ch. 128, sec. 2.
4. G.S. 1868, ch. 110, sec. 3.
5. Const., art. 3, sec. 9.
6. G.S. 1868, ch. 110, secs. 35, 36; G.S. 1935, ch. 80, secs. 602, 603.
7. L. 1861, ch. 32, secs. 1, 2; G.S. 1868, ch. 110, secs. 2, 3, 4; L. 1874, ch. 134, sec. 1; L. 1875, ch. 92, sec. 1; L. 1879, ch. 179, sec. 1; L. 1885, ch. 195, sec. 1; Const., art. 4, sec. 2 as amended November 4, 1902; L. 1903, ch. 235, sec. 1; R.S. 1923, ch. 25, secs. 1601, 1602; G.S. 1935, ch. 25, secs. 1601, 1602.

should be a part of the township in which it was situated, but should constitute a township in itself for the purpose of electing justices of the peace and constables, and for the exercise of their powers and jurisdiction. In such cities constables are chosen at the regular city elections.[1]

Qualification - Oath - Bond. Any person elected to the office of constable must be a resident of the township at the time of his election.[2] Within 20 days after being notified of his election the constable must subscribe and file with the county clerk an oath of office. Within the same time he also must execute to the State and file with the county clerk a bond in a penal sum not less than $1,000 nor more than $5,000 to be fixed and approved by the county commissioners and conditioned that he will faithfully perform the duties of his office and pay over to proper authority all money coming into his hands by virtue of his office.[3]

Compensation - Deputies. Constables receive compensation only in the form of fees which are fixed by law for their services. These fees range from 10 cents to 50 cents for serving process, and 10 cents for each mile actually and necessarily traveled. They receive $1 per day for attending criminal examinations.[4] The constable may appoint one or more deputies to perform the same duties as himself, and is responsible on his official bond for their acts.[5]

Removal and Vacancies. Any constable may be removed from office for cause by ouster proceedings instituted by the Attorney General or county attorney.[6] If a constable becomes a non-resident of the township for which he was elected, his office becomes vacant.[7] In event of a vacancy the county commissioners appoint a constable to fill the unexpired term.[8]

Functions

In serving all process, either civil or criminal, and in the discharge of his duties generally the authority of a constable extends

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1. G.S. 1868, ch. 110, sec. 48; G.S. 1935, ch. 80, sec. 205.
2. L. 1883, ch. 146, sec. 1; G.S. 1935, ch. 80, sec. 202.
3. Terr. L. 1855, ch. 23, sec. 2; Terr. L. 1860, ch. 128, secs. 17, 18; L. 1864, ch. 121, sec. 1; G.S. 1868, ch. 110, secs. 16, 18; G.S. 1935, ch. 80, secs. 202, 204.
4. L. 1862, ch. 99, sec. 18; G.S. 1868, ch. 39, sec. 14; L. 1913, ch. 197, sec. 33; G.S. 1935, ch. 28, sec. 136.
5. G.S. 1868, ch. 110, sec. 38; G.S. 1935, ch. 80, sec. 701.
6. L. 1911, ch. 237, secs. 1, 2; G.S. 1935, ch. 60, secs. 1609, 1610.
7. L. 1883, ch. 146, sec. 1; G.S. 1935, ch. 80, sec. 202.
8. Terr. L. 1860, ch. 128, sec. 20; G.S. 1868, ch. 110, sec. 12; G.S. 1935, ch. 25, sec. 1606.

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throughout the county.[1] A constable is a ministerial officer in the justice courts of his county and it is his duty to serve all warrants, writs, and executions lawfully directed and delivered to him. In discharging his duties he may call to his aid the power of the county, if necessary, in the same manner as the sheriff,[2] and in serving either civil or criminal process issued by a justice of the peace he possesses the same power and authority as does the sheriff or coroner under like process issued by courts of record.[3]

It is the duty of every constable "to apprehend on view or warrant and bring to justice all felons and disturbers and violators of the criminal laws of this State, to suppress all riots, affrays, and unlawful assemblies which may come to his knowledge, and generally to keep the peace in his proper county."[4] Whenever he serves a warrant in a criminal case or a summons in a civil case it is his duty to attend upon the trial, if it is held in his township, personally or by deputy, and serve all orders and process issued by the justice of the peace.[5] In the trial of a contested county election the probate judge, as presiding officer, may direct the attendance of a constable, or the sheriff if necessary.[6]

The constable keeps no records.

XII. SHERIFF

Structural Organization and Evolution

Selection and Term. The office of sheriff was created by the first Territorial assembly in 1855 and the first sheriffs were elected by the assembly to hold office until 1857, after which they were to be elected by popular vote for terms of 4 years.[7] However, the assembly of 1858 fixed the sheriffs' terms at 2 years and there has been no subsequent

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1. Terr. L. 1855, ch. 23, sec. 9; Terr. L. 1860, ch. 87, sec. 180; G.S. 1868, ch. 110, sec. 39; G.S. 1935, ch. 80, sec. 702.
2. Terr. L. 1860, ch. 87, secs. 173-175; G.S. 1868, ch. 110, secs. 38, 40, 44; G.S. 1935, ch. 80, secs. 701, 703, 707.
3. Terr. L. 1860, ch. 87, sec. 180; G.S. 1868, ch. 110, sec. 39; G.S. 1935, ch. 80, sec. 702.
4. Terr. L. 1860, ch. 87, sec. 179; G.S. 1868, ch. 110, sec. 41; G.S. 1935, ch. 80, sec. 704.
5. G.S. 1868, ch. 110, sec. 43; G.S. 1935, ch. 80, sec. 706.
6. L. 1861, ch. 34, sec. 25; G.S. 1868, ch. 36, sec. 99; G.S. 1935, ch. 25, sec. 1425.
7. Terr. L. 1855, ch. 150, secs. 1, 2.

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change.[1] The State Constitution always has prohibited any person from holding the office of sheriff for more than two successive terms.[2]

Qualifications - Oath - Bond. The statutes never have decreed any special qualifications for the office. While holding office, however, no sheriff, undersheriff, or deputy may act as advisor or counsellor in any case in court.[3] Before entering upon the duties of his office the sheriff must execute to the State and file with the county clerk a bond in a penal sum not less than $2,000 nor more than $20,000 as may be specified and approved by the county commissioners, as assurance of faithful performance of duty and that he will pay over to proper authority all moneys coming into his hands by virtue of his office.[4] Under a general law he also must subscribe an oath of office and deposit it with his official bond.[5]

Removal - Vacancy. Under a general law a sheriff neglecting or refusing to perform any duty incumbent upon him, or who "corruptly or oppressively" performs such duty, may be removed from office by civil action as provided in the code of civil procedure.[6] Under Kansas law if any prisoner is taken from a sheriff or his deputies and lynched it constitutes evidence on the part of the officer to do his duty and the office immediately becomes vacant. Thereafter he is not eligible either for election or reappointment to the office. However, he may within 10 days file with the Governor a petition for reinstatement, at the same time notifying the county attorney and Attorney General of his action. If the Governor, upon hearing the evidence, finds that the sheriff used reasonable effort to protect his prisoner and performed his duties according to existing laws, he must issue to the sheriff a certificate of reinstatement effective at once, and the decision of the Governor is final.[7]

The first assembly authorized the county coroner to perform the duties of sheriff in the event of a vacancy in the sheriff's office.[8]

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1. Terr. L. 1858, ch. 13, sec. 60; G.S. 1868, ch. 25, sec. 99; G.S. 1935, ch. 19, sec. 801.
2. Const., art. 9, sec. 3; art. 4, sec. 2 as amended November 4, 1902.
3. Terr. L. 1860, ch. 28, sec. 82; G.S. 1868, ch. 25, sec. 113; G.S. 1935, ch. 19, sec. 819.
4. Terr. L. 1855, ch. 150, sec. 1; Terr. L. 1858, ch. 13, sec. 60; Terr. L. 1860, ch. 28, secs. 68, 69; G.S. 1868, ch. 25, secs. 99, 100; G.S. 1935, ch. 19, secs. 801, 802.
5. Terr. L. 1858, ch. 13, sec. 100; Terr. L. 1860, ch. 28, sec. 125; G.S. 1868, ch. 25, sec. 173; G.S. 1935, ch. 19, sec. 2602.
6. G.S. 1868, ch. 25, sec. 180; G.S. 1935, ch. 19, sec. 2609.
7. L. 1903, ch. 221, sec. 5; G.S. 1935, ch. 21, sec. 1007.
8. Terr. L. 1855, ch. 27, sec. 4.

Sheriff - Structural Organization and Evolution

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The assembly of 1858 specified that they should be performed by the general deputy, and since 1860 the statutes have specified that in event of a vacancy the duties of the office shall be executed by the undersheriff. Until 1870 the undersheriff was required to hold until the sheriff's successor was elected and qualified; since 1870 he holds only until a sheriff is appointed by the Governor, and the appointee holds the office until the succeeding general election.[1] The statutes provide that when there is no sheriff in an organized county the coroner shall exercise all the powers and duties of the sheriff until one is elected and qualified; and when the sheriff is committed to jail, the coroner "shall be keeper thereof during the time the sheriff shall remain a prisoner therein."[2] If the office of sheriff becomes vacant because of the lynching of a prisoner, "the coroner shall immediately succeed to and perform the duties of sheriff until the successor of such sheriff shall have been duly appointed, pursuant to existing law providing for the filling of vacancies in such office."[3]

Compensation - Deputies. The salaries of the sheriffs vary according to the population of the counties. In Shawnee County the salary of the sheriff is fixed at $4,000 per year; one undersheriff, $2,100; one tax collector, $1,500; one day jailer, $1,200; one night jailer, $1,020; one jury clerk, $1,200; one matron, $900; and for all additional deputies and clerks, the sum of $10,800 per year but not exceeding $1,800 per year to any one person.[4]

The sheriff is authorized to appoint as many deputies as necessary to serve to his pleasure. The assembly of 1858 required him also to appoint a general deputy who since 1860 has been termed "undersheriff." He also may appoint in writing such persons as he deems necessary to perform particular acts. He is responsible on his bond for the acts of his undersheriff and deputies.[5]

The legislature of 1923 authorized sheriffs of counties with more than 65,000 inhabitants, which included Shawnee County, to appoint with the approval of the county commissioners such number of deputies, not exceeding three, as he deems necessary to patrol the highways of the county and enforce the State traffic laws, and to provide them with

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1. Terr. L. 1858, ch. 13, sec. 64; Terr. L. 1860, ch. 28, sec. 71; G.S. 1868, ch. 25, sec. 102; L. 1870, ch. 111, sec. 1; G.S. 1935, ch. 19, sec. 804.
2. Terr. L. 1855, ch. 89, sec. 28; Terr. L. 1858, ch. 13, sec. 79; Terr. L. 1860, ch. 28, sec. 86; G.S. 1868, ch. 25, sec. 117; G.S. 1935, ch. 19, sec. 1002.
3. L. 1903, ch. 221, sec. 5; G.S. 1935, ch. 21, sec. 1007.
4. L. 1937, ch. 233, sec. 5; L. 1939, ch. 191, sec. 1.
5. Terr. L. 1855, ch. 150, sec. 6; Terr. L. 1858, ch. 13, sec. 63; Terr. L. 1860, ch. 28, secs. 70, 72; G.S. 1868, ch. 25, secs. 101, 103; G.S. 1935, ch. 19, secs. 803, 805.

motorcycles or other suitable means of conveyance. The law authorized salaries for such deputies of $120 per month for the first year of service, $130 per month for the second year, and $140 per month for the third year.[1]

In 1913 Shawnee County by virtue of population came under the provisions of the law of 1905 authorizing the sheriff to employ a jailer at a salary of $75 per month and, with the approval of the county commissioners, to hire an additional jailer at a salary of $60 per month.[2] In 1936 Shawnee came under provisions of a law enacted in 1911 authorizing sheriffs of counties with more than 90,000 inhabitants to appoint two jailers at $1,200 per year each; one jury clerk at $1,200 per year; one bailiff for each division of the district court at salaries to be fixed by the county commissioners, but not exceeding $1,200 per year each; and a cook and assistant for the county jail" at reasonable wages." The legislature of 1937 added a tax collector at a salary of $1,500 per year and fixed the salary of the day jailer at $1,200 and that of the night jailer at $1,020 per year.[3] The legislature of 1913 authorized the sheriff in any county of more than 35,000 population to appoint a woman as matron of the county jail to have charge of women prisoners. The salaries have varied, but in Shawnee County the matron's salary is now fixed at $900 per year.[4]

Functions

Civil Duties. From the beginning of the office it has been the duty of the sheriff and his deputies to execute all writs and process, orders and precepts issued and directed to them by lawful authority, and also to attend upon the courts of record in their county.[5] A summons issued by the clerk of the district court must be directed to the sheriff, who must serve it either by delivering a copy to the defendant or leaving one at his usual place of residence. He must endorse on the original writ the time and manner of service and return it within the time specified in the writ. The sheriff may appoint another person, not interested in the case, to serve the writ.[6] However, if the sheriff

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1. L. 1923, ch. 116, sec. 1; G.S. 1935, ch. 19, sec. 806.
2. L. 1905, ch. 226, sec. 1; G.S. 1935, ch. 19, sec. 1922.
3. L. 1911, ch. 190, sec. 8; G.S. 1935, ch. 28, sec. 307; L. 1937, ch. 223, sec. 5; L. 1939, ch. 191, sec. 1.
4. L. 1913, ch. 154, secs. 1, 4; L. 1919, ch. 166, sec. 1; L. 1931, ch. 157, sec. 1; G.S. 1935, ch. 19, secs. 901, 904; L. 1937, ch. 233, sec. 5; L. 1939, ch. 191, sec. 1.
5. Terr. L. 1855, ch. 150, sec. 4; Terr. L. 1860, ch. 28, sec. 75; G.S. 1868, ch. 25, sec. 106; G.S. 1935, ch. 19, sec. 812.
6. Terr. L. 1858, ch. 11, secs. 57, 61-64; Terr. L. 1859, ch. 25, secs. 65, 69-72; G.S. 1868, ch. 80, secs. 59, 63-66; L. 1909, ch. 182, secs. 60, 64-67; G.S. 1935, ch. 60, secs. 2501, 2506-2508, 2513.

is a party to or interested in the case, or if the party obtaining the order or process files an affidavit with the clerk of the court stating he believes the sheriff for any reason will not faithfully perform his duties in the suit, the coroner must serve and execute the process, and perform other duties of the sheriff.[1] The original code permitted the judge of the court, or the clerk in his absence, to appoint someone to serve the process when the sheriff was a party or interested, but the Supreme Court has held that when the sheriff is a party to a provisional remedy the service should be directed to the coroner.[2]

Orders of attachment issued against the property of a defendant in a civil action are directed to the sheriff, who must immediately go to the place where the property is to be found and there administer an oath to two disinterested householders who, with the sheriff, make an inventory and appraisement of the property, which they sign and return to the court with the original order. In the case of real estate the sheriff leaves with the occupant or posts in a conspicuous place a notice that he has taken possession by virtue of the order. In the case of personal property he must take it into his actual custody. Should the person having custody of the property execute to the plaintiff, in the sheriff's presence, a bond in double the value of the property as assurance that it or its appraised value in money shall be forthcoming to answer the judgment of the court, the sheriff must return the property to him.[3] Orders in replevin actions also are directed to the sheriff, commanding him to take the property claimed and deliver it to the plaintiff, and return the order to the court on the day named therein. He must deliver a copy of the order to the person charged with the unlawful detainer of the property, or leave a copy for him. But he may leave the property in the custody of such person if a bond is executed within 24 hours guaranteeing its delivery if the court so rules.[4]

Executions against the property of a judgment debtor are deemed process of the court and are issued to the sheriff commanding him to convert the goods and chattels, or in lieu thereof, the lands and tenements of the debtor into money. The writ must be executed at once and returned to the court within 60 days. If the property thus taken and

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1. Terr. L. 1860, ch. 28, sec. 88; G.S. 1868, ch. 25, secs. 118, 119; G.S. 1935, ch. 60, secs. 2511, 2512.

2. Terr. L. 1858, ch. 11, secs. 581, 582; Terr. L. 1859, ch. 25, secs. 593, 594; G.S. 1868, ch. 80, secs. 701, 702; L. 1909, ch. 182, secs. 727, 728; G.S. 1935, ch. 60, secs. 2509, 2510; 45 Kan. 547, 549; 26 Pac. 41.

3. Terr. L. 1858, ch. 11, secs. 194, 198, 199; Terr. L. 1859, ch. 25, secs. 202, 206-208; G.S. 1868, ch. 80, secs. 193, 197-199; L. 1909, ch. 182, secs. 193, 197, 198, 200; G.S. 1935, ch. 60, secs. 905, 909, 910, 912.

4. Terr. L. 1858, ch. 11, secs. 176-178, 181; Terr. L. 1859, ch. 25, secs. 186-188, 191; G.S. 1868, ch. 80, secs. 179-182; G.S. 1935, ch. 60, secs. 1004-1007.

sold is not subject to redemption the sheriff must at once execute a deed to the purchaser. Otherwise he must give the purchaser a certificate describing the property and the amount paid, and stating that unless redemption is made within 18 months as provided by law, the purchaser or his assigns will be entitled to a deed. If no redemption is made within the specified time the sheriff must execute a deed to the person entitled to the certificate of purchase.[1]

The sheriff must endorse upon every writ directed to him the day and hour it was received by him. If he fails to execute and return the writ as provided by law, the court, unless convinced he was prevented by inevitable accident from so doing, must amerce him in a sum not exceeding $1,000, upon motion and 10 days notice, and the sheriff also becomes liable to the action of any person aggrieved by his failure.[2]

Another law specifies that whenever any sheriff shall neglect to make due return of any process delivered to him for execution, or shall be guilty of any default or misconduct in relation thereto, he shall be liable to a fine of $200 and an action for damages to the party aggrieved. A sheriff demanding or receiving greater fees than are allowed by law for any service performed by him is subject to a fine of from $25 to $2,000, and to forfeiture of treble damages to the aggrieved party.[3]

The first assembly specified that the sheriff should attend each term of the probate court, either himself or by deputy, and execute all orders of such court.[4] Since 1869 the statutes have provided that all writs, orders, and other process of the probate court shall be directed to the sheriff of the county where they are to be served.[5] When the judge of any court fails to attend at the time and place appointed for holding his court, the sheriff has power to adjourn the court from day to day until the judge attends or until a judge pro tempore is appointed, but if the judge is not present nor a judge pro tempore appointed within 2 days from the opening day of the term the court must stand adjourned.[6]

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1. Terr. L. 1858, ch. 11, secs. 418, 423, 425, 438, 448; Terr. L. 1859, ch. 25, secs. 430, 435, 437, 450, 460; G.S. 1868, ch. 80, secs. 441, 446, 448, 459, 469; L. 1887, ch. 177, sec. 1; L. 1893, ch. 109, secs. 1, 20; L. 1909, ch. 182, secs. 438, 443, 445, 475, 494; G.S. 1935, ch. 60, secs. 3401, 3406, 3408, 3426, 3428, 3457.

2. Terr. L. 1858, ch. 11, secs. 591, 592; Terr. L. 1859, ch. 25, secs. 603, 604; G.S. 1868, ch. 80, secs. 717, 718; L. 1909, ch. 182, secs. 742, 743; G.S. 1935, ch. 60, secs. 3814, 3815.

3. Terr. L. 1860, ch. 28, secs. 83, 84; G.S. 1868, ch. 25, secs. 114, 115; G.S. 1935, ch. 19, secs. 820, 821.

4. Terr. L. 1855, ch. 44, sec. 20.

5. L. 1869, ch. 38, sec. 1; G.S. 1935, ch. 20, sec. 1105; L. 1939, ch. 180, sec. 12.

6. Terr. L. 1858, ch. 11, secs. 593, 594; Terr. L. 1859, ch. 25, sec. 605; G.S. 1868, ch. 80, sec. 719; L. 1909, ch. 182, sec. 744; G.S. 1935, ch. 60, sec. 3816.

Sheriff - Functions (Next entry 354, p. 432)

Upon 3 days notice given by the county clerk it is the duty of the sheriff and two justices of the peace to appear in the county clerk's office and witness the drawing of the names of taxpayers who are to serve as jurors for the ensuing year. It then becomes the sheriff's duty to summon the jurors thus drawn.[1] In 1936 Shawnee County came under provisions of the law of 1907 in so far as district court jurors are concerned. This law requires that summons for the jurors drawn be issued by the clerk of the district court, and those retained as the panels of the various divisions must be kept in charge by the sheriff or one of his deputies.[2]

In habeas corpus proceedings, when the writ is not directed to the sheriff himself, it must be delivered to the sheriff and by him served on the person having the prisoner in custody.[3] In the trial of a contested election the court may direct the attendance of the sheriff when necessary.[4]

The first assembly required that the sheriff attend each election in person or by deputy and "cry in an audible voice the name of each voter as given in."[5] The 1859 assembly provided that the Territorial secretary should notify the sheriff in writing of the time of the election for delegate to Congress and for Territorial officers. All special elections for county officers and for filling of vacancies at general elections were ordered by the sheriff and attested by the county clerk. All others were ordered by the Governor, but the sheriff notified the township clerks and supervisors of elections, who in turn notified the voters.[6] From 1861 until 1917 it was the sheriff's duty to give public notice of the time of holding any general or special election and the officers to be chosen. He was required to post a copy of his proclamation at each polling place and insert one in some newspaper, if any were published in the county, at least 15 days before the holding of a general election and 10 days before the holding of a special election. Since 1917 this duty has devolved upon the county clerk.[7]

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1. Terr. L. 1859, ch. 84, secs. 10, 11, 15; L. 1864, ch. 65, sec. 2; G.S. 1868, ch. 54, secs. 10, 11, 15; L. 1921, ch. 166, sec. 1; G.S. 1935, ch. 43, secs. 108, 109, 113.
2. L. 1907, ch. 232, secs. 10, 11; G.S. 1935, ch. 43, secs. 144, 145.
3. G.S. 1868, ch. 80, secs. 664, 665; L. 1909, ch. 182, secs. 692, 693; G.S. 1935, ch. 60, secs. 2206, 2207.
4. L. 1861, ch. 34, sec. 25; G.S. 1868, ch. 36, sec. 99; G.S. 1935, ch. 25, sec. 1425.
5. Terr. L. 1855, ch. 66, sec. 10.
6. Terr. L. 1859, ch. 65, secs. 23-29.
7. L. 1861, ch. 28, sec. 5; G.S. 1868, ch. 36, sec. 5; L. 1917, ch. 178, sec. 1; R.S. 1923, ch. 25, sec. 105; G.S. 1935, ch. 25, sec. 105.

When the existence of any contagious or infectious disease among domestic animals in the county is reported to the sheriff, it is his duty to examine the animals and immediately report to the State Livestock Sanitary Commissioner. He must enforce such quarantine rules as the Commissioner may prescribe to prevent spread of the disease until permanent regulations have been made, and cannot be held liable for any damages to the owners by reason of the detention of such animals in the line of his duty. The State Livestock Sanitary Commissioner is empowered to call upon any sheriff, undersheriff, or deputy to execute his orders, for which they receive additional fees.[1]

During the second weeks of January and June the sheriff and county attorney are required by law to make a personal inspection and inventory of all personal property owned by the county, except for the records, files and stationery in the offices, and record it in a book kept by the county clerk. A copy also must be filed with the clerk of the district court.[2]

Delinquent Tax Collections. The first assembly designated the sheriffs as ex officio collectors of taxes for their respective counties and required them to give bond in double the amount of money likely to come into their possession, in addition to their usual bonds as sheriffs. The tax book, after being corrected and adjusted by the county commissioners, was delivered to the collector, who receipted the abstract. He was required to give receipts to those paying taxes and to settle with the county board at each regular term. He was empowered to sell goods and chattels as under execution when taxes became delinquent, and to make a list of delinquent real estate taxes and post at the courthouse before November 1. The sheriff also was required to collect and account to the county commissioners for all fines, penalties, forfeitures, and adjustments imposed by the courts, and all money collected by officers and due the Territory or county.[3] He was required to have his tax books at the polling places on election day, and receive and receipt for taxes.[4] The assembly of 1858 relieved the sheriff of these duties by requiring the township treasurers to collect the taxes, and in 1860 the county treasurer was officially designated as tax collector.[5]

The collection of delinquent personal property taxes, however, continues to be one of the sheriff's functions. Since 1859 the statutes have provided that the county treasurer shall deliver to the sheriff his

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1. L. 1884, ch. 2, secs. 11, 20 (Special Session); L. 1901, ch. 101, sec. 6; L. 1905, ch. 495, secs. 14, 23; L. 1907, ch. 406, sec. 1; L. 1911, ch. 312, secs. 4, 9; G.S. 1935, ch. 47, secs. 613, 618.
2. L. 1925, ch. 138, sec. 1; G.S. 1935, ch. 19, sec. 2624.
3. Terr. L. 1855, ch. 137, art. 3, secs. 1, 2, 13-18, 21-35.
4. Ibid., ch. 66, sec. 13.
5. Terr. L. 1858, ch. 66, secs. 44, 45, 48; Terr. L. 1860, ch. 28, sec. 104; G.S. 1868, ch. 25, sec. 75; G.S. 1935, ch. 19, sec. 515.

warrants for the collection of such taxes. The sheriff is required to proceed as upon execution and return the money and warrants to the treasurer within 60 days, or within 120 days if more than 5,000 warrants are issued. All tax warrants returned by the sheriff must be endorsed with the date of the service and the date and amount of collection; or if no property is found, they must so state. It is also the sheriff's duty to note in his return the county to which any delinquent taxpayer may have removed, with the date of his removal, if he can ascertain it.[1] When the sheriff returns a delinquent personal property tax warrant unsatisfied and the treasurer has reason to believe the taxpayer has property which cannot be reached by the warrant, he must certify to the clerk of the district court an abstract of the amount of taxes, penalties, and costs, which the clerk enters on the judgment docket to become a lien upon any real estate owned by the taxpayer. He then issues to the sheriff a warrant having the same force as an execution, and the sheriff must sell the real estate without appraisement.[2]

When land bid in by the county for delinquent taxes remains unredeemed for 3 1/4 years the county commissioners may order the county attorney to institute an action in the district court against the owners. When judgment is taken the clerk issues an execution or order of sale to the sheriff, who must sell the property at public auction to the highest bidder and make return to the clerk, making a deed to the purchaser when the sale is confirmed by the court.[3] When a person liable to pay a State income tax has paid no portion of it within 60 days after it is due, the State Tax Commission must issue a warrant directed to the sheriff of any county in which the taxpayer has real or personal property. The sheriff must file a copy of the warrant with the clerk of the district court, who enters it upon the judgment docket, and thereupon the sheriff must levy and sell any real or personal property of the taxpayer found in the county and make return to the tax commission. Since 1937 a like warrant may be issued to any officer or employe of the Tax Commission, and in the execution there of the officer or employe has all the powers conferred by law on sheriffs.[4]

Law Enforcement. The first assembly made the sheriff conservator of the peace in his county. The statutes provide that it shall be the

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1. Terr. L. 1858, ch. 66, sec. 71; Terr. L. 1860, ch. 114, sec. 61; G.S. 1868, ch. 107, secs. 123, 126; L. 1874, ch. 131, sec. 4; L. 1876, ch. 34, secs. 92, 94, 98; L. 1895, ch. 256, sec. 1; L. 1913, ch. 325, sec. 1; L. 1929, ch. 286, sec. 1; L. 1933, ch. 310, sec. 2; G.S. 1935, ch. 79, secs. 2101, 2103, 2107.

2. L. 1876, ch. 34, sec. 96; G.S. 1935, ch. 79, sec. 2105.

3. L. 1877, ch. 39, secs. 1-5; L. 1901, ch. 392, secs. 1-4; L. 1931, ch. 306, sec. 1; L. 1933, ch. 312, sec. 11; G.S. 1935, ch. 79, secs. 2801-2804.

4. L. 1933, ch. 320, sec. 35; G.S. 1935, ch. 79, sec. 3235; L. 1937, ch. 370, sec. 7.

duty of the sheriff, undersheriff, and deputies "to keep and preserve the peace in their respective counties and to quiet and suppress all affrays, riots, and unlawful assemblies and insurrections, for which purpose and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony or breach of the peace, they, and every coroner and constable, may call to their aid such person or persons of their county as they may deem necessary."[1]

Early laws required commandants of militia units, when called upon by the sheriff or the mayor of a city, to render assistance in case of "riots, routs, unlawful assemblies, insurrections, or popular outbreaks of an unlawful character." This requirement was omitted from the general statutes of 1868, but was renacted in 1885. The law was repealed in 1901 and another enacted which still permits the sheriff to call upon the commander in chief or adjutant general of the National Guard. The commanding officer is required to cooperate with the sheriff and civil authorities, rendering them "all the assistance in his power to preserve the peace and execute the laws of the State," but is authorized to "handle and manuever his command in accordance with his own judgment."[2]

The law requires that "every judgment, commitment, and process of the district court must be executed by the sheriff."[3] When called upon to do so the sheriff also must execute warrants issued by any justice of the peace in the county,[4] the police judge of any city of the first class,[5] second class,[6] or third class[7] and also must serve and execute process issued by city courts established under the law of 1923[8] and county courts established under the law of 1923.[9]

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1. Terr. L. 1855, ch. 150, sec. 3; Terr. L. 1860, ch. 28, sec. 76; G.S. 1868, ch. 25, sec. 107; G.S. 1935, ch. 19, sec. 813.
2. Terr. L. 1855, ch. 110, sec. 26; L. 1861, ch. 49, secs. 25, 26; L. 1885, ch. 142, sec. 29; L. 1901, ch. 255, sec. 42; G.S. 1935, ch. 48, sec. 242.
3. Terr. L. 1858, ch. 12, art. 15, sec. 4; Terr. L. 1859, ch. 27, sec. 302; G.S. 1868, ch. 82, sec. 319; G.S. 1935, ch. 62, sec. 1821.
4. Terr. L. 1855, ch. 94, sec. 3; Terr. L. 1859, ch. 86, sec. 3; G.S. 1868, ch. 83, sec. 2; G.S. 1935, ch. 63, sec. 201.
5. G.S. 1868, ch. 18, sec. 57; L. 1881, ch. 37, sec. 52; L. 1903, ch. 122, sec. 103; L. 1905, ch. 110, sec. 1; G.S. 1935, ch. 13, sec. 606.
6. L. 1867, ch. 68, art. 4, sec. 3; G.S. 1868, ch. 19, sec. 35; L. 1871, ch. 62, sec. 59; L. 1872, ch. 100, sec. 82; L. 1923, ch. 94, sec. 1; G.S. 1935, ch. 14, sec. 806.
7. L. 1869, ch. 26, sec. 34; L. 1871, ch. 60, sec. 75; G.S. 1935, ch. 15, sec. 506.
8. L. 1933, ch. 170, sec. 7; G.S. 1935, ch. 20, sec. 1430.
9. L. 1923, ch. 131, sec. 7; G.S. 1935, ch. 20, sec. 807.

Sheriff - Functions (Next entry 354, p. 432)

When an indictment is found or an information filed the clerk of the court issues to the sheriff a warrant for the arrest of the accused, and summonses for the witnesses. Both process must be executed by the sheriff immediately.[1] "Arrest" is defined as the taking of a person into custody that he may be held to answer to a public offense, and "is made by an actual restraint of the person of the defendant or by his submission to the custody of the officer." The officer must inform the defendant that he acts under authority of a warrant and must exhibit the warrant if required. If the defendant then either flees or forcibly resists, "the officer may use all necessary means to effect the arrest." An arrest may be made on any day, at any time of day or night. If his prisoner escapes or is rescued, the sheriff may pursue and retake him at any time and within any place in the State, and in so doing has the same power to command assistance as in cases of original arrest.[2] In making an arrest in criminal actions the arresting officer "may break open an outer or inner door or window of a dwelling house or other building, or any other enclosure, if after notice of his office and purpose he be refused admittance."[3]

If the person for whom a warrant has been issued has escaped from the county the sheriff may pursue and apprehend him in any county in the State, and in the performance of this duty possesses the same power to command aid as he has in his own county.[4] In conveying a prisoner from one county to another an officer may follow the ordinary routes of travel and is not liable to arrest or civil process while on the route. The jailer of every county through which a prisoner is conveyed is required to receive and safely keep such prisoner upon request of the officer having him in custody.[5] If the offense charged in the warrant is not punishable by death or imprisonment in the State penitentiary the sheriff is required, if his prisoner so requests, to take him before a magistrate of the county in which the arrest is made to furnish recognizance, and when the recognizance is accepted by the magistrate the prisoner must be released. The magistrate must certify the fact upon the warrant and deliver it and the recognizance to the sheriff, who in turn must deliver ti without delay to the clerk of the court before

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1. Terr. L. 1858, ch. 12, art. 5, sec. 2; Terr. L. 1859, ch. 27, sec. 113; G.S. 1868, ch. 82, secs. 126, 127; G.S. 1935, ch. 62, secs. 1101, 1102.

2. Terr. L. 1858, ch. 12, art. 5, secs. 6-10; Terr. L. 1859, ch. 27, secs. 117-121; G.S. 1868, ch. 82, secs. 129-133; G.S. 1935, ch. 62, secs. 1201-1205.

3. Terr. L. 1858, ch. 12, art. 15, sec. 2; Terr. L. 1859, ch. 27, sec. 300; G.S. 1868, ch. 82, sec. 317; G.S. 1935, ch. 62, sec. 1819.

4. Terr. L. 1855, ch. 129, art. 2, sec. 5; Terr. L. 1858, ch. 12, art. 3, sec. 3; Terr. L. 1859, ch. 27, sec. 31; G.S. 1868, ch. 82, sec. 39; G.S. 1935, ch. 62, sec. 685.

5. Terr. L. 1855, ch. 129, art. 9, secs. 15-17; Terr. L. 1859, ch. 27, secs. 294-296; G.S. 1868, ch. 82, secs. 311-313; G.S. 1935, ch. 62, secs. 1815-1817.

whom the accused is recognized to appear. If the magistrate of the county in which the arrest was made refuses to admit the prisoner to bail, the sheriff must take him before the magistrate who issued the warrant.[1]

If the warrant or other process under which a sheriff has arrested a person specifies that the defendant is to be admitted to bail in a specified sum, the officer may take the bail, discharge the prisoner from custody and forthwith certify the recognizance to the proper court.[2]

A law enacted in 1903 provides that if the sheriff has reason to believe, and does believe, that a prisoner in his custody is in danger of being lynched it is his duty to command all bystanders "and all others with whom he can directly communicate, to aid and assist him in the defense of such prisoner." Moreover, it is his duty to procure and furnish such assistants with such weapons as may be necessary. Anyone who refuses to obey the sheriff's commands is deemed guilty of a misdemeanor and upon conviction may be fined from $100 to $1,000 or imprisoned in the county jail for not more than 6 months. If it appears to the sheriff that the means thus employed will not be sufficient to protect the prisoner he may call upon the Governor for the aid of the State militia. When a prisoner in the custody of the sheriff is taken from his hands and lynched, it constitutes evidence of failure on the part of the officer to perform his duty and his office automatically becomes vacant. It then becomes the duty of the coroner to perform the sheriff's duties until a sheriff is appointed and qualified according to law. Within 10 days after such lynching, however, the sheriff may file with the Governor a petition for reinstatement, and if the Governor finds, upon hearing, that the sheriff performed all the duties required of him by law and used every reasonable effort to protect the prisoner, a certificate of reinstatement must be issued. Otherwise the deposed sheriff is ineligible to either election or reappointment to the office.[3]

When a magistrate is satisfied, upon complaint being made to him on oath, that there are reasonable grounds for suspicion that stolen property is concealed in any particular place, he may issue his warrant to the sheriff to seize the property and bring it before him. If there is positibe proof that the property is concealed in a certain house the warrant may order search of the house.[4] The sheriff is authorized

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1. Terr. L. 1855, ch. 129, art. 2, secs. 5-11; Terr. L. 1858, ch. 12, art. 3, secs. 3-7; Terr. L. 1859, ch. 27, secs. 30-35; G.S. 1868, ch. 82, secs. 38-43; G.S. 1935, ch. 62, secs. 604-609.

2. Terr. L. 1858, ch. 12, art. 5, secs. 12, 15; Terr. L. 1859, ch. 27, secs. 123, 126; G.S. 1868, ch. 82, sec. 143; L. 1905, ch. 335, sec. 1; G.S. 1935, ch. 62, sec. 1215.

3. L. 1903, ch. 221, secs. 5-7; G.S. 1935, ch. 21, secs. 1007-1009.

4. Terr. L. 1855, ch. 129, art. 9, secs. 1-3; Terr. L. 1859, ch. 27, secs. 280-282; G.S. 1868, ch. 82, secs. 298-300; G.S. 1935, ch. 62, secs. 1802-1804.

to break in doors in executing a warrant for the seizure of a prohibited gambling device and the arrest of the keeper.[1]

The statutes provide that "the sheriff shall have the charge and custody of the jail of his county and all the prisoners in the same, and shall keep such jail himself or by his deputy or jailer, for whose acts he and his sureties shall be liable."[2] He must keep the sexes separated, except when they are lawfully married, and "shall supply proper bread, meat, drink, and fuel for the prisoners." When a prisoner is committed in a criminal action the county commissioners must allow the sheriff a reasonable amount for the support of the prisoner.[3]

The first assembly required keepers of jails to receive prisoners committed under authority of the United States, but the law did not appear in the statutes again until 1868. The Federal Government must pay the county $1 per month for each prisoner for the use of the jail, and also support the prisoners, but the sheriff may not charge a higher rate for food than he receives for State prisoners.[4] Persons sentenced for violation of ordinances of any city of the second or third class may be confined in the county jail, and the sheriff is required to receive them and treat them in the same manner as county prisoners.[5]

Fugitives from other States or Territories may be placed in any county jail for safekeeping and in such case the jailer is entitled to reasonable compensation for the support of the fugitive, to be paid by the officer demanding the service. All prisoners "shall be treated with humanity and in a manner calculated to promote their reformation." Juvenile prisoners, if the jail will permit it, must be kept in apartments separate from the older prisoners, and visits of parents and friends permitted at reasonable times. The sheriff must provide, at the expense of the county, Bibles or copies of the New Testament for prisoners desirous of reading them and "any minister of the gospel desiring to aid in reforming the prisoners and instructing them in their moral and religious duties" must be permitted access to them at proper times.[6]

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1. Terr. L. 1855, ch. 53, secs. 23-25; Terr. L. 1859, ch. 28, secs. 238-240; G.S. 1868, ch. 31, secs. 247-249; G.S. 1935, ch. 21, secs. 944-946.

2. Terr. L. 1855, ch. 89, sec. 2; Terr. L. 1860, ch. 28, sec. 74; G.S. 1868, ch. 25, sec. 105; G.S. 1935, ch. 19, sec. 811.

3. Terr. L. 1855, ch. 89, secs. 5, 9; Terr. L. 1859, ch. 83, secs. 3, 5; G.S. 1868, ch. 53, secs. 3, 10; G.S. 1935, ch. 19, secs. 1903, 1910.

4. Terr. L. 1855, ch. 89, secs. 14, 16; G.S. 1868, ch. 53, sec. 18; G.S. 1935, ch. 19, sec. 1918.

5. L. 1877, ch. 122, sec. 1; G.S. 1935, ch. 19, sec. 1920.

6. G.S. 1868, ch. 53, secs. 6, 17, 19; G.S. 1935, ch. 19, secs. 1906, 1917, 1919.

Kansas laws have provided from the beginning that when a convict is to be sentenced to any punishment it shall be the duty of the sheriff, upon receiving a certified copy of the sentence from the clerk of the court, to immediately "cause such convict to receive the punishment to which he was sentenced." In conveying the prisoner to the place of punishment the sheriff and his deputies have the same power to call upon any citizen for assistance that they have in any other case.[1]

Until 1907 the Kansas statutes prescribed death by hanging as the penalty for first degree murder. The sheriff was required to carry out the sentence until 1872 when the legislature decreed that such executions thereafter should take place within the walls of the State penitentiary and be inflicted by the warden, the sheriff's only duty being to convey the prisoner to the penitentiary. Capital punishment was abolished in 1907 but was restored in 1935 with practically the same provisions for execution as those contained in the law of 1872.[2]

Records

There are no specific provisions of law for the keeping of records in civil matters by the sheriff. In practically every instance the statutes require that writs, orders, and precepts directed to the officer be returned to the court after execution. In many cases, however, he keeps copies of such writs, and the sheriffs of most counties keep a record of writs served and the amount of fees collected or due them for the service. The sheriff of Shawnee County retains copies of court orders for the sale of property to satisfy judgments, copies of certificates of purchase and deeds issued by him for property sold under execution, and also a register of such certificates.[3] He also files the lists of persons drawn for jury service and whom he is required to summon.[4]

The sheriff of Shawnee County keeps a record of warrants issued to him by the treasurer for the collection of delinquent personal property

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1. Terr. L. 1855, ch. 129, art. 7, secs. 13, 14; Terr. L. 1858, ch. 12, art. 12, secs. 14-16; Terr. L. 1859, ch. 27, secs. 239, 240; G.S. 1868, ch. 82, secs. 256, 257; G.S. 1935, ch. 62, secs. 1518, 1519.

2. Terr. L. 1859, ch. 27, secs. 241, 242; ch. 28, sec. 3; G.S. 1868, ch. 31, sec. 8; ch. 82, sec. 259; L. 1872, ch. 166, secs. 1-4; L. 1907, ch. 188, sec. 1; L. 1935, ch. 155, secs. 1, 2, 12; G.S. 1935, ch. 62, secs. 2401, 2402, 2412.

3. Terr. L. 1858, ch. 11, secs. 423, 438; Terr. L. 1859, ch. 25, secs. 435, 450; G.S. 1868, ch. 80, secs. 446, 459; L. 1909, ch. 182, secs. 443, 475; G.S. 1935, ch. 60, secs. 3406, 3438.

4. Terr. L. 1859, ch. 84, sec. 15; G.S. 1868, ch. 54, sec. 15; L. 1921, ch. 166, sec. 1; G.S. 1935, ch. 43, sec. 113.

taxes,[1] and formerly kept stubs of receipts given by him for payment of such taxes, and kept stubs of receipts given for payment to him of delinquent poll taxes.[2] He also files orders of the county commissioners directing compromise of delinquent personal property tax payments of public utility corporations.[3]

The statutes are more specific with regard to the criminal records the sheriff is required to keep. He must keep copies of all process directed to him for the confinement of a prisoner, together with his return thereon, and when duly certified by him such copy is presumptive evidence of his right to retain the prisoner in custody. All instruments, or attested copies thereof, by which a prisoner is committed or liberated he must endorse, file, and preserve, and when he leaves office he must deliver them to his successors having charge of the prisoners.[4]

The sheriff since 1868 has been required to keep a calendar of all prisoners committed to the county jail, in which he must enter the name, address and physical description of the prisoner; the time and cause of commitment, and by what authority; and the time of his liberation and by what authority. If a prisoner escapes, the time and manner of his escape must be entered fully in the jail calendar. The sheriff is required to return a copy of the calendar to the judge of the district court at the opening of each term.[5] Though not required by law, the sheriff of Shawnee County also keeps records of commitments of prisoners to the State Industrial reformatory at Hutchinson and the State penitentiary at Lansing, as well as photographs and descriptions of fugitives from justice, an identification record of prisoners in the county jail, and the receipts of superintendents of State institutions for the delivery of prisoners.

He likewise files and preserves notices of applications to the Governor for paroles and notices of paroles granted by the Governor,[6] and orders of district court judges revoking paroles of county prisoners.[7] In unbound form he keeps a record of reports of automobiles and other personal property stolen in the county.

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1. Terr. L. 1858, ch. 66, sec. 71; Terr. L. 1860, ch. 114, sec. 61; L. 1866, ch. 118, sec. 95; G.S. 1868, ch. 107, sec. 123; L. 1874, ch. 131, sec. 4; L. 1876, ch. 34, sec. 92; L. 1895, ch. 256, sec. 1; L. 1913, ch. 325, sec. 1; L. 1929, ch. 286, sec. 1; L. 1933, ch. 310, sec. 2; G.S. 1935, ch. 79, sec. 2101.
2. L. 1917, ch. 267, sec. 1; repealed by L. 1933, ch. 237, sec. 1.
3. L. 1931, ch. 313, sec. 2; G.S. 1935, ch. 79, sec. 2101b.
4. Terr. L. 1859, ch. 83, secs. 6-8; G.S. 1868, ch. 53, secs. 11-13; G.S. 1935, ch. 19, secs. 1911-1913.
5. G.S. 1868, ch. 53, secs. 4, 5; G.S. 1935, ch. 19, secs. 1904, 1905.
6. L. 1864, ch. 89, sec. 1; G.S. 1868, ch. 73, sec. 1; L. 1921, ch. 273, sec. 1; G.S. 1935, ch. 62, sec. 2216.
7. L. 1907, ch. 178, sec. 4; G.S. 1935, ch. 62, sec. 2204.

The sheriff is required to keep a record of fees by him charged and collected[1] and the sheriff of Shawnee County keeps a separate record of fees due other counties and a daily record of all receipts and disbursements of the office. He keeps copies of receipts issued by him for fees paid,[2] together with copies of his monthly reports to the county commissioners of money collected, and bank deposit slips, check stubs, and canceled checks. He keeps copies of appointments of deputy sheriffs[3] and the sworn statements of sureties on undertakings accepted by him.[4]

Civil Records

354. SHERIFF'S DOCKET, 1890-93. 1 vol. Discontinued.
Record of writs served by sheriff in civil cases, showing date and kind of process, case number; names of plaintiff, defendant, and attorneys; upon whom served, sheriff's costs, miscellaneous costs, and credits. Arr. num. by case nos. Indexed alph. by names of plaintiffs and defendants. Hdw. on pr. fm. 580 pp. 16 x 12 x 2 1/2. Attic.
For fee book, 1907--, see entry 381.

355. CERTIFICATE OF SALE, 1903--. 7 vols.
Register of certificates issued by sheriff for property sold on execution, showing date, amount, and number of certificate, case number, title of cause, description of property, amount of sale, costs accrued, receipt of sheriff, date received, name of purchaser, and date of issuance of deed. Arr. chron. by dates of issuance. No index. Hdw. on pr. fm. 200 pp. 14 x 8 x 2 1/2. Shf's. off.
For original certificates, 1923--, see entry 217; for sheriff's copies, 1918--, see entry 356.

356. (Certificates of) SHERIFF'S SALES (on Execution), 1918--.
8 f. drs.
Duplicate copies of certificates issued by sheriff for sale of property on execution, showing information as in entry 217. Arr. num. by certificate nos. No index. Hdw. on pr. fm. 11 x 5 x 14. Shf's. off.
For register of certificates, 1903--, see entry 355.

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1. L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1909, ch. 145, sec. 17; L. 1911, ch. 190, sec. 17; L. 1913, ch. 197, sec. 16; G.S. 1935, ch. 28, secs. 123, 316.
2. G.S. 1868, ch. 39, sec. 26; L. 1913, ch. 197, sec. 40; G.S. 1935, ch. 28, sec. 143.
3. Terr. L. 1860, ch. 28, sec. 73; G.S. 1868, ch. 25, sec. 104; G.S. 1935, ch. 19, sec. 810.
4. Terr. L. 1858, ch. 11, sec. 599; Terr. L. 1859, ch. 25, sec. 610; G.S. 1968, ch. 80, sec. 723; L. 1909, ch. 182, sec. 748; G.S. 1935, ch. 60, sec. 3820.

357. SHERIFF'S DEEDS, 1913--. 3 f. drs.
Copies of deeds issued for property sold by sheriff upon order of court, showing date, case number, name of court, names of grantor and grantee, description of property, amount of judgment, order of sale, date and place of sale, and sheriff's return. Arr. chron. by dates of deeds. No index. Hdw. on pr. fm. 11 x 5 x 14. Shf's. off.
For sheriff's deed record, 1855--, see entry 160.

358. ORDER OF SALE, 1934--. 1 f. dr.
Court orders to sheriff for sale of property to satisfy judgments, showing date, case number, title and cause, amounts of judgment and interest, description of property, text of order of court with date of publication, date of sale, to whom sold, and amount of sale endorsed thereon. Arr. chron. by dates of orders. No index. Hdw. on pr. fm. 11 x 5 x 14. Shf's. off.
For order of sale docket, 1859--, see entry 215.

359. JURORS' SERVICE, 1926--. 3 f. drs. 1905-25 in (Receipts for) Delivery of Prisoners, entry 371.
Lists of jurors drawn for service and to be notified by sheriff, showing name and address of juror, division and term of district court for which called, and date and by whom drawn. Arr. chron. by dates drawn. No index. Typed. 11 x 5 x 14. Shf's. off.
For list of persons drawn, 1930-36, see entry 51; 1936--, see entry 244.

Delinquent Personal Property Taxes

360. ABSTRACT OF (Delinquent) PERSONAL PROPERTY (Tax) WARRANTS, 1904-12, 1932--. 4 vols., 3 bdls. Title varies: Sheriff's Register of Personal Property, 1904-12.
Record of warrants issued to sheriff by county treasurer for collection of delinquent personal property taxes, showing warrant number, date, name and address of property owner, years and amount of taxes due; fees, penalties, and costs; total amount; amounts collected and uncollected; date of return, and remarks. Arr. num. by warrant nos. No index. Hdw. on pr. fm. Vols. 140 pp. 17 x 14 x 1 to 350 pp. 18 x 14 x 1; bdls. 4 x 6 x 10. 2 vols., 1904-12, attic; 3 bdls., 2 vols., 1932--, shf's. off.

361. MOTIONS BY COUNTY COMMISSIONERS, 1936--. 1 f. dr.
Orders by county commissioners addressed to sheriff to compromise personal property tax payments, showing date, name and address of taxpayer, original amount, compromise amount, description of personal property, order, and signatures of county commissioners. Arr. chron. by dates of orders. No index. Typed. 11 x 5 x 14. Shf's. off.

362. (STUBS OF PERSONAL PROPERTY AND POLL TAX RECEIPTS), 1915-17. 1 wooden b. Discontinued.
Stubs of receipts for payment of delinquent personal property taxes and poll taxes, showing date, receipt number, amount of tax, penalties, fees and costs, total, and name of taxpayer and township. Arr. num. by receipt nos. No index. Hdw. on pr. fm. Condition fair. 10 x 8 x 12. Attic.

Criminal Records

363. WARRANTS ISSUED, 1923--. 6 f. drs.
Copies of warrants issued by court and served by sheriff, showing date, case number, name of defendant, title of cause, date received, date served, date of hearing, and date of revocation of bond. Arr. chron. by dates of issue. No index. Hdw. on pr. fm. 11 x 5 x 14. Shf's. off.

364. COMMITMENT TO COUNTY JAIL, 1921--. 5 f. drs.
Original papers for commitment of persons to county jail, showing date, case number, name and term of court in which convicted; names of plaintiff, defendant, and county attorney; commitment, orders of court, sentence or fine, nature of offense, court costs, and signature of clerk of district court. Arr. chron. by dates of commitments. No index. Typed. 11 x 5 x 14. Shf's. off.

365. JAIL RECORD AND CALENDAR, 1928--. 2 vols.
Sheriff's calendar of persons committed to county jail, showing name, address, and description of prisoner; cause of commitment, dates committed and discharged, by whose authority, and remarks. Arr. chron. by dates of commitments. No index. Hdw. on pr. fm. 250 pp. 17 1/2 x 15 1/2 x 2. Jailer's off., co. jail.

366. JAIL BOOK, 1890-1906, 1918--. 22 vols.
Record of time served by prisoners committed to county jail, showing name, description, age, and nationality of prisoner; residence, date of sentence, date of commitment, nature of charge, date of release or removal, total time served, and amount of board. Arr. chron. by dates of commitments. Indexed alph. by names of prisoners, 1890-1906; no index, 1918--. Hdw. on pr. fm., 1890-1906; hdw., 1918--. 50 pp. 7 1/2 x 4 3/4 x 1/4 to 425 pp. 16 x 10 x 2. 3 vols., 1890-1906, attic, co. jail; 19 vols., 1918--, jailer's off. co. jail.

367. COMMITMENT TO HUTCHINSON, 1933--. 1 f. dr.
Court orders to sheriff for commitment of boys to State reformatory at Hutchinson, showing date, case number, term of court; names of judge, county attorney, and defendant; order of court; sentence imposed and fine, if any; nature of offense, court costs, and signature of clerk of district court. Arr. chron. by dates of orders. No index. Typed. 11 x 5 x 14. Shf's. off.

368. HUTCHINSON BOOK, 1933--. 1 vol.
Sheriff's record of prisoners committed to State reformatory from Shawnee County, showing name of prisoner, date committed, and name of committing officer. Arr. chron. by dates of commitments. No index. Hdw. 50 pp. 7 1/2 x 4 3/4 x 1/4. Jailer's off., co. jail.

369. COMMITMENT TO LANSING, 1933--. 1 f. dr.
Court orders to sheriff for commitment of prisoner to the State penitentiary or industrial farm at Lansing, showing date of sentence, case number, term of court in which committed; names of judge, county attorney, and defendant; sentence imposed and fine, if any; nature of offense, court costs, order to commit, and signature of clerk of district court. Arr. chron. by dates of orders. No index. 11 x 5 x 14. Shf's. off.

370. LANSING BOOK, 1935--. 1 vol.
Sheriff's record of prisoners from Shawnee County committed to State penitentiary or industrial farm at Lansing, showing name of prisoner, place of commitment, name of committing officer, and date. Arr. chron. by dates of commitment. No index. Hdw. 50 pp. 7 1/2 x 4 3/4 x 1/4. Jailer's off., co. jail.

371. (Receipts for) DELIVERY OF PRISONERS, 1905-25, 1930--.
2 wooden bs., 1 f. dr.
Sheriff's record of prisoners from Shawnee County committed to State penitentiary or industrial farm at Lansing, showing name of prisoner, date and place of commitment, and name of committing officer. Also contains: Jurors' Service, 1905-25, entry 359; Criminal Investigations (Rogues' Gallery), 1905-25, entry 373; Sheriff's Daily Receipts, 1905-25, entry 383. Arr. chron. by dates of commitments. No index. Hdw. and typed on pr. fms. Wooden bs. 12 x 12 x 17; f. dr. 11 x 5 x 14. 2 wooden bs., 1905-25, attic; 1 f. dr., 1930--, shf's. off.

372. CRIMINAL CASES, 1929--. 2 f. drs.
Miscellaneous instruments pertaining to investigations and arrests in criminal cases, showing name, address, description, and criminal records of offender; investigation and information concerning case; date of arrest, and disposition of case. Arr. alph. by names of offenders. No index. Hdw. on pr. fm. 11 x 5 x 14 and 14 x 12 x 24. Shf's. off.

373. CRIMINAL INVESTIGATIONS (Rogues' Gallery), 1929--. 2 f. drs.
1905-25 in (Receipts for) Delivery of Prisoners, entry 371.
Sheriff's record of fugitives from justice from Shawnee County and other counties and States, with photograph and description of person wanted, showing name and alias, date and nature of crime with which charged, and by whom wanted. Arr. alph. by names of fugitives. No index. Typed and pr. 11 x 5 x 14. Shf's. off.

374. (IDENTIFICATION RECORD), 1935--. 2 vols.
Identification record of county jail inmates, showing name, physical description, and photograph of prisoner; whether charged with Federal, State or local offense; and date of photograph. Arr. alph. by names of prisoners. No index. Hdw. and photographed. 50 pp. 7 1/2 x 4 3/4 x 1/2. Jailer's off., co. jail.

375. NOTICE OF APPLICATION FOR PAROLE AND PAROLES GRANTED, 1927--. 4 f. drs.
Notices to sheriff of applications for parole made by prisoners from Shawnee County in State penitentiary and reformatory, showing date set for hearing, name of applicant, offense committed and length of sentence, together with decision on case, date and conditions of parole if granted, and remarks. Arr. alph. by names of prisoners. No index. Hdw. and typed. 11 x 5 x 14. Shf's. off.

376. ORDER REVOKING PAROLE, 1927--. 2 f. drs.
Sheriff's copies of court orders revoking paroles, showing date, name of court, case number, names of plaintiff, defendant, county attorney, and sheriff, reason for revoking, and court order of revocation. Arr. chron. by dates of orders. No index. Typed. 11 x 5 x 14. Shf's. off.

377. STOLEN PROPERTY, 1939--. 4 f. drs.
Record of miscellaneous personal property stolen and reported to sheriff, showing date reported; name, address, and telephone number of owner; description and value of property; where taken, to whom reported, and signatures of owner and officer making arrest. Arr. alph. by names of owners. No index. Hdw. on pr. fm. 14 x 12 x 24. Shf's. off.

378. STOLEN AUTOMOBILES, 1929--. 5 f. drs.
Record of stolen automobiles reported to sheriff, showing name and address of owner; make, color, model, and engine, serial, and license numbers of car; where and when taken, reward offered, and by whom reported. Arr. chron. No index. Hdw. on pr. fm. 11 x 5 x 14 to 14 x 12 x 24. Shf's. off.

Receipts and Disbursements

379. (LEDGER OF DAILY CASH DISBURSEMENTS), 1933--. 4 bdls., 1 vol.
Daily record of receipts and disbursements of sheriff's office, showing date, balance at beginning of day, cash received, deposits, balance at end of day, tax warrants, district court fees, justice fees, balances, and deposits. Arr. chron. by dates of transactions. No index. Hdw. Bdls. 11 x 1 1/2 x 14; vol. 200 pp. 14 x 7 x 2. Shf's. off.

380. MONTHLY REPORT TO COUNTY COMMISSIONERS, 1929--. 3 f. drs.
Duplicate copies of sheriff's monthly reports to county commissioners of receipts and disbursements, showing date of report, itemized statement of receipts, total, balance; itemized statement of disbursements, total balance, and sheriff's signature. Arr. chron. by dates of reports. No index. Typed on pr. fm. 11 x 5 x 14 to 14 x 12 x 24. Shf's. off.

381. FEE BOOK, 1907--. 17 vols. (1-17)
Record of fees charged and collected by sheriff, showing date, case number, names of plaintiff and defendant, kind of action, nature of service or process served, date and amount of fees paid, to whom charged, by whom paid, and amounts paid and unpaid. Arr. chron. by dates charged. No index. Hdw. on pr. fm. 300 pp. 17 x 14 x 2. 12 vols., 1907-27, attic; 5 vols.,

1928--, shf's. off.
For sheriff's record of writs, 1890-93, see entry 354; for quarterly reports of fees collected, 1880--, see entry 470.

382. FOREIGN FEE BOOK, 1921--. 4 vols.
Record of fees due other counties, showing date, case number, title of case, fees, date of payment, and to whom paid. Arr. alph. by names of counties. No index. Hdw. 100 pp. 12 x 8 x 1. Shf's. off.

383. SHERIFF'S DAILY RECEIPTS, 1931--. 30 bdls., 3 f. drs. 1905-25 in (Receipts for) Delivery of Prisoners, entry 371.
Duplicates of cash receipts issued by sheriff for miscellaneous payments, showing receipt number, date, amount, from whom received, address, purpose and signature of sheriff or deputy, with number and title of case if on execution, or tax year and tax warrant number if for delinquent taxes. Arr. num. by receipt nos. No index. Hdw. on pr. fm. Bdls. 8 1/2 x 5 1/2 x 10; f. drs. 11 x 5 x 14. Shf's. off.

384. DEPOSIT SLIPS, 1933--. 1 f. dr.
Duplicate deposit slips from banks handling funds in custody of sheriff, showing name of bank, date, amount of cash and checks deposited, total, and signature of cashier or receiving clerk. Arr. chron. by dates of deposits. No index. Hdw. on pr. fm. 11 x 5 x 14. Shf's. off.

385. (CHECK STUBS), 1933--. 7 vols.
Stubs of checks issued by sheriff, showing date, name of bank, check number, amount, to whom payable, and for what purpose. Arr. num. by check nos. No. index. Hdw. on pr. fm. 100 pp. 9 1/2 x 4 1/2 x 3/4. Shf's. off.

386. (CANCELED CHECKS), 1928--. 6 f. drs.
Paid and canceled checks returned by banks, showing date issued, name of bank, check number, to whom payable, amount, for what purpose, signature of sheriff, and date paid. Arr. chron. by dates of issue. No index. Hdw. on pr. fm. 11 x 5 x 14. Shf's. off.

387. GASOLINE TICKETS, 1933--. 3 f. drs.
Duplicate receipts for purchase of gasoline and oil for use in performance of sheriff's duties, showing date of purchase, from whom purchased, quantity, amount due, by whom purchased, and for what purpose. Arr. chron. by dates of purchase. No index. Hdw. on pr. fm. 11 x 5 x 14. Shf's. off.

Miscellaneous

388. COMMISSIONS TO DEPUTY SHERIFFS, 1925--. 1 cb. b., 2 f. drs.
Deputy sheriff's commissions, showing name and address of deputy, oath, date of commission, and notarization of county clerk. Arr. chron. by dates of commissions. No index. Typed on pr. fm. Cb. b. 12 x 12 x 16; f. drs. 11 x 5 x 14. 1 cb. b., 1925-34, attic; 2 f. drs., 1935--, shf's. off.
For appointments and oaths of deputies, 1907--, entry 121.

389. SURETY QUALIFICATIONS, 1929--. 2 f. drs.
Qualficiations of sureties taken before sheriff, showing name and address of surety, marital status, business; kind, condition, and value of real estate and personal property owned; debts, other bonds or sureties to which subscribed, sworn statement and signature of surety, date, and notarization. Arr. chron. by dates taken. No index. Hdw. on pr. fm. 11 x 5 x 14. Shf's. off.
For district court record of qualification of sureties, 1926--, see entry 228.

390. CORRESPONDENCE, 1931--. 5 f. drs.
General correspondence of sheriff, pertaining to crime, law enforcement, jail inmates, paroles, and other matters in regard to the business of office. Arr. alph. by names of correspondents. No index. Typed and hdw. 11 x 5 x 14 to 14 x 12 x 24. Shf's. off.

391. SALE RECORD OF MOTOR VEHICLES, 1921-24. 1 vol. Discontinued.
Record of motor vehicle transfers in county, showing names and addresses of owner and purchaser, date of transfer; make, style, year, model; motor and serial numbers, and remarks. Arr. chron. by dates of transfers. No index. Hdw. on pr. fm. Condition fair. 250 pp. 18 x 14 x 1. Attic.
For county treasurer's motor vehicle records, see entries 462-466.

XIII. CORONER

Structural Organization and Evolution

Selection and Term. The office of county coroner was created in 1855 by the first Territorial assembly, which provided that a coroner should be appointed in each county by the board of county commissioners to serve a 4-year term, and be commissioned by the Governor.[1] The assembly of 1858 made the office elective by the people for a term of 2 years, and there has been no subsequent change.[2]

Qualifications - Oath - Bond. The statutes prescribe no qualifications for the office. Before entering upon the duties of his office, however, the coroner must execute to the State and file with the county clerk a bond in a penal sum of not less than $500 nor more than $5,000, as the county clerk may designate and approve, conditioned in substance

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1. Terr. L. 1855, ch. 27, sec. 1; ch. 44, sec. 34.
2. Terr. L. 1858, ch. 13, sec. 78; Terr. L. 1860, ch. 28, sec. 85; G.S. 1868, ch. 25, sec. 116; G.S. 1935, ch. 19, sec. 1001.

the same as the bond given by the sheriff.[1] Under a general law he also must subscribe an oath of office and deposit it with his official bond.[2]

Compensation. Salaries of coroners vary according to the population of the county. In Shawnee County the officer's salary is fixed at $1,200 per year.[3] No provision is made for deputies in any county except Wyandotte.[4]

Removal and Vacancies. Any coroner neglecting or refusing to perform any act which it is his duty to perform, or who "corruptly or oppresively" performs any duty, forfeits his office and may be removed therefrom by civil action in the manner provided in the code of civil procedure.[5] No provision of law exists for filling vacancies in the office of coroner specifically, but a general law provides that unless otherwise provided by law vacancies in county offices shall be filled by appointment by the Governor for the unexpired term.[6]

Where there is no coroner, or in case of his absence or disability, any justice of the peace of the county is authorized to perform the duties of coroner in relation to dead bodies and holding inquests.[7]

Functions

Inquests. It is the duty of the coroner to hold an inquest on the dead body of any person who is supposed to have died of unlawful means or the cause of whose death is unknown. When notified of any such body the coroner must immediately summon six citizens of the county to act as jurors. He also may issue his subpoena for witnesses within the county and has the same authority to enforce their attendance and punish them and jurors for disobeying his process as a justice of the peace has when his process is issued in behalf of the State. He must administer oaths to both the jurors and witnesses. The testimony of the witnesses must be reduced to writing, at the coroner's order, and signed by them.

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1. Terr. L. 1860, ch. 28, sec. 85; G.S. 1868, ch. 25, sec. 116; G.S. 1935, ch. 19, sec. 1001.
2. Terr. L. 1860, ch. 28, sec. 125; G.S. 1868, ch. 25, sec. 173; G.S. 1935, ch. 19, sec. 2602.
3. L. 1937, ch. 233, sec. 6.
4. L. 1929, ch. 155, secs. 1-5; G.S. 1935, ch. 19, secs. 1018-1022.
5. G.S. 1868, ch. 25, sec. 180; G.S. 1935, ch. 19, sec. 2609.
6. L. 1861, ch. 28, sec. 39; G.S. 1868, ch. 36, sec. 57; G.S. 1935, ch. 25, sec. 312.
7. Terr. L. 1855, ch. 86, secs. 13, 16; Terr. L. 1858, ch. 42, art. 1, sec. 8; Terr. L. 1860, ch. 28, sec. 102; G.S. 1868, ch. 25, sec. 133; G.S. 1935, ch. 19, sec. 1016.

The jurors, after hearing the testimony and making all needful inquiries, must return their verdict in writing, stating their findings as to when, how, and by what person, means, weapon, or accident the deceased came to his death, and whether feloniously.[1]

If the jury finds that a crime has been committed on the deceased and names the person believed to have committed it the coroner may order the immediate arrest of the suspect if he is present and then issue his warrant requiring the proper officer to take the prisoner before a justice of the peace. If the accused is not present the inquest must be kept secret until after the arrest is made.[2] The warrant of a coroner in such case is of equal authority with that of a justice of the peace. It must recite substantially the proceedings had and the verdict of the jury and constitutes a sufficient foundation for the proceedings of the justice instead of a complaint. The coroner must cause the body of a deceased person he may be called to view to be delivered to friends of the deceased; or, if there are none, to be decently buried at the expense of the county if the deceased had no property. If considered necessary by himself or the jury the coroner may summon one or more physicians or surgeons to make a scientific examination of the body.[3]

The first assembly provided merely that the coroner should present to the county commissioners a statement of the fees and expenses of the inquest. The assembly of 1859 required him to return the inquisition, the written evidence, and a list of witnesses who testified to material matters to the district court, but since 1868 the return has been made to the county clerk.[4]

In counties having more than 60,000 inhabitants, which includes Shawnee County, one of the county attorney's shorthand stenographers, when requested by the coroner, may perform the duties of stenographer at inquests and transcribe the testimony and file it with the county clerk.[5]

Performance of Sheriff's Duties. The first assembly provided that when the office of sheriff became vacant by death or otherwise the county coroner should have authority to perform the duties required by law of

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1. Terr. L. 1855, ch. 86, secs. 1, 4-11; Terr. L. 1860, ch. 28, secs. 89-94; G.S. 1868, ch. 25, secs. 120-125; G.S. 1935, ch. 19, secs. 1003-1007.

2. Terr. L. 1855, ch. 86, sec. 12; Terr. L. 1860, ch. 28, secs. 95-97; G.S. 1868, ch. 25, secs. 126-128; G.S. 1935, ch. 19, secs. 1009-1011.

3. Terr. L. 1860, ch. 28, secs. 98, 99, 101, 103; G.S. 1868, ch. 25, secs. 129, 130, 132, 134; G.S. 1935, ch. 19, secs. 1012, 1013, 1015, 1017.

4. Terr. L. 1855, ch. 86, sec. 15; Terr. L. 1859, ch. 42, sec. 99; G.S. 1868, ch. 25, sec. 131; G.S. 1935, ch. 19, sec. 1014.

5. L. 1901, ch. 134, sec. 3; L. 1917, ch. 135, sec. 3; G.S. 1935, ch. 19, sec. 722.

the sheriff, until another sheriff should be appointed and qualified.[1] If the sheriff is committed to jail the coroner "shall be keeper thereof during the time the sheriff shall remain a prisoner therein."[2] When there is no sheriff in an organized county it is the coroner's duty to exercise all the powers and duties of the office until a sheriff is elected and qualified.[3] If a prisoner is taken from the custody of the sheriff and lynched it automatically vacates the sheriff's office and the coroner must succeed to his duties until a sheriff is appointed and qualified.[4]

Since 1860 the law has provided that "every coroner shall serve and execute process of every kind and perform all other duties of the sheriff when the sheriff shall be a party to the case." Whenever a party to a case files with the clerk of the proper court an affidavit stating his belief that the sheriff will not faithfully perform his duties in any suit commenced or about to be commenced, the clerk must direct the process in such suit to the coroner, who must execute it in the same manner as the sheriff is required to do.[5]

Records

There is no provision of law for the keeping of records by the coroner. The inquisition, written evidence, and other original documents in inquests were required to be filed with the district court from 1859 to 1868, since when the law has required that they be filed with the county clerk.[6] However, in most counties as in Shawnee, the coroner keeps a record of inquests showing the date, the names of the deceased and of the jurors and witnesses, the findings, and the amount of fees and costs.

392. CORONER'S RECORD, 1922--. 3 vols.
Coroner's record of inquests and findings in violent and sudden deaths, showing name of deceased, reported cause and date of death, date of inquest, names of jurors and witnesses, findings of coroner or jury, and amount of fees for each purpose. Arr. chron. by dates of inquests. No index. Hdw. on pr. fm. 325 pp. 16 x 10 x 1. Coroner's off., 825 Kansas Avenue, Topeka.
For coroner's reports of inquests held, 1889--, see entry 53.

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1. Terr. L. 1855, ch. 27, sec. 4.
2. Terr. L. 1855, ch. 89, sec. 28; Terr. L. 1860, ch. 28, sec. 86; G.S. 1868, ch. 25, sec. 117; G.S. 1935, ch. 19, sec. 1002.
3. Terr. L. 1860, ch. 28, sec. 86; G.S. 1868, ch. 25, sec. 117; G.S. 1935, ch. 19, sec. 1002.
4. L. 1903, ch. 221, sec. 5; G.S. 1935, ch. 21, sec. 1007.
5. Terr. L. 1860, ch. 28, secs. 87, 88; G.S. 1868, ch. 25, secs. 118, 119; G.S. 1935, ch. 60, secs. 2511, 2512.
6. Terr. L. 1859, ch. 42, sec. 99; G.S. 1868, ch. 25, sec. 131; G.S. 1935, ch. 19, sec. 1014.

(Next entry 393, p. 455)

XIV. COUNTY ATTORNEY

Structural Organization and Evolution

Selection and Term. In compliance with the provisions of the Organic Act[1] the Territory of Kansas on February 26, 1855 was divided by Governor Reeder into three judicial districts, in each of which the assembly established the office of district attorney, the officer to be appointed by the assembly for a term of 4 years and commissioned by the Governor.[2] The assembly of 1858, however, abolished the office of district attorney and created that of county attorney in each county organized for judicial purposes, making it elective by popular vote for a 2-year term. In turn, this office was abolished by the first State legislature in 1861 and the office of district attorney restored, but 3 years later this act was repealed and the office of county attorney recreated. There has been no subsequent change.[3]

Qualifications. No qualifications for the office were prescribed until 1864, when the legislature decreed that "no person shall be eligible as a candidate for, or be elected to, the office of county attorney who is not an attorney and counselor at law, duly licensed to practice in the State."[4] This provision was omitted from the General Statutes of 1868, however, and no such provision existed again until 1907, when the legislature required that the candidate must be regularly admitted to practice law in Kansas and a regularly qualified practicing attorney at the time of his nomination and election.[5] No one holding the office of county attorney is eligible to hold any other county or judicial office at the same time, nor may he act as attorney for either party, other than the State or county, in any civil action which depends upon the same facts as those upon which any pending criminal action may depend. No county attorney may accept any fee or reward, except as allowed by law, for services in any prosecution or business to which it is his official duty to attend.[6]

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1. 10 Stat. 286.

2. Kansas State Historical Society, Archives Department, "Executive Minutes. Minutes Recorded in the Governor's Office During the Administration of Governor Andrew H. Reeder" (original manuscript).

3. Terr. L. 1858, ch. 13, sec. 49; L. 1861, ch. 2, secs. 1, 9; L. 1864, ch. 31, secs. 1-3, 9; G.S. 1868, ch. 25, sec. 135; G.S. 1935, ch. 19, sec. 701.

4. L. 1864, ch. 31, sec. 9.

5. L. 1907, ch. 163, sec. 1; G.S. 1935, ch. 19, sec. 701.

6. Terr. L. 1858, ch. 13, sec. 54; Terr. L. 1860, ch. 28, sec. 61; L. 1861, ch. 2, sec. 4; L. 1864, ch. 31, sec. 10; G.S. 1868, ch. 25, sec. 140; G.S. 1935, ch. 19, sec. 705.

County Attorney - Structural Organization and Evolution

(Next entry 393, p. 455)

Bond and Oath. Before entering upon the duties of his office the county attorney must execute to the State and file with the county clerk a bond in a penal sum not less than $2,000 conditioned for faithful performance of duties and that he will pay over to the county treasurer all money which may come into his hands by virtue of his office.[1] Under a general law he also must subscribe an oath of office and deposit it with his official bond.[2]

Compensation - Deputies. Salaries vary with the population of the counties. In Shawnee County the statutes fix the salary of the county attorney at $3,750 per year and require the county commissioners to allow $8,100 per year for assistants, deputies, and stenographers. In the event the county attorney or his deputies are personally interested in any litigation involving the county, or if it appears that the time at the disposal of the county attorney's office is insufficient to give proper attention to such litigation, or if for any other reason it appears necessary to the public interest, the county commissioners may by resolution employ special counsel for such cases at a cost not exceeding $3,000 in any 1 year.[3] The county attorney also may retain certain fees in prosecutions, both civil and criminal, against violators of the laws relating to intoxicating liquors and gambling.[4]

The county attorney may appoint a deputy, who is required to perform all the duties of the office during the county attorney's absence.[5] In all counties with 60,000 or more inhabitants, which includes Shawnee County, the county attorney may employ one or more stenographers.[6] A general law enacted in 1917 authorizes any county attorney to hire a stenographer or clerk.[7] The legislature of 1925 authorized the county commissioners of any county in the State to employ an additional attorney to assist the county attorney in any specific investigation, prosecution, or civil or criminal matter involving the duties of the office, when they deem it necessary.[8]

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1. Terr. L. 1858, ch. 13, sec. 49; L. 1861, ch. 2, sec. 1; L. 1864, ch. 31, sec. 3; G.S. 1868, ch. 25, sec. 135; L. 1907, ch. 163, sec. 1; G.S. 1935, ch. 19, sec. 701.
2. Terr. L. 1860, ch. 28, sec. 125; G.S. 1868, ch. 25, sec. 173; G.S. 1935, ch. 19, sec. 2602.
3. L. 1937, ch. 233, sec. 4.
4. L. 1911, ch. 190, sec. 16; G.S. 1935, ch. 28, sec. 315.
5. Terr. L. 1855, ch. 10, sec. 8; L. 1861, ch. 2, sec. 7; L. 1864, ch. 31, sec. 15; G.S. 1868, ch. 25, sec. 141; G.S. 1935, ch. 19, sec. 706.
6. L. 1901, ch. 134, sec. 1; L. 1903, ch. 201, sec. 1; L. 1905, ch. 492, sec. 1; L. 1917, ch. 135, sec. 1; G.S. 1935, ch. 19, sec. 720.
7. L. 1917, ch. 129, sec. 3; G.S. 1935, ch. 19, sec. 708.
8. L. 1925, ch. 139, sec. 1; G.S. 1935, ch. 19, sec. 723.

Removal - Vacancies. The county attorney may be removed from office by action brought by the State Attorney General. Formerly these proceedings were in the nature of quo warranto, but the writ of quo warranto and proceedings under it were abolished by the legislature of 1868, since when the remedies have been obtainable by civil action.[1] Since 1911 the county attorney or any other officer may be removed from office by ouster proceedings brought by the Attorney General.[2] The resignation of a county attorney must be made to the judge of the district court under the law which provides that all county officers holding their offices by election shall make their resignation to the officer or officers authorized to fill vacancies in such offices.[3]

Vacancies in the office are filled by appointments by the district judge for the unexpired term.[4] In case of the absence, sickness, or disability of both the county attorney and his deputy, any court in which it is their duty to appear and in which there may be business for them may appoint an attorney to act as county attorney.[5]

Functions

Civil Matters. The functions of the district attorneys, 1855-58, 1861-64, and those of the county attorneys, 1858-61, 1864--, were almost identical except that the former acted for each of the counties in their respective judicial districts, and the latter only for the county in which each is elected. It is the duty of the county attorney to appear in the respective courts of his county and prosecute or defend on behalf of the people all suits, applications, and motions, either civil or criminal, arising under the laws of the State and in which the county is a party or interested. He also must give, without fee or reward, advice and opinions to the county commissioners or any other county officers when requested by them to do so, concerning their duties or any other matter in which the county or State is interested.[6]

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1. Terr. L. 1855, ch. 132, secs. 1-6; Terr. L. 1859, ch. 106, secs. 1-6; G.S. 1868, ch. 80, secs. 652-654; L. 1871, ch. 116, secs. 1, 2; L. 1909, ch. 182, secs. 679-681; G.S. 1935, ch. 60, secs. 1601-1603.

2. L. 1911, ch. 237, secs. 1-7; G.S. 1935, ch. 60, secs. 1609-1615.

3. L. 1860, ch. 28, sec. 130; G.S. 1868, ch. 25, sec. 177; G.S. 1935, ch. 19, sec. 2606.

4. Terr. L. 1855, ch. 10, sec. 5; L. 1861, ch. 2, sec. 5; L. 1864, ch. 31, sec. 7; G.S. 1868, ch. 25, sec. 146; G.S. 1935, ch. 19, sec. 715.

5. L. 1861, ch. 2, sec. 5; L. 1864, ch. 31, sec. 7; G.S. 1868, ch. 25, sec. 142; G.S. 1935, ch. 19, sec. 711.

6. Terr. L. 1855, ch. 10, secs. 2, 3; Terr. L. 1858, ch. 13, secs. 50, 52; L. 1861, ch. 2, secs. 2, 3; L. 1864, ch. 31, secs. 2, 11; G.S. 1868, ch. 25, secs. 136, 138; G.S. 1935, ch. 19, secs. 702, 704.

County Attorney - Functions (Next entry 393, p. 455)

Although the county attorney has no authority to institute a civil suit in behalf of the county without the consent of the board of county commissioners,[1] the Supreme Court has held that where there is a question of public concern he may institute proceedings to test the constitutionality of a statute.[2]

When directed by the Attorney General to do so it is the duty of the county attorney to represent the State in appeals by persons claiming interest in islands in navigable streams, or the abandoned beds of navigable streams, which are about to be sold for the benefit of the State school fund.[3] The State must be made a party to all actions in the probate court for the administration or distribution of the estate of any person dying without will or known heirs. In such cases the county attorney must represent the State and "diligently protect and conserve the estate for the benefit of the State school fund, scrutinize all claims against the estate, and diligently defend against all claims." The State Attorney General may assist the county attorney, or may take complete charge of the case.[4] From 1921 until 1939 the statutes provided that before the estate of an alien dying intestate should be forfeited to the State, a judicial investigation should be had in an action brought in the district court by the county attorney in the name of the State.[5]

The abstract of title and plats of any proposed city of the second or third class, or any town, must be furnished by the proprietors to the county attorney for examination before being recorded, and the county attorney may approve or disapprove the plat.[6]

Upon his own motion or when directed by competent authority to do so the county attorney may institute a civil action in the district court to oust a public officer or a corporation in any case where such action is authorized by statute. Until 1868 such action was by information in the nature of quo warranto, but such proceedings and the writ of quo warranto were abolished in 1868 and civil action substituted therefor. Under the law of 1911 it is the county attorney's duty, when complaint is made to him in writing that any county, township, or city officer has been guilty of any acts, omissions, or offenses designated by statute as grounds for ouster, to immediately inquire into the facts and if he finds reasonable ground for the complaint, to institute

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1. 71 Kan. 683; 81 Pac. 503.
2. 140 Kan. 744-746; 39 Pac. 2nd 286.
3. L. 1913, ch. 295, sec. 4; L. 1915, ch. 322, sec. 7; G.S. 1935, ch. 72, sec. 2134.
4. L. 1913, ch. 273, sec. 3; L. 1935, ch. 168, sec. 6; G.S. 1935, ch. 22, sec. 1212; L. 1939, ch. 180, sec. 75.
5. L. 1921, ch. 185, sec. 1; G.S. 1935, ch. 22, sec. 1315.
6. L. 1915, ch. 149, sec. 1; L. 1921, ch. 139, sec. 1; G.S. 1935, ch. 12, sec. 401.

proceedings in the district court to oust the officer from office. In the event such charges are made to the Governor against the Attorney General, the Governor must notify the county attorney of Shawnee County, whose duty it then becomes to make an investigation as in the case of local officers and if he deems such action justified, to institute ouster proceedings in "a court of competent jurisdiction."[1] Since 1875 the statutes have decreed that any State, district, county, township, or city officer guilty of being intoxicated in a public place, or of gambling, or of aiding or encouraging other persons engaged in gambling, shall forfeit his office. It is the duty of the county attorney to prosecute cases under this law unless he is the one charged, in which case any attorney may prosecute.[2]

In several instances the county attorney is required by statute to enforce in his county the rules and orders of the State Corporation Commission as well as other State bodies. Penalties imposed on public utilities for willfully violating or evading any provisions of law their regulation, not otherwise provided for, are collected by civil action instituted and prosecuted in the name of the State by the county attorney of the county wherein the offense was committed, upon direction of the State Corporation Commission.[3] The county attorney has a right to maintain actions to enforce by injunction the rules and orders of the State Corporation Commission regarding oil and gas proration,[4] He is required to institute action to recover penalties for noncompliance with rules and orders of the State Commission regarding the stringing of telephone, telegraph, and electric transmission wires along and across streets and highways,[5] and to collect penalties from telegraph companies failing to comply with a statute requiring them to maintain telegraph facilities at the county seat of each county through which their lines pass, though this law has been practically superceded by the public utilities act.[6]

Upon complaint of the Secretary of State that any corporation has failed to pay the annual fees prescribed by law it is the duty of the county attorney or the Attorney General to institute an action in the

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1. Terr. L. 1855, ch. 132, secs. 1, 2; Terr. L. 1859, ch. 106, secs. 1, 2; G.S. 1868, ch. 80, secs. 652, 654; L. 1871, ch. 116, sec. 2; L. 1909, ch. 182, secs. 679, 681; L. 1911, ch. 237, secs. 1-3; G.S. 1935, ch. 60, secs. 1601-1603, 1609-1611.
2. L. 1875, ch. 122, secs. 1-4; G.S. 1935, ch. 21, secs. 1610-1613.
3. L. 1883, ch. 124, sec. 20; L. 1901, ch. 286, sec. 34; R.S. 1923, ch. 66, sec. 177; G.S. 1935, ch. 66, sec. 177.
4. L. 1931, ch. 226, sec. 8; G.S. 1935, ch. 55, sec. 608.
5. L. 1905, ch. 356, secs. 1, 3; L. 1917, ch. 252, sec. 1; G.S. 1935, ch. 66, secs. 183, 185.
6. L. 1893, ch. 152, secs. 1, 2; G.S. 1935, ch. 17, secs. 1910, 1911; 96 Kan. 298-300, 308; 150 Pac. 544.

district court of Shawnee County, or of any county in which the corporation has an office or place of business, to collect the fees and penalties provided by law in such cases.[1] Court proceedings for the forfeiture of the charters and franchises of corporations violating the anti-trust laws of the State may be filed by the county attorney of the county wherein the offense takes place.[2]

A local bank or corporation which records the transfer of a share of its stock made by a foreign administrator, executor, or trustee or issues a new certificate therefor before the inheritance tax is paid, is liable for the amount of the tax in an action of contract brought by the county attorney at the instance of the probate court or the State Inheritance Tax Commission.[3] The county attorney must prosecute all suits necessary for the collection of inheritance taxes payable by the beneficiary,[4] for the collection of excise taxes and penalties payable by express companies,[5] and for the recovery of motor vehicle fuel taxes and penalties,[6] Taxes released, discharged, or remitted by the county commissioners or any other officer contrary to law may be recovered from such commissioners or officers and their sureties by civil action instituted by the county attorney.[7] In any examination or investigation the county clerk and county commissioners are authorized to make regarding property assessments, it is the duty of the county attorney to appear and examine witnesses or in any other manner aid in correcting any false or fraudulent returns.[8]

When land sold for delinquent taxes and bid in by the county remains unredeemed for 3 1/4 years, or any extension thereof provided by law, the county commissioners may order the county attorney to institute an action in the district court in their name against the owners of the property. A judgment for the amount due becomes a prior lien on the property, which may be sold as under execution.[9]

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1. L. 1911, ch. 128, sec. 1; L. 1913, ch. 135, sec. 6; G.S. 1935, ch. 17, sec. 706.
2. L. 1897, ch. 265, sec. 4; G.S. 1935, ch. 50, sec. 104.
3. L. 1909, ch. 248, secs. 14, 15; L. 1915, ch. 357, secs. 13, 14; G.S. 1935, ch. 79, secs. 1513, 1514.
4. L. 1909, ch. 248, sec. 19; L. 1915, ch. 357, sec. 19; L. 1917, ch. 319, sec. 3; G.S. 1935, ch. 79, sec. 1519.
5. L. 1907, ch. 202, sec. 6; L. 1909, ch. 246, sec. 6; G.S. 1935, ch. 79, sec. 806.
6. L. 1933, ch. 317, sec. 19; G.S. 1935, ch. 79, sec. 3419.
7. L. 1913, ch. 322, sec. 3; G.S. 1935, ch. 79, sec. 1703.
8. L. 1866, ch. 118, sec. 50; G.S. 1868, ch. 107, sec. 67; L. 1876, ch. 34, sec. 71; G.S. 1935, ch. 79, sec. 1433.
9. L. 1877, ch. 39, secs. 1, 2; L. 1901, ch. 392, secs. 1, 3; L. 1931, ch. 306, sec. 1; L. 1933, ch. 312, sec. 11; G.S. 1935, ch. 79, secs. 2801, 2803.

The county attorney is empowered to enforce the orders of the State Board of Education closing schools failing to comply with laws requiring teaching in the English language and certain courses of instruction.[1] He must prosecute suits against township auditing boards for recovery of sums paid or allowed in excess of that authorized by law for any purpose.[2] In actions brought to recover possession of machine guns or other firearms which have been seized as illegal, it is the county attorney's duty to represent the officer having them in custody.[3]

In case of an appeal to the district court from a decision of the county commissioners in the allowance of claims, the county clerk must immediately notify the county attorney.[4] In counties with less than 45,000 inhabitants it is the duty of the county attorney to meet with the county commissioners at each session when bills and accounts are presented, to examine each account and ascertain its correctness, and to give his opinion to the commissioners as to the county's liability. No account may be allowed until the county attorney has thus passed upon it.[5]

Objections or questions arising in relation to the nomination papers of candidates for county and township offices are considered by the county attorney, county clerk, and clerk of the district court and the decision of a majority of these officers is final.[6]

Under the law of 1901 it is the attorney's duty, when requested by the probate judge, to attend an examination of any child brought before him to determine if the child is dependent or neglected.[7] It is the county attorney's duty to give to probation officers of the juvenile court such aid in the performance of their duties as may be consistent with the duties of his own office.[8]

When the county commissioners have let a contract for bridge or culvert work costing less than $1,000 it is the duty of the county attorney to personally examine as to form the advertisement, proposal,

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1. L. 1919, ch. 257, secs. 1-3; L. 1925, ch. 224, sec. 1; G.S. 1935, ch. 72, secs. 1102-1104.
2. L. 1877, ch. 189, sec. 3; L. 1885, ch. 168, sec. 11; G.S. 1935, ch. 80, sec. 304.
3. L. 1933, ch. 62, sec. 6 (Special Session); G.S. 1935, ch. 21, sec. 2606.
4. Terr. L. 1860, ch. 28, sec. 27; G.S. 1868, ch. 25, sec. 31; G.S. 1935, ch. 19, sec. 224.
5. L. 1913, ch. 156, sec. 1; G.S. 1935, ch. 19, sec. 716.
6. L. 1893, ch. 78, sec. 10; L. 1897, ch. 129, sec. 10; G.S. 1935, ch. 25, sec. 308.
7. L. 1901, ch. 106, sec. 3; G.S. 1935, ch. 38, sec. 303.
8. L. 1905, ch. 190, sec. 13; G.S. 1935, ch. 38, sec. 413.

contract, plans, specifications, bond, and the minutes of the commissioners' meetings to determine whether the contract has been awarded in strict compliance with the law; and no such contract is legal and binding on the county until signed by the commissioners at a legal meeting and approved and signed by the county attorney.[1] Where a drainage district has completed its work and is being managed by the county commissioners as provided by statute in counties of 90,000 to 135,000 population, which includes Shawnee, it is the county attorney's duty to render such legal services and advice concerning the affairs of the district as the county commissioners may require and without compensation.[2]

The county attorneys and the Attorney General are required to file proceedings for the condemnation of any caustic or corrosive substance being sold in misbranded containers, and are authorized to approve and register brands and labels for such substances when submitted to them.[3]

The legislature of 1913 enacted a law designating the county attorney as divorce proctor of his county and specifying that in counties of more than 60,000 population, which included Shawnee County, a special deputy county attorney could be appointed, with the approval of the county commissioners, to perform these duties. The law required the plaintiff in every divorce case to serve a copy of the petition on the divorce proctor, who endorsed his acceptance of the service on the original petition before it could be accepted for filing. It was the duty of the divorce proctor to investigate the charges made in the petition and be prepared to advise the court, upon hearing, as to the merits of the case. He had power to summon witnesses for this purpose. A fee of $10 was taxed as costs in each case, and it was provided the county attorney should receive as divorce proctor such extra salary as the county commissioners might allow, but in no case more than the fees amounted to. This law was repealed in 1917.[4]

During the second weeks of January and June each year the county attorney and sheriff are required to make a personal inspection and an inventory of the kind, amount, and location of all personal property belonging to the county, exclusive of the files, records, and stationery in the offices, which inventory must be recorded in a book kept for that purpose by the county clerk and a copy filed with the clerk of the district court.[5]

Criminal Prosecutions. Though he must have the consent of the county commissioners to institute a civil action on behalf of the county

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1. L. 1917, ch. 80, sec. 18; G.S. 1935, ch. 68, sec. 1118.
2. L. 1933, ch. 183, sec. 4; G.S. 1935, ch. 24, sec. 120.
3. L. 1927, ch. 247, secs. 3, 4; G.S. 1935, ch. 65, secs. 645, 646.
4. L. 1913, ch. 234, secs. 1-7; L. 1917, ch. 249, sec. 1.
5. L. 1925, ch. 138, sec. 1; G.S. 1935, ch. 19, sec. 2624.

as a body corporate,[1] the county attorney has considerable discretionary power in the prosecution of criminal actions. The county commissioners cannot interfere with the exercise of his discretion in the prosecution of a criminal case,[2] and even in the face of their disapproval he may institute proceedings to enjoin a public nuisance.[3] On the other hand, if the county attorney fails to make a prosecution under a State law the Governor or either branch of the legislature may order the Attorney General to institute the proceedings, in which case the Attorney General becomes prosecuting attorney for that county in those proceedings and may pursue them to final determination.[4]

It is the duty of the county attorney to appear in the courts of his county and prosecute all criminal actions arising under the laws of the State. When requested by any magistrate of his county to do so he must appear before such magistrate and prosecute all complaints made in behalf of the State of which such magistrate has jurisdiction, or on like request must conduct any criminal examinations which may be had before such magistrate. When required by the grand jury of any court sitting within the county it is the county attorney's duty to appear before them for the purpose of adivsing them on any legal matter, for examining witnesses, issuing subpoenas or other process for witnesses, and for drawing up bills of indictment.[5] Upon his own request the grand jury must allow him to appear before them and interrogate witnesses whenever he deems it necessary,[6] and whenever an indictment is returned he must sign it as prosecuting attorney.[7]

Gradually, however, prosecutions by information have taken the place of those by indictment. Informations may be filed by the county attorney as informant in any court in his county having jurisdiction of the offense specified. No information may be filed against any person for a felony, however, until he shall have had a preliminary examination before a justice of the peace or other examining magistrate, unless he shall waive such examination. It is the county attorney's duty to inquire into all cases of preliminary examinations and if he determines that an information ought not to be filed he must file with the clerk of the court an information in writing stating his reasons in fact and in law for such conclusion. In extreme cases the district

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1. 71 Kan. 683, 684; 81 Pac. 503.
2. 14 Kan. 293, 306.
3. 77 Kan. 179, 181, 182; 93 Pac. 803.
4. 70 Kan. 821-824; 79 Pac. 726.
5. Terr. L. 1855, ch. 10, secs. 2, 6, 7; Terr. L. 1858, ch. 13, secs. 50, 51, 57; L. 1864, ch. 31, secs. 2, 12, 13; G.S. 1868, ch. 25, secs. 136, 137, 144; G.S. 1935, ch. 19, secs. 702, 703, 713.
6. Terr. L. 1855, ch. 129, art. 3, sec. 7; Terr. L. 1859, ch. 27, sec. 65; G.S. 1868, ch. 82, sec. 83; G.S. 1935, ch. 62, sec. 915.
7. Terr. L. 1858, ch. 12, art. 4, sec. 4; Terr. L. 1859, ch. 27, sec. 84; G.S. 1868, ch. 82, sec. 98; G.S. 1935, ch. 62, sec. 930.

judge may, upon the filing of affidavits with him concerning commission of a crime, require the county attorney to prosecute a criminal by information.[1] Justices of the peace may require the county attorney to appear before them and prosecute misdemeanors,[2] but in his discretion the county attorney may remove the case to the district court.[3]

The county attorney may require his stenographers to attend preliminary examinations for felonies committed in the county and transcribe their notes for his use, as well as to perform other clerical work in the office. At the request of the county coroner they also must perform the duties of shorthand reporters at coroner's inquests.[4]

Sheriffs and their deputies, constables, and the mayors, marshals, police judges, and police officers of cities are required to notify the county attorney of any violation of the prohibitory liquor law of which they have notice, and it then becomes the duty of the county attorney to prosecute. If he fails, neglects, or refuses to perform any duty imposed on him by the prohibitory law he may be adjudged guilty of a misdemeanor and fined in any sum from $100 to $500 and be imprisoned in the county jail for from 10 to 90 days, in addition to forfeiting his office. Any citizen may employ an attorney to assist the county attorney in such prosecutions and the latter must recognize him as associate counsel.[5] Places where liquor is manufactured, sold, or given away, or where persons are permitted to resort for the purpose of drinking intoxicating liquor are deemed nuisances and the county attorney may maintain actions in the name of the State to abate and perpetually enjoin them.[6] A similar law applies to places used for gambling, or where gambling is permitted,[7] and still another to houses of prostitution.[8]

The legislature of 1885 required the county attorney, upon being notified of any violation of the prohibitory liquor law, to "forthwith diligently inquire into the facts," and to issue his subpoena for any person he believed had knowledge of the violation. Disobediance to the

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1. L. 1864, ch. 64, secs. 2, 3, 6, 8; L. 1867, ch. 77, secs. 1, 3; G.S. 1868, ch. 82, secs. 67-69, 71; L. 1871, ch. 117, secs. 2, 3; L. 1887, ch. 178, secs. 1, 2; G.S. 1935, ch. 62, secs. 802, 805, 807.
2. G.S. 1868, ch. 83, sec. 29; G.S. 1935, ch. 63, sec. 505.
3. 123 Kan. 774, 776; 256 Pac. 804.
4. L. 1901, ch. 134, secs. 1, 3; L. 1903, ch. 201, sec. 1; L. 1905, ch. 492, sec. 1; L. 1917, ch. 135, sec. 1; G.S. 1935, ch. 19, secs. 720, 722.
5. L. 1881, ch. 128, sec. 12; L. 1885, ch. 149, secs. 7, 11, 18; L. 1887, ch. 165, secs. 5, 9; G.S. 1935, ch. 21, secs. 2116, 2125, 2127.
6. L. 1901, ch. 232, sec. 1; L. 1903, ch. 338, sec. 1; G.S. 1935, ch. 21, secs. 2130, 2131.
7. L. 1895, ch. 151, sec. 4; L. 1907, ch. 263, sec. 1; G.S. 1935, ch. 21, sec. 918.
8. L. 1913, ch. 179, sec. 5; G.S. 1935, ch. 21, sec. 941.

subpoena or refusal to testify on the part of the witness was punishable as a misdemeanor. The legislature of 1907 clothed the county attorney with similar inquisitory powers with regard to violation of the gambling laws, and since 1915 he has possessed such powers with regard to violation of any law where the accused is a fugitive from justice. He may compel the witnesses to testify under oath and if the testimony reveals that an offense has been committed he must proceed to prosecute the persons accused.[1]

When the State Fire Marshal, after investigation, believes a person to be guilty of the crime of arson, attempted arson, or conspiracy to defraud, he must place the results of his investigation before the county attorney of the county in which the crime occurred and the latter must prosecute the accused. The fire marshal has a right to assist in the prosecution in person or by deputy.[2] Anyone accused of lynching or being an accessory after the fact in a lynching case must be prosecuted by the county attorney.[3] Before the Governor of Kansas may demand from the Governor of another State anyone as a fugitive from justice, the county attorney of the county in which the offense was committed must examine into the case, and if he finds reason to believe that a crime has been committed and that the person charged is probably guilty he must so certify to the Governor upon the affidavit, information, or indictment and ask for a requisition.[4]

In addition to the blanket provision that he must appear in the courts of his county and prosecute in behalf of the people all criminal cases arising under the laws of the State,[5] the statutes in numerous instances specifically provide for prosecutions by the county attorneys of the proper counties at the request or direction of State officers. State and local boards of health are empowered to examine into all nuisances, sources of filth, and causes of sickness that may be injurious to the health of the inhabitants of any county or city, and whenever found on private property or a watercourse, to order their removal. It is the duty of the county attorney to prosecute anyone neglecting or refusing to obey the order.[6]

Other prosecutions required to be made by him at the instance of State authority include violations of the laws regulating the registration

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1. L. 1885, ch. 149, sec. 8; L. 1907, ch. 263, sec. 5; L. 1915, ch. 87, sec. 1; G.S. 1935, ch. 62, sec. 301.
2. L. 1913, ch. 312, sec. 7; L. 1917, ch. 198, sec. 7; G.S. 1935, ch. 31, sec. 202.
3. L. 1903, ch. 221, sec. 3; G.S. 1935, ch. 21, secs. 1004, 1005.
4. L. 1886, ch. 109, sec. 2; G.S. 1935, ch. 62, sec. 706.
5. Terr. L. 1855, ch. 10, secs. 2, 6; Terr. L. 1858, ch. 13, secs. 50, 51; L. 1864, ch. 31, secs. 2, 12; G.S. 1868, ch. 25, secs. 136, 137; G.S. 1935, ch. 19, secs. 702, 703.
6. L. 1907, ch. 383, secs. 1, 2; G.S. 1935, ch. 65, secs. 159, 160.

of vital statistics,[1] the issuance of marriage licenses and keeping of marriage records,[2] violations of the pure food and drugs act[3] and the child labor laws,[4] violations of laws regulating employment agencies,[5] and the operation of hotels, lodging houses, and restaurants;[6] and the operation of a private hospital, asylum, or similar institution without a license.[7] Upon notification by the State Bank Commissioner he must prosecute violations of the banking laws in his county,[8] and violations of laws regulating the transportation and storage of oil and liquid fuels.[9]

The county attorney must prosecute violations of the laws governing motor carriers;[10] the inspection, sale, and storage of grain;[11] the registration, labeling, and sale of livestock remedies;[12] and the sale of mislabeled agricultural seed,[13] when the law requiring destruction of noxious weeds is violated by the owner or occupant of any land, or by a highway overseer or the board of county commissioners, and the county attorney fails to prosecute, he becomes liable under his bond and the court may appoint a prosecutor.[14] The county attorney is required to prosecute violations of quarantine regulations imposed by the State Entomological Commission to prevent the spread of injurious insects and plant diseases,[15] and laws relating to the control of artesian wells.[16] He must prosecute persons publishing untrue, deceptive, or misleading advertising,[17] persons or corporations violating the laws governing trusts and monopolies,[18] and may maintain actions to abate and enjoin bucketshop nuisances.[19]

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1. L. 1911, ch. 296, sec. 17; G.S. 1935, ch. 65, sec. 146.
2. L. 1913, ch. 224, sec. 8; G.S. 1935, ch. 23, sec. 111.
3. L. 1907, ch. 266, sec. 5; G.S. 1935, ch. 65, sec. 605.
4. L. 1905, ch. 278, sec. 3; L. 1909, ch. 65, sec. 4; L. 1917, ch. 227, sec. 11; G.S. 1935, ch. 38, sec. 611.
5. L. 1911, ch. 187, sec. 9; G.S. 1935, ch. 44, sec. 409.
6. L. 1913, ch. 204, sec. 26; G.S. 1935, ch. 36, sec. 123.
7. L. 1901, ch. 353, sec. 83; G.S. 1935, ch. 65, sec. 403.
8. L. 1897, ch. 47, sec. 59; G.S. 1935, ch. 9, sec. 159.
9. L. 1933, ch. 292, secs. 11, 12; G.S. 1935, ch. 55, secs. 516, 517.
10. L. 1931, ch. 236, sec. 24; L. 1933, ch. 229, sec. 14; G.S. 1935, ch. 66, sec. 1,131.
11. L. 1891, ch. 248, sec. 40; L. 1897, ch. 138, sec. 20; L. 1907, ch. 222, sec. 18; G.S. 1935, ch. 34, sec. 111.
12. L. 1913, ch. 187, sec. 9; G.S. 1935, ch. 47, sec. 509.
13. L. 1925, ch. 3, sec. 10; G.S. 1935, ch. 2, sec. 1424.
14. L. 1895, ch. 359, secs. 8, 9; G.S. 1935, ch. 2, secs. 1308, 1309.
15. L. 1927, ch. 12, sec. 5; G.S. 1935, ch. 2, sec. 710.
16. L. 1911, ch. 210, sec. 17; G.S. 1935, ch. 42, sec. 416.
17. L. 1915, ch. 2, secs. 1, 2; G.S. 1935, ch. 21, secs. 1112, 1113.
18. L. 1897, ch. 265, sec. 6; G.S. 1935, ch. 50, sec. 106.
19. L. 1899, ch. 77, sec. 4; G.S. 1935, ch. 50, sec. 130.

County Attorney - Functions (Next entry 393, p. 455)

Tax commissioners, county assessors, and deputy assessors must notify the county attorney of any violations of which they have knowledge of the laws relating to the listing and assessment of property for taxation, and it is the county attorney's duty to bring prosecutions.[1] This law also applies to the listing of intangible property.[2] He must prosecute any person making a false report to the assessor of the number and sex of dogs owned or kept by him.[3] Violations of the provisions of the motor vehicle fuel laws must be prosecuted by the county attorney.[4] Upon information that anyone has violated any election or license laws it is the duty of the county attorney to "adopt effectual measures for the conviction of such person."[5]

It is the county attorney's duty to investigate all complaints filed and prosecute all actions brought under the truancy laws of the State,[6] and to prosecute violations of road laws on behalf of the townships.[7] It is the duty of the county auditor to inform the county attorney whenever the sheriff or clerk of the district court neglect or refuse to file with the auditor their quarterly statements of fees, fines, and other moneys collected by them.[8]

At each term of the district court the county attorney and the judge must make a personal inspection of the county jail, note provisions for the safekeeping of prisoners and their convenient accommodation and health, and the manner in which the jail has been kept since the last inspection, and report their findings and recommendations in writing to the county commissioners.[9]

The county attorney is required to keep a fee book in which he must keep a true account of all fees and other income by him charged and collected. The money he must remit twice monthly to the county treasurer, and he must file quarterly with the county auditor a statement of all fees charged and not collected.[10] To any person paying him

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1. L. 1907, ch. 408, secs. 27-30; G.S. 1935, ch. 79, secs. 1420-1423.
2. L. 1925, ch. 277, sec. 10; L. 1927, ch. 326, sec. 10; L. 1931, ch. 311, sec. 10; G.S. 1935, ch. 79, sec. 3118.
3. L. 1913, ch. 331, sec. 6; G.S. 1935, ch. 79, sec. 1306.
4. L. 1933, ch. 317, sec. 19; G.S. 1935, ch. 79, sec. 3419.
5. Terr. L. 1858, ch. 13, sec. 58; Terr. L. 1860, ch. 28, sec. 66; G.S. 1868, ch. 25, sec. 145; G.S. 1935, ch. 19, sec. 714.
6. L. 1903, ch. 423, sec. 2; L. 1907, ch. 317, sec. 1; L. 1923, ch. 182, sec. 2; G.S. 1935, ch. 72, sec. 4802.
7. L. 1871, ch. 153, sec. 2; G.S. 1935, ch. 80, sec. 306.
8. L. 1874, ch. 56, secs. 4, 5; G.S. 1935, ch. 19, secs. 617, 618.
9. G.S. 1868, ch. 53, sec. 2; G.S. 1935, ch. 19, sec. 1902.
10. L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1909, ch. 145, secs. 16, 17; L. 1911, ch. 190, secs. 16, 17; L. 1913, ch. 197, sec. 16; G.S. 1935, ch. 28, secs. 123, 315, 316.

money for the county he must give a receipt in duplicate, one copy of which the payor must file with the county clerk.[1]

Records

The only record which the statutes specifically require the county attorney to keep is a fee book in which he must record all fees and other income of the office by him charged and collected.[2] However, the county attorney of Shawnee County, like most county attorneys, keeps copies of pleadings and other original instruments filed by him in civil cases[3] and copies of original instruments filed in criminal cases, such as complaints and warrants,[4] and the testimony and other papers in criminal inquisitions.[5]

The Shawnee County attorney also keeps copies of instruments in appeals to the Supreme Court in civil cases[6] and criminal cases;[7] transcripts of evidence in civil and criminal cases;[8] and a record of cases filed by him in the court of Topeka and the district court.

393. FILES OF CRIMINAL AND CIVIL CASES PENDING, 1935--. 4 f. drs. (labeled by contained letters of alph.).
Copies of petitions, pleadings, warrants, complaints, informations, affidavits, motions, summonses, subpoenas, and other instruments filed by county attorney in civil and criminal cases, showing case number,

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1. Terr. L. 1858, ch. 13, sec. 56; Terr. L. 1860, ch. 28, sec. 64; G.S. 1868, ch. 25, sec. 143; G.S. 1935, ch. 19, sec. 712.
2. L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1909, ch. 145, sec. 17; L. 1911, ch. 190, sec. 17; L. 1913, ch. 197, sec. 16; G.S. 1935, ch. 28, secs. 123, 316.
3. Terr. L. 1858, ch. 11, sec. 84; Terr. L. 1859, ch. 25, sec. 93; G.S. 1868, ch. 80, sec. 86; L. 1870, ch. 87, sec. 3; L. 1909, ch. 182, sec. 91; G.S. 1935, ch. 60, sec. 703.
4. Terr. L. 1855, ch. 129, art. 2, secs. 2, 3; Terr. L. 1858, ch. 12, art. 3, sec. 2; Terr. L. 1859, ch. 27, sec. 29; G.S. 1868, ch. 82, sec. 36; G.S. 1935, ch. 62, sec. 602.
5. L. 1885, ch. 149, sec. 8; L. 1901, ch. 233, sec. 1; L. 1907, ch. 263, sec. 5; L. 1909, ch. 164, secs. 6, 7; L. 1915, ch. 87, sec. 1; G.S. 1935, ch. 62, sec. 301.
6. L. 1901, ch. 278, sec. 3; L. 1909, ch. 182, sec. 576; G.S. 1935, ch. 60, sec. 3312; L. 1937, ch. 268, sec. 3.
7. Terr. L. 1858, ch. 12, art. 14, sec. 2; Terr. L. 1859, ch. 27, sec. 265; G.S.1868, ch. 82, sec. 282; L. 1915, ch. 266, sec. 2; G.S. 1935, ch. 62, sec. 1702.
8. L. 1905, ch. 494, sec. 1; G.S. 1935, ch. 20, sec. 910.

title and cause; names of complainant, attorneys, and witnesses, and date of filing. Arr. alph. by names of defendants. No index. Typed. 16 x 14 x 24. Co. atty's. off.

394. CRIMINAL CASES - COURT OF TOPEKA, 1935--. 1 f. dr. (labeled by contained letters of alph.).
Copies of information, complaints, affidavits, warrants, motions, subpoenas, and other instruments filed by county attorney in criminal cases in Court of Topeka, showing case number, title and cause; names of plaintiff, defendant, and witnesses, and date of filing. Also contains: Letter File (Correspondence), entry 401. Arr. alph. by names of defendants. No index. Typed. 16 x 14 x 24. Co. atty's. off.

395. CRIMINAL AND CIVIL CASES DISPOSED OF, 1923--. 16 cb. bs., 6 f. drs. (labeled by contained letters of alph.).
Copies of petitions, pleadings, warrants, complaints, informations, affidavits, motions, summons, subpoenas, and other instruments filed by county attorney in civil and criminal cases now closed, showing case number, title and cause, witnesses, date filed, and disposition of case. Also contains: Letter File (Correspondence), entry 401. Arr. alph. by names of defendants. No index. Typed. Cb. bs. 8 x 14 x 16; f. drs. 16 x 14 x 24. 16 cb. bs., 1923-34, attic; 6 f. drs., 1935--, co. atty's. off.

396. CRIMINAL AND CIVIL CASES APPEALED TO SUPREME COURT, 1935--. 1 f. dr.
Copies of petitions, pleadings, warrants, affidavits, informations, complaints, motions and other instruments filed by county attorney in civil and criminal cases appealed to State Supreme Court, showing case number, title and cause, witnesses and attorneys, nature of appeal, date of filing, and disposition of case. Arr. alph. by names of defendants. No index. Typed. 16 x 14 x 24. Co. atty's. off.

397. (LIQUOR INQUISITIONS), 1930-37. 1 wallet.
Liquor cases referred to United States District Attorney after inquisition, showing date, names of United States attorney and defendant, date of arrest and apprehension, charges, description of premises, date of sale of liquor, date of raid and seizure, date of search warrant, disposition of evidence and of case, ownership of property, and financial responsibility. Arr. alph. by names of defendants. No index. Typed. 4 x 8 x 14. Attic.

398. TRANSCRIPTS OF CRIMINAL AND CIVIL CASES, 1932--. 1 bdl.
Transcripts of testimony taken in special civil and criminal cases, showing date, case number; names of plaintiff, defendant, judge, attorneys, witnesses, and court reporter; and details of testimony. Arr. chron. by dates of testimony. No index. Typed. 4 x 8 x 12. Attic.

399. (STENOGRAPHER'S NOTE BOOKS), 1923--. 9 cb. bs., 1 f. dr.
Stenographer's shorthand note books of testimony given in inquisitions and examinations, showing date, case number, title and cause, and

details of testimony in shorthand. Arr. chron. by dates of testimony. No index. Hdw. Cb. bs. 8 x 12 x 14; f. dr. 16 x 14 x 24. 9 cb. bs., 1923-36, attic; 1 f. dr., 1937--, co. atty's. off.

400. COUNTY ATTORNEY'S DOCKET (of Cases Filed), 1911--. 14 vols. (five unlabeled; 2-10).

County attorney's record of civil and criminal cases filed, showing court of Topeka case number, district court case number, title and cause, date filed, witnesses for State, and disposition of case. Arr. num. by case nos., 1911-27; arr. chron. by filing dates, 1927--. Indexed alph. by names of defendants. Hdw. on pr. fm. 375 pp. 12 x 10 x 2 1/2. 9 vols., 1911-27, attic; 5 vols., 1927--, co. atty's. off.

401. LETTER FILE (Correspondence), 1925--. 16 letter files. 1923-- also in Criminal and Civil Cases Disposed of, entry 395; 1935-- also in Criminal Cases - Court of Topeka, entry 394.

General miscellaneous correspondence to and from county attorney and various officers and sources pertaining to enforcement of law and official business of county attorney's office. Arr. alph. by names of correspondents. No index. Hdw. and typed, 1925-29; typed, 1929--. 10 x 3 x 12. 7 letter files, 1925-29, attic; 9 letter files, 1929--, co. atty's. off.

402. COUNTY ATTORNEY'S FEE BOOK, 1898-1915. 1 vol. Discontinued.

County attorney's record of fees charged and collected, showing case number, title and cause, name of court, service rendered, date, amount of fees charged, against whom charged, amount and date paid, by whom, date remitted to county treasurer, and remarks. Arr. chron. by dates of service. No index. Hdw. on pr. fm. 220 pp. 16 x 12 x 2. Attic.

For quarterly reports of fees collected, 1880--, see entry 470.

XV. COUNTY ASSESSOR

Structural Organization and Evolution

Selection and Term. The first legislative assembly created the office of county assessor in each county of the Territory and provided that the officer should be appointed annually by the board of county commissioners. The assembly of 1860 made the office elective for a term of 1 year and when Kansas was admitted to statehood it was continued under the general terms of the Constitution.[1]

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1. Terr. L. 1855, ch. 137, art. 2, sec. 1; Terr. L. 1860, ch. 28, sec. 121; Const., schedule, sec. 3.

County Assessor - Structural Organization and Evolution

(Next entry 403, p. 469)

The first assessor of Shawnee County was appointed by the county commissioners at the October meeting in 1855.[1]

The legislature of 1869 abolished the office of county assessor and provided that the township trustees, by virtue of their offices, should be the assessors for their respective townships. Incorporated cities of the first and second classes were deemed townships for the purpose of the act and required to elect an assessor annually at the general city election. The legislature of 1876, however, made the city assessors appointive by the mayors and councils.[2] Beginning in January 1908 the office of county assessor was restored and made appointive by the county commissioners for a 2-year term.[3] Under this law the county commissioners of Shawnee County appointed S. H. Haynes as county assessor in January 3, 1908.[4] Beginning in November 1910 the office was made elective by popular vote in all counties with more than 12,000 inhabitants, which included Shawnee County, the office in the counties of lesser population being filled ex officio by the county clerk.[5] Effective in 1914 the office was restricted as a separate one to counties of more than 55,000 population but with the provision that in the counties of lesser population the county commissioners, upon petition of 10 percent of the voters, could submit to an election the proposition of establishing the office as a separate one. In 1925 the office was restricted as a separate one to counties of more than 65,000 population, which still included Shawnee, but the optional provision of the law of 1913 has been retained.[6]

Qualifications - Oath - Bond. The assembly of 1860 specified that the assessor should be qualified elector of his county.[7] In recreating the office in 1908 the legislature decreed that he must be a resident and taxpayer of the county and that he should not be eligible to nor be a candidate for any other office during the term for which he was chosen. Since 1909 the statutes have required that the assessor shall have been a resident and taxpayer of the county for at least 4 years preceding his election and that he shall not hold or be eligible to any other office during his term.[8] From the beginning of the office the county assessor has been required to subscribe an oath and exoouto to the State a bond for faithful performance of duties. Originally the

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1. Commissioners' Journal, 1855-62, p. 7, see entry 2.
2. L. 1869, ch. 30, secs. 1-3; L. 1876, ch. 34, sec. 40.
3. L. 1907, ch. 408, sec. 18.
4. Commissioners' Journal, vol. N, p. 131, see entry 2.
5. L. 1909, ch. 251, sec. 3.
6. L. 1913, ch. 321, sec. 1; L. 1925, ch. 131, sec. 1; L. 1931, ch. 156, sec. 1; G.S. 1935, ch. 19, sec. 401.
7. Terr. L. 1860, ch. 28, sec. 121; G.S. 1868, ch. 25, sec. 76.
8. L. 1907, ch. 408, sec. 18; L. 1909, ch. 251, sec. 3; G.S. 1935, ch. 19, sec. 401.

(Next entry 403, p. 469)

amount of the bond was fixed by the county commissioners. When the duties of assessing property were placed upon the township trustees in 1869 they were required to give a bond in addition to their bond as trustee in such sum as the commissioners deemed proper. The legislature of 1876, however, fixed their bonds at $500. When the county office was recreated effective in 1908 the law specified $2,000 as the minimum for the assessor's bond. The legislature of 1933 fixed it at $2,000 and there has been no subsequent change.[1]

Deputies. During the first period of the existence of the office of assessor as a county office the law provided that whenever the county commissioners were of the opinion that the assessor was unable to perform the duties of his office according to law they should authorize him to appoint one or more deputies, who should be sworn and give bond the same as the assessor. The same provision was made for deputies for the township and city assessors under the law of 1869, but the legislature of 1876 gave each such assessor statutory authority to appoint a deputy.[2] The law restoring the county office as an appointive one in 1908 specified that the county assessor and county commissioners should decide on the number of deputy assessors needed and that they should be appointed by the county assessor with the consent of the county board. He was required to appoint the township trustee of each township as a deputy, and in cities of the first class he was required to appoint as many deputies as he deemed necessary, by and with the consent of the mayor and council. In 1908 cities of the second class were similarly included.[3] The present law, enacted in 1911, provides that each city of the first and second class shall constitute a separate assessment district and that the county assessor shall appoint therein such number of deputy assessors as may be necessary. The territory of each municipal township, exclusive of that within the corporate limits of cities of the first and second classes, also is deemed an assessment district and the county assessor is required to appoint the township trustee as deputy assessor therefor. However, when the territory within a municipal township is too large to be assessed by one deputy within the time required by law, the county assessor may subdivide it into two or more districts and appoint a deputy assessor for each district except that to which the township trustee has been assigned. Whenever the county assessor finds that the deputy assigned to an assessment district cannot finish his work in the time required by law he may assign another deputy to assist him, or appoint someone to serve as

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1. Terr. L. 1855, ch. 137, art. 2, secs. 4, 5; Terr. L. 1860, ch. 28, sec. 121; G.S. 1868, ch. 25, sec. 76; L. 1869, ch. 30, sec. 1; L. 1876, ch. 34, sec. 41; L. 1907, ch. 408, sec. 20; L. 1911, ch. 320, sec. 2; L. 1933, ch. 308, sec. 1; G.S. 1935, ch. 79, sec. 1414.
2. Terr. L. 1860, ch. 28, sec. 122; L. 1869, ch. 30, sec. 1; L. 1876, ch. 34, sec. 72.
3. L. 1907, ch. 408, sec. 19; L. 1908, ch. 76, sec. 1 (Special Session); L. 1909, ch. 251, sec. 4.

an additional deputy for that district. All such appointments of deputy assessors are subject to approval of the board of county commissioners.[1] Deputy assessors were required to give bond in the same amount as the assessor until 1907, when the minimum amount of their bonds was fixed at $300.[2]

Compensation. Prior to 1876 the county commissioners were authorized to fix the compensation of assessors and deputies. Under the laws of 1860 the maximum for both was $2.50 per day, but the legislature of 1868 increased it to $3 per day. The legislature of 1876 fixed their pay exactly at $3 per day.[3] Since 1907 the salaries of county assessors have varied with the population of the county. In counties of more than 40,000 population, which has included Shawnee County since enactment of the law, the salary of the assessor has been $1,200 per year and that of the deputies $3 per day for each day actually employed.[4]

Removal - Vacancy. Whenever the county commissioners have satisfactory evidence that the county assessor is not properly performing the duties of his office they may enter an order on their journal suspending him and appoint someone temporarily in his place. They must then set a date, not more than 10 days from the time of the order, for the State Tax Commission to hold a hearing at the county seat. If the Tax Commission decides from the evidence that the assessor should be permanently removed it may enter such an order and certify it to the county commissioners. The tax Commission also has authority to remove a county assessor on its own initiative.[5] Deputy assessors may be removed by the county assessor in the same manner and with the same procedure.[6]

In event of a vacancy in the office of county assessor the county commissioners must appoint a qualified person to the office for the unexpired term.[7] A vacancy in the office of deputy assessor is filled by appointment by the county assessor.[8]

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1. L. 1911, ch. 320, sec. 1; G.S. 1935, ch. 79, sec. 1411.
2. Terr. L. 1860, ch. 28, sec. 122; G.S. 1868, ch. 25, sec. 77; L. 1869, ch. 30, sec. 1; L. 1907, ch. 408, sec. 20; L. 1911, ch. 320, sec. 2; L. 1933, ch. 308, sec. 1; G.S. 1935, ch. 79, sec. 1414.
3. Terr. L. 1860, ch. 28, sec. 123; G.S. 1868, ch. 25, sec. 79; L. 1869, ch. 30, sec. 1; L. 1876, ch. 34, sec. 72.
4. L. 1907, ch. 408, sec. 21; G.S. 1935, ch. 79, sec. 1415.
5. L. 1909, ch. 251, sec. 3; G.S. 1935, ch. 19, sec. 401.
6. L. 1909, ch. 251, sec. 4; G.S. 1935, ch. 79, sec. 1411.
7. L. 1861, ch. 93, sec. 1; G.S. 1868, ch. 25, sec. 78; L. 1909, ch. 251, sec. 3; G.S. 1935, ch. 19, sec. 401.
8. L. 1909, ch. 251, sec. 4; G.S. 1935, ch. 79, sec. 1411.

Functions

Assessment of Property. The statutes required the assessment of real property for taxation every year until 1876, when assessment was made a biennial affair in even-numbered years. The legislature of 1911 authorized the governing bodies of cities of the first and second classes and counties with more than 40,000 inhabitants also to order an assessment of real property in odd-numbered years. The legislature of 1915 enacted a law providing that after 1918 real estate should be assessed only every fourth year. The governing bodies of cities of the first and second classes could order an assessment in other years, but this privilege was rescinded so far as counties were concerned. The legislature of 1927 repealed this provision in so far as cities were concerned, but county commissioners are empowered to order, by resolution, a real estate assessment in any even-numbered years.[1] However, each deputy assessor at the time of making the annual assessment of personal property must take a list of all real property in his district which has become subject to taxation since the last previous listing, including new buildings of more than $300 in value. He also must deduct from the list the value of any buildings worth more than $100 which have been removed or destroyed.[2]

There has been little fundamental change in the method of assessing property since the beginning of county government. Not later than February 15 the county clerk must deliver to the county assessor the real estate assessment roll of the previous year, containing a pertinent description of all tracts and parcels of property, arranged in numerical order as to lots and blocks, sections or subdivisions. The assessor then must furnish each deputy with a field book containing descriptions of real estate in his district. Upon these the deputy must enter his valuation of the property and any other information required by the State Tax Commission and return them to the county assessor daily, or in any event not later than May 1. Each deputy also must subscribe an oath, to be attached to the assessment rolls before they are delivered to the county clerk, to the effect that the description of property and the name of the owner is correct and that the valuation placed thereon is its true value in money to the best of his belief.[3]

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1. Terr. L. 1855, ch. 137, art. 2, secs. 6, 7; Terr. L. 1860, ch. 114, sec. 12; L. 1866, ch. 118, sec. 21; G.S. 1868, ch. 107, sec. 31; L. 1876, ch. 34, sec. 43; L. 1911, ch. 316, sec. 2; L. 1915, ch. 356, sec. 1; L. 1927, ch. 323, sec. 1; G.S. 1935, ch. 79, sec. 402.

2. L. 1911, ch. 316, sec. 3; G.S. 1935, ch. 79, sec. 403.

3. Terr. L. 1855, ch. 137, art. 2, secs. 12, 13, 21, 22, 30, 41; Terr. L. 1860, ch. 114, secs. 20-22, 24; L. 1866, ch. 118, secs. 26, 54; G.S. 1868, ch. 107, secs. 32, 36, 37, 41; L. 1876, ch. 34, secs. 51, 57; L. 1911, ch. 316, secs. 8, 15; G.S. 1935, ch. 79, secs. 408, 415.

From actual view, from consultation with the owner or agent, and from such other sources of information as are within his reach, the deputy assessor must determine as nearly as practicable the actual value of real property in money. He must examine all buildings and other improvements not expressly exempt from taxation and determine the value thereof separately from the land, although the valuation must be entered on the assessment roll in a single aggregate. When a deputy has completed assessment of a district the county assessor must mail to each property owner in the district a notice containing a description of the real estate assessed and the amount of the assessment.[1] If during the assessment it appears to the deputy assessor that any description of real estate in the assessment roll is incorrect or irregular, or that the property has been subdivided and should appear under more than one description, he must at once notify the county clerk.[2]

Specific provision for assessment of property of railroads and other corporations was first made by the legislature of 1866, which required them to make their returns direct to the county clerks of the counties in which their property was located.[3] Beginning in 1876 the law required that returns be made to the State Auditor who, with the Lieutenant Governor, Secretary of State, Attorney General, and State Treasurer constituted the Board of Railroad Assessors. After having valued and assessed all the railroad property in the State the board certified to the county clerks, through the State Auditor, the value of such property in each county.[4] Since 1907 railroad property has been listed with the State Tax Commission and by it certified to the county clerks to be placed on the county tax rolls, the Tax Commission succeeding to the powers and duties of the Board of Railroad Assessors.[5] Since 1897 property of telephone, telegraph, pipeline, and electric power companies has been assessed in the same manner unless all property of a company lies within the boundaries of one county, in which case it is assessed by the county assessor.[6]

Every person "of full age and sound mind" having in his possession any personal property as owner, lessee, or occupant, or in which he has

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1. Terr. L. 1855, ch. 137, art. 2, secs. 27, 29; L. 1866, ch. 118, secs. 23, 24; G.S. 1868, ch. 107, secs. 33, 34; L. 1876, ch. 34, secs. 46, 47; L. 1911, ch. 316, secs. 11, 12; G.S. 1935, ch. 79, secs. 411, 412.
2. L. 1911, ch. 316, sec. 10; G.S. 1935, ch. 79, sec. 410.
3. L. 1866, ch. 118, secs. 6, 20; G.S. 1868, ch. 107, sec. 29.
4. L. 1876, ch. 34, secs. 25-38.
5. L. 1907, ch. 408, secs. 3, 34-38; L. 1909, ch. 243, secs. 1-7; G.S. 1935, ch. 79, secs. 601-605.
6. L. 1897, ch. 245, secs. 2, 3, 5; L. 1901, ch. 362, secs. 1, 2, 5; L. 1905, ch. 502, secs. 2-4, 10, 11; L. 1908, ch. 81, secs. 1-3 (Special Session); L. 1909, ch. 255, secs. 2-4, 10, 11; L. 1919, ch. 304, secs. 2-4, 10, 11; G.S. 1935, ch. 79, secs. 702-704, 710, 711.

any interest or over which he exercises any control, must list such property at its true value in money as of March 1. Every person so required to list property must make out a statement thereof and verify it by oath. Every person of full age and sound mind who owns no property must make a sworn statement to that effect. If the deputy assessor knowingly and willfully fails to require every such person in his taxing district to take the oath as provided he may be fined from $10 to $20 for each such failure of which he is convicted.[1] It is the assessor's duty to increase or decrease the value of any or all items of personal property listed by any person or company if he believes they have been valued above or below their true value in money, but he must make such changes at the time the assessment is returned to him.[2]

The statutes require that statements of personal property owned or controlled by them be made to the assessor by merchants and manufacturers,[3] and that the assessor shall list and value shares of stock issued by National and State banks and trust companies,[4] and the property of telephone, telegraph, pipeline, and electric power companies situated entirely within a single county.[5] Since 1925 moneys, notes, and other evidences of debt must be listed separately by the deputy assessors. The 1925 law fixed a tax rate of 2 1/2 mills on the dollar valuation on such intangible property, which was raised to 5 mills in 1927.[6] If the assessor finds that any personal property subject to taxation has not been assessed in the last 5 years he must list it at double its actual value and designate it on his return as "escaped assessment" unless the error was on the part of an assessor, or the taxpayer had no opportunity to list the property.[7]

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1. Terr. L. 1855, ch. 137, art. 2, secs. 8-10; Terr. L. 1860, ch. 114, secs. 7-12; L. 1866, ch. 118, secs. 4, 7, 11; G.S. 1868, ch. 107, secs. 4, 6, 7, 10, 14; L. 1872, ch. 65, sec. 1; L. 1876, ch. 34, secs. 4, 9, 13; L. 1909, ch. 243, sec. 1; ch. 251, sec. 1; G.S. 1935, ch. 79, secs. 301, 303, 306, 311.

2. L. 1876, ch. 34, sec. 14; G.S. 1935, ch. 79, sec. 312.

3. L. 1866, ch. 118, secs. 13, 16, 17; G.S. 1868, ch. 107, secs. 17, 18, 21, 22; L. 1876, ch. 34, secs. 16, 17, 20, 21; L. 1881, ch. 33, sec. 1; L. 1917, ch. 320, secs. 1, 2; G.S. 1935, ch. 79, secs. 1001, 1002, 1005, 1007.

4. L. 1866, ch. 118, sec. 51; G.S. 1866, ch. 107, secs. 23, 24; L. 1876, ch. 34, sec. 22; L. 1919, ch. 306, sec. 1; L. 1925, ch. 276, sec. 1; L. 1930, ch. 16, sec. 1; L. 1931, ch. 304, sec. 1; G.S. 1935, ch. 79, sec. 1101.

5. L. 1901, ch. 362, sec. 5; L. 1905, ch. 502, sec. 10; L. 1908, ch. 81, sec. 3; L. 1909, ch. 255, sec. 10; L. 1919, ch. 304, sec. 11; G.S. 1935, ch. 79, sec. 711.

6. L. 1925, ch. 277, secs. 1-5; ch. 278, secs. 1, 2; L. 1927, ch. 326, secs. 1-5; L. 1931, ch. 311, secs. 1-5; ch. 312, secs. 1, 2; G.S. 1935, ch. 79, secs. 3108-3113.

7. L. 1866, ch. 118, sec. 37; G.S. 1868, ch. 107, sec. 55; L. 1876, ch. 34, sec. 60; L. 1919, ch. 307, sec. 1; G.S. 1935, ch. 79, sec. 1427.

County Assessor - Functions (Next entry 403, p. 469)

All statements of property received by the assessors from persons, companies, or corporations required to list property must be turned over to the county clerk, accompanied by oaths subscribed by each deputy assessor that they have performed all the duties required of them by law.[1]

The State Tax Commission, created in 1907 and now known as the State Commission of Revenue and Taxation,[2] has general supervision of the county assessors in the performance of their duties. A member of the Commission must visit each county from time to time to require the proper assessment, return, and valuation of property. At least once in 2 years the Commission must require the county assessors of the State to meet with it at the State Capitol on a designated day to consider tax matters and to discuss and formulate any needed changes in methods or forms.[3]

Statistical Data. In addition to duties of assessing property for taxation the county assessor and his deputies have been required from the early days of statehood to make enumerations of inhabitants and gather statistical data of various kinds, particularly regarding agricultural and livestock production.

The State Constitution provided that "the legislature shall provide for taking an enumeration of the inhabitants of the State at least once in 10 years. The first enumeration shall be taken in A.D. 1865."[4] In accordance with this provision the legislature of 1865 enacted a law providing for the first census and placing the duties of enumeration upon the county assessors and their assistants, under the general supervision of the Secretary of State, who also was required to furnish the necessary blanks and instructions. Each assessor was required to take an oath before any district or probate judge to faithfully perform the duties enjoined upon him by the legislative act, and file it with the Secretary of State, and to list the name, age, sex, color, birthplace, and profession or trade of each person over 15 years of age. The deputy assessors filed the original return with the county clerk and a verified copy with the county assessor, who forwarded it to the Secretary of State. The act specified that if no further acts were passed prior to the times fixed by the Constitution for taking the census in the future, that the same procedure should be followed as provided for the first census.[5]

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1. L. 1866, ch. 118, sec. 44; G.S. 1868, ch. 107, secs. 62, 63; L. 1876, ch. 34, secs. 66, 67; L. 1907, ch. 408, sec. 25; L. 1908, ch. 77, sec. 1 (Special Session); G.S. 1935, ch. 79, secs. 1419, 1430.
2. L. 1907, ch. 408, sec. 3; L. 1925, ch. 258, sec. 1; L. 1929, ch. 260, sec. 1; G.S. 1935, ch. 74, sec. 2401; L. 1939, ch. 288, secs. 1, 7.
3. L. 1907, ch. 408, sec. 8; G.S. 1935, ch. 79, sec. 1401.
4. Const., art. 2, sec. 26.
5. L. 1865, ch. 20, secs. 1-17; G.S. 1868, ch. 17, secs. 1-17.

County Assessor - Functions (Next entry 403, p. 469)

The legislature of 1867 enacted a law requiring that the assessors at the time of making the annual personal property assessment should make a list of all persons 21 years or more of age in their respective districts as of March 1, and file it with the county clerk, and providing that such list should be taken as conclusive whenever it was necessary to ascertain the number of adults in any county, township, or city ward as a basis for any action by the county commissioners or other officers.[1] In 1873 a law was enacted requiring the several township and city assessors, in addition to their other duties, to make an annual enumeration of the inhabitants of their respective districts and make return to the county clerk.[2] The legislature of 1875 repealed the 1865 decennial census law and enacted another for the year 1875 and future decades, requiring the assessors to list the name, age, sex, color, and birthplace of each person; the number of persons more than 9 years old and the occupations in which they were engaged. Returns were required to be made to the State Board of Agriculture.[3] The Supreme Court held that this law did not repeal the law of 1873 requiring the assessors to make an annual enumeration of inhabitants.[4]

The annual enumeration law of 1873 was amended in 1923 to permit the county assessors to appoint, in cities of 70,000 to 100,000 population, additional persons whose sole duties should be to make an enumeration of the inhabitants of such cities. In 1933 the act was amended to permit such appointments in any city having not less than 70,000 inhabitants.[5]

Except for this amendment, the legislature of 1933 repealed the annual enumeration law of 1873 as well as the decennial census law of 1875 and enacted a new one providing for annual enumeration of inhabitants by the deputy assessors, the information to be properly recorded "in suitable schedules according to township, city, or ward." The State Board of Agriculture supplies the forms to the county assessors, who distribute them to the deputies. The county assessor makes an abstract in duplicate certifies to its accuracy, and forwards one copy and the original schedules to the State Board on or before July 15 and retains the other copy among his archives.[6]

From 1861 until 1885, when the act was repealed, the assessors were required annually to obtain the names of all persons in their respective districts who were eligible for militia service and report them to the

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1. L. 1867, ch. 113, secs. 1, 2; G.S. 1868, ch. 86, secs. 1, 2; L. 1923, ch. 78, sec. 1.
2. L. 1873, ch. 75, sec. 1.
3. L. 1875, ch. 67, secs. 1-3, 7, 10.
4. 83 Kan. 740; 112 Pac. 621.
5. L. 1923, ch. 77, sec. 1; L. 1933, ch. 114, sec. 7; G.S. 1935, ch. 11, sec. 112.
6. L. 1933, ch. 114, secs. 1, 2, 5; G.S. 1935, ch. 11, secs. 101, 102, 106, 108.

county clerk, who sent a copy to the Adjutant General.[1] The decennial census law of 1865 required listing of all Kansas residents in the military or naval service of the State or Nation.[2] A law of 1883 required enrollment every 2 years of veterans of all wars of the United States, return being made to the county clerk, who made return to the Adjutant General.[3] In 1885 the decennial census law was amended to require the listing of all honorably discharged volunteer Union soldiers. This act was repealed by the new census law of 1933.[4] An 1889 law required assessors to enroll all persons in their districts annually who served in the armed forces of the United States in the Civil War, and make return to the county clerk, who forwarded duplicates to the Adjutant General. This act was repealed by revision of the statutes in 1923.[5] In 1929 a similar enrollment of World War veterans was required, returns being handled in the same way. This act was repealed in 1931.[6]

The first law relating to agricultural and livestock statistics was enacted in 1863 and required the assessors to obtain from each person, at the time of making the annual property assessment, a statement as to the kinds of grain and other crops produced the preceding year and the number and kinds of livestock more than 6 months old on hand. They also were required to obtain data relative to deaf, dumb, blind, and idiotic persons in the district. Returns were filed with the county clerk.[7] The decennial census law of 1865 called for data on agricultural, livestock, and industrial production, and social statistics. These returns were sent to the Secretary of State and a copy filed with the county clerk.[8]

The collection of data relating to agriculture and livestock by the county assessors was made an annual affair by the legislature of 1868, which required that returns be made to the county clerk, who made out and forwarded a tabular statement to the State Auditor.[9] The law amended in 1873 to require that the county clerk make his statement to the State Board of Agriculture rather than to the State Auditors.[10] A new law governing the taking of the second decennial census was enacted in 1875 and required that the statistics be taken that year and every

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1. L. 1861, ch. 49, sec. 6; G.S. 1868, ch. 64, sec. 8; L. 1885, ch. 142, sec. 37.
2. L. 1865, ch. 20, sec. 1.
3. L. 1883, ch. 109, secs. 1-4.
4. L. 1885, ch. 93, sec. 1; L. 1933, ch. 114, sec. 9.
5. L. 1889, ch. 233, secs. 1, 4; Report of Commission to Revise the General Statutes, p. 148.
6. L. 1929, ch. 251, secs. 1-4; L. 1931, ch. 278, sec. 1.
7. L. 1863, ch. 9, secs. 1, 4.
8. L. 1865, ch. 20, secs. 4, 17; G.S. 1868, ch. 17, secs. 4, 17.
9. G.S. 1868, ch. 25, secs. 80-82; L. 1869, ch. 30, sec. 1.
10. L. 1873, ch. 137, sec. 1.

tenth year thereafter. Returns were made to the State Board of Agriculture.[1] Two years later an amendatory act was enacted requiring that the assessors annually gather the statistics provided for in the decennial census law regarding agriculture, manufactures, and blind, deaf and dumb, insane, and idiotic persons and make return to the county clerk by July 1 of each year. The clerk was required to make copies and forward them to the State Board of Agriculture.[2]

Under the present law, enacted in 1933, the deputy assessors at the time of making the annual personal property assessment must not only make an enumeration of the inhabitants, but must gather such statistics relating to agriculture as may be required by the State Board. Blanks for the purpose are furnished by the State Board to the county assessors, who deliver them to their deputies. The assessor must make an abstract of the returns in duplicate, compiled by townships, cities, and wards, certify to its accuracy, and transmit one copy, together with the original schedules, to the State Board. The other copy he must retain in his files.[3]

In performing these duties each deputy must make a personal visit to each family and each dwelling house in his district and obtain the information by inquiry of some member of the family. The information so recorded must then be read to the person furnishing the facts, to correct errors and supply omissions if any exist. Returns must be made to the county assessor before July 1 and their accuracy verified by affidavit.[4] The county assessor must carefully examine all returns for errors and omissions and if he finds any he must require the deputy responsible therefor to correct them. The deputy's pay may be withheld until the proper corrections are made, or if he has been paid and refuses to make the corrections he may be penalized for neglect of duty.[5]

The legislature of 1873 provided that the assessors obtain data regarding horticulture in the county and include with the agricultural and other statistics but in 1903 it was provided that the State Horticultural Society should supply the assessors with blanks for this purpose. The returns must be made by the assessors to the county clerks, who are required to aggregate them and forward them, together with the compilation of totals, to the Society at the State capitol.[6]

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1. L. 1875, ch. 67, secs. 1-7.
2. L. 1877, ch. 183, sec. 1.
3. L. 1933, ch. 114, secs. 1, 2; G.S. 1935, ch. 11, secs. 101, 102.
4. L. 1875, ch. 67, secs. 5, 7; L. 1877, ch. 182, sec. 1; L. 1933, ch. 114, secs. 3, 5; G.S. 1935, ch. 11, secs. 106, 108.
5. L. 1933, ch. 114, sec. 8; G.S. 1935, ch. 11, sec. 114.
6. L. 1873, ch. 137, sec. 1; L. 1903, ch. 404, secs. 1-3; G.S. 1935, ch. 2, secs. 802-804.

The legislature of 1885 made it the duty of assessors to annually collect such information regarding marriages, births, and deaths in their respective districts as the State Board of Health might require and report them to the county board of health.[1] This law, though still on the statute books, was rendered obsolete in practice by the vital statistics law of 1911.[2]

Records

Prior to 1933 the statutes made no provision, except by implication, for any records to be kept by the county assessor. In most counties the assessor preserves copies of the field books supplied to the deputy assessors for making real estate assessments, the information from which is transferred to the assessment roll.[3] The legislature of 1877 enacted a law requiring the county clerk to keep a real estate transfer record upon which all conveyances of real estate in the county must be entered before being recorded by the register of deeds.[4] In many counties, including Shawnee, the county clerk furnished the county assessor annually with lists of real property which had changed hands during the year and the consideration as shown in the deed, which the assessor took into consideration in making his valuations of real estate. In recent years, however, this record has fallen into disuse.

None of the laws providing for the gathering of agriculture and population statistics contained any requirements that the assessor retain copies for himself. Returns in most instances were made to the county clerk and under some laws to the State Board of Agriculture. The law of 1933 specifically required that the county assessor should make an abstract in duplicate, by townships, cities, and wards, of the agriculture and enumeration data, one copy to be forwarded to the State Board of Agriculture and the other to be retained in the archives of his office.[5] Copies of the agriculture and population statistics preserved by the county clerk from 1876 to 1933 are listed in this inventory with the assessor's copies 1933 to date.

In Shawnee County the assessor also preserved a copy of the enrollment made in 1885 of persons who served in the armed forces of the United States.[6]

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1. L. 1885, ch. 129, sec. 10; G.S. 1935, ch. 65, sec. 149.
2. L. 1911, ch. 296.
3. Terr. L. 1855, ch. 137, art. 2, sec. 30; Terr. L. 1860, ch. 114, secs. 21, 24; L. 1866, ch. 118, secs. 26, 54; G.S. 1868, ch. 107, secs. 32, 36, 37; L. 1876, ch. 34, sec. 57; L. 1911, ch. 316, sec. 8; G.S. 1935, ch. 79, sec. 408.
4. L. 1877, ch. 145, secs. 1-3; L. 1915, ch. 173, sec. 1; G.S. 1935, ch. 67, secs. 239-241.
5. L. 1933, ch. 114, sec. 2; G.S. 1935, ch. 11, sec. 102.
6. L. 1885, ch. 93, sec. 1.

Tax Assessment

403. FIELD BOOKS, 1889--. 266 vols.
Field books for real estate assessments, showing name of township or city, name and address of owner, legal description of property, number of acres improved and unimproved, total acreage, assessed value per acre, value of improvements, total assessed value per acre, and remarks. Arr. alph. by names of twps., cities, and additions, and by sec. and lot and block nos. thereunder. No index. Hdw. on pr. fms. Aver. 202 pp. 17 x 13 x 2. 212 vols., 1889-1932, attic; 54 vols., 1906-7, 1922-25, 1935--, co. clk's. va.

For real estate assessment roll, 1861--, see entry 54.

404. VALUE OF REAL ESTATE SOLD AND TRANSFERRED, 1923-27. 3 vols. Discontinued.
Record of market and assessed value of sundry items of real estate sold or transferred for bona-fide consideration, showing name of township, date of acknowledgment, date recorded, legal description of property, number of acres, assessed value, percentage of assessed to market value, and remarks. Arr. chron. by recording dates. No index. Hdw. on pr. fm. 100 pp. 12 x 10 x 1/4. Attic.

For county clerk's real estate transfer record, 1877--, see entry 48.

Statistical Records

405. ABSTRACT OF AGRICULTURE, POPULATION, AND OTHER STATISTICS, 1876--. 62 vols. (twenty-four unlabeled, thirty-eight labeled by year dates). Title varies: Abstract of Agriculture Statistical Roll, 1876-1910, 1912-13, 1919.
Abstracts of agriculture, population and other statistics, showing census of inhabitants by townships and cities; total number and value of farms; amount and value of agricultural, livestock, and poultry production; number of acres cultivated and uncultivated; number of acres in orchards, small fruit, vineyards, and nurseries; number of creameries, ice cream and cheese factories; statistics of livestock and livestock mortality; farm and dairy machinery, and statistics pertaining to blind, deaf, idiotic, and insane persons, pauperism, and crime. Arr. alph. by names of twps. and cities. No index. Hdw. on pr. fms. Aver. 30 pp. 13 x 10 x 1/4. 38 vols., 1876-1910, 1912-13, 1919, attic; 21 vols., 1911, 1914-18, 1920-34, co. clk's. va.; 3 vols., 1935--, co. clk's. off.

For abstract of horticulture statistics, 1900--, see entry 147; census of inhabitants, 1875, entry 148.

406. ENROLLMENT OF EX-SOLDIERS AND SAILORS AND THEIR WIDOWS AND ORPHANS, 1885. 1 vol.
Record of enrollment of soldiers and sailors who served in the War of 1812, Civil War, and Indian wars, and their widows and orphans, showing name and address of soldier or sailor, date of enlistment, arm of service, organization and rank, whether killed or wounded in service, date and place of death if deceased, service record; name, address, physical and financial condition of widow or orphans; remarks, and certification of county clerk. Arr. alph. by names of soldiers and sailors. No index. Hdw. on pr. fms. Condition poor. 100 pp. 17 x 14 x 1. Attic.
For copies of soldiers' discharges, 1861-65, see entry 192.

XVI. COUNTY BOARD OF EQUALIZATION

Structural Organization and Evolution

Creation. From the beginning of county government the boards of county commissioners of the respective counties have been vested with the power to make adjustments in the taxable valuation of property as returned by the assessors.[1] The assembly of 1858 created a Territorial Board of Equalization[2] and required the county clerks to transmit an abstract of the assessment roll to it annually by October 1. The board of county supervisors, which had succeeded the board of county commissioners that year, was required to examine the assessment roll at its annual meeting and to raise or lower valuations.[3]

The assembly of 1860 decreed that boards of county commissioners should constitute county boards for the equalization of tax assessments in their respective districts.[4] The county boards thus constituted were continued under the general terms of the Constitution when Kansas became a state in 1861,[5] and although the tax laws of the State have been repeatedly revised and amended through the years no fundamental change in the method of equalization has been made. The county clerk is designated as clerk of the county board.[6] A board of review for each

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1. L. 1855, ch. 137, art. 2, secs. 31-35.
2. Terr. L. 1858, ch. 67.
3. Ibid., ch. 66, secs. 35-38.
4. Terr. L. 1860, ch. 114, sec. 25.
5. Const., schedule, sec. 3.
6. L. 1866, ch. 118, sec. 27; G.S. 1868, ch. 107, sec. 42; L. 1876, ch. 34, sec. 73; G.S. 1935, ch. 79, sec. 1601.

County Board of Equalization - Functions

(Next entry 407, p. 474)

taxing district, composed of the deputy assessor and two taxpayers of opposite political faiths appointed by the county assessor, was created by the legislature of 1909 and abolished by that of 1913.[1]

The first State legislature created the State Board of Equalization, composed of the State Auditor, State Treasurer, and Secretary of State.[2] In 1907 the legislature created the State Tax Commission, composed of three members appointed by the Governor,[3] and designated it as the State Board of Equalization.[4]

Functions

The first assembly required that the county assessor deliver "a fair copy" of the completed tax book to the county commissioners by June 1 each year. The book remained open for public inspection in the office of the clerk of the board for 10 days prior to the meeting of the board and anyone considering himself aggrieved by the assessor's returns could appeal to the commissioners. The latter were required to hear and determine all appeals "in a summary way" and to adjust and correct the tax book accordingly.[5] The assembly of 1858 required the county clerk to transmit an abstract of the assessment roll to the Territorial Board of Equalization.[6] The assembly of 1860 specified that it be transmitted to the Territorial Auditor.[7]

In revising the tax laws of the Territory the assembly of 1860 required that the county commissioners as a county board of equalization should meet on the third Tuesday of August each year in the county clerk's office, examine the assessment roll of the current year, and equalize the valuation of the real estate so that each tract or lot should be entered on the tax roll at its true value, and make such changes in the valuation or personal property "as shall be right and just."[8]

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1. L. 1909, ch. 251, sec. 5; L. 1911, ch. 317, sec. 1; L. 1913, ch. 323, secs. 1-3.
2. L. 1861, ch. 35, secs. 1, 2; G.S. 1868, ch. 107, sec. 47; L. 1876, ch. 34, sec. 78.
3. L. 1907, ch. 408, sec. 3; L. 1925, ch. 258, sec. 1; L. 1929, ch. 260, sec. 1; G.S. 1935, ch. 74, sec. 2401.
4. L. 1907, ch. 408, sec. 17; G.S. 1935, ch. 79, sec. 1409.
5. Terr. L. 1855, ch. 137, art. 2, secs. 31-35.
6. Terr. L. 1858, ch. 66, sec. 35.
7. Terr. L. 1860, ch. 114, sec. 26.
8. Terr. L. 1860, ch. 114, sec. 25; L. 1866, ch. 118, sec. 28; G.S. 1868, ch. 107, sec. 43.

County Board of Equalization - Functions (Next entry 407, p. 474)

Current laws require the county board of equalization to meet in the county clerk's office on the third Monday of May in each year, and to "make such changes in the assessment of property as shall be necessary in order to secure an assessment of all property at its actual value in money." In years when real estate is assessed they must raise or lower the valuation of any tract or lot which they believe is undervalued or overvalued, to such valuation as the members believe proper. Similar action must be taken each year with regard to personal property. The valuation of the property in each assessment district also must be increased or decreased in order to make an equitable equalization among all the districts in the county. In all cases where it is necessary to increase the valuation of any property, except where the valuation of an entire class of property is raised for purposes of equalization, the county clerk must mail a notice to the person to be affected, stating the intention of the board and fixing a time and place for a hearing.[1]

The county board must "hear and determine any complaint made by any taxpayer as to the assessment and valuation of any property in the county which may be made to the board by the owner of such property by his agent or attorney." The length of the equalization session is limited to 10 days, during which period it may adjourn from time to time as necessary. When the 10 days have expired the board must adjourn for at least 10 days, when it must reconvene for the purpose of hearing complaints from taxpayers who have been notified by the county clerk of pending changes in the valuation of their property. This session is limited to 3 days, at the end of which time the board must adjourn sine die. In any event final adjournment must be by June 20, or by June 19 if June 20 falls on Sunday. Thereafter no change may be made by the board in the assessed valuation of the property of any person nor any reduction made in the aggregate assessed valuation of property in the county.[2]

It is the county clerk's duty to give notice of the annual meeting of the county board of equalization by publication in some newspaper of general circulation in the county in the last week in April each year, and the two weeks following.[3] Immediately after the county board has completed its work the county clerk must prepare an abstract of the assessment rolls of his county and forward it to the State Tax Commission

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1. Terr. L. 1860, ch. 114, sec. 25; L. 1866, ch. 118, sec. 28; G.S. 1868, ch. 107, sec. 43; L. 1876, ch. 34, sec. 74; L. 1913, ch. 323, sec. 1; G.S. 1935, ch. 79, sec. 1602.

2. L. 1876, ch. 34, sec. 74; L. 1911, ch. 317, sec. 2; L. 1913, ch. 323, sec. 1; G.S. 1935, ch. 79, sec. 1602.

3. L. 1866, ch. 118, sec. 29; G.S. 1868, ch. 107, sec. 44; L. 1876, ch. 34, sec. 75; L. 1913, ch. 323, sec. 2; G.S. 1935, ch. 79, sec. 1603.

County Board of Equalization - Functions

(Next entry 407, p. 474)

on or before July 1. Any county clerk refusing or neglecting to prepare and forward the abstract, the law specifies, shall forfeit $100 to the State.[1]

The State Tax Commission, as the State Board of Equalization, is required by law to equalize the valuation and assessment of property throughout the State. It is empowered to equalize the assessment of all property in the State as between persons, firms, or corporations of the same assessment district; between cities and townships of the same county; and between the different counties. The Tax Commission must compile the abstracts of assessments received from the county clerks into tabular form for the use of the State Board of Equalization and when the latter completes its work the Tax Commission must certify its work to the various county clerks.[2] Any person feeling aggrieved by the action of the county board may within 30 days appeal to the State Board for a determination of his grievance.[3] Since 1908 the Tax Commission is required to meet in its office the second Wednesday in July of each year to perform the work of equalization. Whenever the assessed valuation of the property of any taxing political subdivision of the State is changed by the State Board, the officers of such subdivision must use the revised valuation as the basis for making their tax levies.[4]

The State Board has power to order any county board, after its adjournment, to reconvene and make such orders as the Tax Commission considers just and necessary, to direct and order a county board to raise or lower the valuation of property in any township or city; to raise or lower the valuation of the property of any person, company, or corporation; to raise or lower the valuation of any class or classes of property; and to make any other order or perform any other act which the Tax Commission may consider necessary to obtain a fair and consistent assessment of property throughout the State.[5]

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1. L. 1866, ch. 118, secs. 30, 111; G.S. 1935, ch. 107, secs. 45, 46; L. 1876, ch. 34, secs. 76, 77; L. 1877, ch. 40, sec. 1; L. 1909, ch. 243, secs. 8, 9; G.S. 1935, ch. 79, secs. 1604, 1605.

2. L. 1861, ch. 35, sec. 2; L. 1864, ch. 113, sec. 1; L. 1866, ch. 118, secs. 31-33; G.S. 1868, ch. 107, secs. 47-49; L. 1869, ch. 124, sec. 14; L. 1876, ch. 34, secs. 78, 79, 159; L. 1907, ch. 408, sec. 17; L. 1908, ch. 79 (Special Session); L. 1933, ch. 117, sec. 1 (Special Session); G.S. 1935, ch. 79, sec. 1409.

3. L. 1907, ch. 408, sec. 17; G.S. 1935, ch. 79, sec. 1409.

4. L. 1908, ch. 79, sec. 1 (Special Session); G.S. 1935, ch. 79, sec. 1409.

5. L. 1907, ch. 408, sec. 12; G.S. 1935, ch. 79, sec. 1404.

Records

Current laws imply rather than require the keeping of records by the county board of equalization. The assembly of 1860, however, specifically decreed that "the county clerk shall keep an accurate journal or record of the proceedings and orders of said board." This provision remained on the statute books until 1913, when the legislature, in revising this section, omitted any reference to a record.[1] Nevertheless, the county clerks have continued to record the proceedings. In Shawnee County, as in most other counties, the proceedings of the county commissioners as a board of equalization are entered in their journals in connection with their proceedings in other capacities.

Protests filed by property owners against valuations placed on their property are by implication of the statutes regarded as records of the board of equalization,[2] as are copies of applications to the State Board for relief from decisions of the county board.[3] The county clerk sometimes preserves copies of notices sent by him to taxpayers concerning the action of the local board in raising the valuation of their property.[4] Findings and orders of the State Tax Commission are also filed as records of the county board of equalization.[5]

407. (JOURNAL, BOARD OF EQUALIZATION), 1855--. In Commissioners' Journal, entry 2.
Journal of proceedings of board of county commissioners sitting as a county board for the equalization of tax assessments, showing date, commissioners present, description of property, name of owner, amount of assessment, and amount of increase or decrease; and amounts of increases and decreases ordered on each class of property in each township.

408. EQUALIZATION (Tax Protests), 1892-1916, 1932--. 2 f. drs. 1917-32 in Nomination Papers, entry 109.
Protests of taxpayers to county commissioners sitting as county board of equalization, regarding valuations placed on their property, and applications for reduction in valuations, showing date, location, and description of property, previous and present valuations, amount of increase,

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1. Terr. L. 1860, ch. 114, sec. 25; L. 1866, ch. 118, sec. 28; G.S. 1868, ch. 107, sec. 43; L. 1876, ch. 34, sec. 74; L. 1911, ch. 317, sec. 2; L. 1913, ch. 323, sec. 1; G.S. 1935, ch. 79, secs. 1601, 1602.
2. Terr. L. 1855, ch. 137, art. 2, sec. 35; Terr. L. 1860, ch. 114, sec. 25; L. 1866, ch. 118, sec. 28; G.S. 1868, ch. 107, sec. 43; L. 1876, ch. 34, sec. 74; L. 1911, ch. 317, sec. 2; L. 1913, ch. 323, sec. 1; G.S. 1935, ch. 79, sec. 1602.
3. L. 1907, ch. 408, sec. 17; G.S. 1935, ch. 79, sec. 1409.
4. L. 1866, ch. 118, sec. 28; G.S. 1868, ch. 107, sec. 43; L. 1876, ch. 34, sec. 74; G.S. 1935, ch. 79, sec. 1602.
5. L. 1907, ch. 408, sec. 12; G.S. 1935, ch. 79, sec. 1404.

amount or reduction requested, signature of protestant, and notation of commissioners orders. No index. Hdw. and typed on pr. fm. 10 x 5 x 14. 1 f. dr., 1892-1916, co. clk's. va.; 1 f. dr., 1932--, co. clk's. off.

For orders to county clerk to correct tax rolls, 1931--, see entry 63.

409. APPEALS AND DECISIONS OF STATE TAX COMMISSION, 1930--. 2 f. drs. 1933 also in Duplicate Reports to City and State (Miscellaneous Records), entry 152.

Duplicate copies of appeals to State Tax Commission from decisions of county board of equalization by individual taxpayers, showing location and description of property, value of land with and without improvements as fixed by assessor, description and value of personal property, amount of reduction requested of county board, valuation as equalized by county board, date of action, reason for appeal, signature of taxpayer, and date filed. Also contains: (Orders of State Tax Commission), entry 393. Arr. chron. by filing dates. No index. Hdw. on pr. fm. 10 x 5 x 14. 1 f. dr., 1930-31, co. clk's. va.; 1 f. dr., 1932--, co. clk's. off.

410. (ORDERS OF STATE TAX COMMISSION), 1930--. 1930-- in Appeals and Decisions of State Tax Commission, entry 392; 1931-32 also in Duplicate Reports to City and State (Miscellaneous Records), entry 152.

Orders of State Tax Commission to county board of equalization for specific assessment reductions, showing date of hearing tax grievance, name and address of taxpayer, amount of reduction requested, amount ordered, date of order, and signature of Tax Commission secretary.

XVII. COUNTY TREASURER

Structural Organization and Evolution

Selection and Term. To receive and pay out the county moneys the first Territorial assembly created the office of county treasurer. The first treasurers were appointed by the county commissioners to serve until 1857, at which time the office became elective by the people for a term of 2 years.[1] Like other county officers, the treasurer was commissioned by the Governor.[2]

The assembly of 1858, in revising the Territorial laws, also made the office elective for a 2-year term and there has been no subsequent

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1. Terr. L. 1855, ch. 32, sec. 2.
2. Ibid., ch. 44, sec. 34.

 (Next entry 411, p. 495)

change[1] except in the time when the treasurer takes office. The legislature of 1866 decreed that the term of the treasurer should thereafter commence on the first Tuesday of July after his election,[2] but the legislature of 1875 fixed the date as the second Tuesday in October and there has been no further change.[3]

Qualifications - Oath - Bond. No person holding the office of sheriff, probate judge, county attorney, clerk of the district court, nor county clerk, nor any of their deputies, nor any member of the board of county commissioners is eligible to hold the office of county treasurer,[4] nor may the county treasurer in any case act as county clerk or deputy county clerk.[5] Before entering upon the duties of his office the treasurer must execute to the State and file with the county clerk a bond with three or more sufficient sureties, to be approved by the county commissioners and in such sum as they may direct, conditioned that he will pay over to proper authority all moneys coming into his possession by virtue of his office; that he will render a proper accounting to the county commissioners whenever demanded by them or by law; and that he will turn over to his successor in office all moneys, books, papers, and other documents. If the county board is not in session the bond may be approved by the county clerk as clerk of the board, and in such case it must be in a sum not less than double the amount of all money levied by the board in the county and directed to be paid to the treasurer during the year.[6] Under a general law the treasurer also must subscribe an oath of office and file it with his bond.[7]

Removal - Vacancy. Like other elective county officers, the county treasurer may be removed for cause by civil action as provided in the code of civil procedure.[8] The county commissioners, should an examination of the treasury reveal a shortage of funds, may take such steps as they deem necessary to protect the county moneys, including suspension of the treasurer and appointment of someone else in his place.[9]

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1. Terr. L. 1858, ch. 13, sec. 82; Terr. L. 1860, ch. 28, sec. 104; G.S. 1868, ch. 25, sec. 61; G.S. 1935, ch. 19, sec. 501.
2. L. 1866, ch. 36, sec. 1.
3. L. 1875, ch. 77, sec. 1; G.S. 1935, ch. 19, sec. 501.
4. Terr. L. 1860, ch. 28, sec. 108; G.S. 1868, ch. 25, sec. 65; G.S. 1935, ch. 19, sec. 505.
5. G.S. 1868, ch. 25, sec. 72; G.S. 1935, ch. 19, sec. 512.
6. Terr. L. 1855, ch. 32, sec. 3; Terr. L. 1858, ch. 13, sec. 83; Terr. L. 1860, ch. 28, secs. 104, 105; G.S. 1868, ch. 25, secs. 61, 62; G.S. 1935, ch. 19, sec. 501, 502.
7. Terr. L. 1858, ch. 13, sec. 99; Terr. L. 1860, ch. 28, sec. 125; G.S. 1868, ch. 25, sec. 173; G.S. 1935, ch. 19, sec. 2602.
8. G.S. 1868, ch. 25, sec. 180; G.S. 1935, ch. 19, sec. 2609.
9. L. 1874, ch. 8, sec. 4 (Special Session); G.S. 1935, ch. 19, sec. 523.

For failure to pay a draft for State taxes drawn on him by the State Treasurer, the law provides that the county treasurer shall forfeit his office in addition to suffering fine or imprisonment, or both.[1] A treasurer permitting anyone to use any public money under his control may, upon conviction, be imprisoned in the State penitentiary at hard labor for a period of 3 to 10 years and fined not less than $1,000 nor more than $20,000, or may suffer both fine and imprisonment.[2] Other laws provide penalties for specific offenses.

In event of a vacancy in the office of treasurer the county commissioners may appoint a suitable person to perform the duties for the unexpired term. The appointee must subscribe the same oath and execute a bond in the same manner as the elected officer.[3]

Deputies - Compensation. The county treasurer may appoint a deputy who, in the absence or disability of the treasurer, may perform all the duties of the office. The deputy must subscribe an oath of office and file it with the county clerk.[4] The salaries of treasurers vary with the population of the county. In Shawnee County the officer's salary is fixed at $3,250 per year and that of the first deputy is $2,400 per year. An additional sum of $12,000 per year is allowed for clerk hire, but not more than $1,800 per year may be paid to any one person.[5]

Functions

Tax Collection and Distribution. The first assembly made the sheriff ex officio collector of revenue and required him to pay all sums collected into the Territorial and county treasuries, respectively.[6] The 1858 assembly required the county clerk to certify the tax rolls for each township to the township clerks and county treasurer. The township treasurer then posted his bond in the necessary amount with the county treasurer, whereupon he received the tax roll from the township clerk for collection.[7] The assembly of 1860, however, enacted the present law providing that each county treasurer shall by virtue of his

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1. L. 1905, ch. 471, sec. 1; G.S. 1935, ch. 79, sec. 2201; L. 1937, ch. 359, sec. 3.
2. L. 1874, ch. 8, sec. 10 (Special Session); G.S. 1935, ch. 19, sec. 529.
3. Terr. L. 1860, ch. 28, sec. 107; G.S. 1868, ch. 25, sec. 64; G.S. 1935, ch. 19, sec. 504.
4. Terr. L. 1858, ch. 13, secs. 84, 100; Terr. L. 1860, ch. 28, secs. 106, 126; G.S. 1868, ch. 25, secs. 63, 175; G.S. 1935, ch. 19, secs. 503, 2604.
5. L. 1937, ch. 233, sec. 2.
6. Terr. L. 1855, ch. 137, art. 3, secs. 1, 42; art. 4, sec. 4.
7. Terr. L. 1858, ch. 66, secs. 44, 45, 48.

office be collector of taxes for his county and "perform such duties in that regard as are prescribed by law."[1]

The county clerk must deliver the tax roll to the county treasurer not later than November 1 each year. Thereupon the treasurer must publish in some newspaper in the county for 2 consecutive weeks a notice stating the amount of taxes charged for State, county, township, school, city, and other purposes for that year on each $100 assessed valuation. Originally he was required to state in the notice on what days he or his deputies would appear at the usual places of holding elections in each township, but this feature of the law was repealed in 1874, all payments now being made at the treasurer's office. Since 1886 he must enter on the tax roll, immediately upon receiving it, in a column opposite the description of each tract and parcel of land, the amount of unpaid taxes and the amount of unredeemed sales, if any, for the previous years. He must give to each person paying taxes a receipt showing the description and valuation of the land, the amount of unpaid taxes and dates of unredeemed sales, if any; the value, if personal property; and on the reverse side the amount of tax on each $100 valuation for each purpose.[2] He is required to give to any property owner requesting it in writing a statement of his real or personal property tax, either by mail or in person, and it is unlawful for him or his deputies to accept any fee for such service.[3]

All taxes are due on November 1 and constitute a lien upon the property until they are paid.[4] Any person charged with taxes may pay the full amount on or before December 20 of the tax year, or one-half the amount by December 20 and the remaining half on or before June 20 of the ensuing year. When paid in full the treasurer must give a 2 percent rebate on half the taxes, charging it to the general funds of the county and other taxing units. When the first half remains unpaid on December 20 it draws interest at the rate of 10 percent. All taxes remaining unpaid on June 20 of the ensuing year draw interest at the rate of 10 percent until paid, or until the property is sold according to law. All interest, when paid, must be credited by the treasurer to the county general fund.[5] Anyone paying taxes may at the time protest

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1. Terr. L. 1860, ch. 28, sec. 114; G.S. 1868, ch. 25, sec. 75; G.S. 1935, ch. 19, sec. 515.

2. Terr. L. 1860, ch. 114, secs. 31-33; L. 1866, ch. 118, secs. 58-60; G.S. 1868, ch. 107, secs. 73, 76, 77; L. 1876, ch. 34, secs. 84, 88, 89; L. 1886, ch. 30, secs. 1, 2; L. 1909, ch. 244, sec. 1; G.S. 1935, ch. 79, secs. 1803, 2001, 2002.

3. L. 1915, ch. 174, secs. 1, 2; G.S. 1935, ch. 19, secs. 516, 517.

4. L. 1866, ch. 118, sec. 62; G.S. 1868, ch. 107, sec. 74; L. 1876, ch. 34, sec. 85; G.S. 1935, ch. 79, sec. 1804.

5. Terr. L. 1860, ch. 114, sec. 34; G.S. 1868, ch. 107, sec. 79, L. 1876, ch. 34, sec. 91; L. 1893, ch. 110, sec. 1; L. 1919, ch. 309, sec. 1; L. 1933, ch. 310, sec. 1; L. 1933, ch. 119, sec. 1 (Special Session); G.S. 1935, ch. 79, sec. 2004; L. 1937, ch. 364, sec. 1.

payment of all or a portion thereof in a written statement setting forth the grounds for the protest and citing the law or facts upon which he relies.[1]

The first assembly empowered tax collectors to seize and sell goods and chattels upon which the taxes had not been paid in the same manner as goods are sold under execution.[2] Under present laws, when personal property taxes remain unpaid on January 1 and July 1 the county treasurer must mail a notice to the person to whom the taxes are assessed, informing him that he may pay one-half the amount with 10 percent interest thereon from December 20 to the date of payment. If such taxes remain unpaid between July 10 and 15 the treasurer must mail a second notice. If no payment is then made within 30 days he must issue a warrant to the sheriff, directing him to levy the amount on the goods and chattels of the owner. Collection then is made the same as upon execution.[3] When anyone to whom personal property taxes have been assessed is unable by reason of poverty, to pay them, he or someone to whom the facts are known may make an affidavit to that effect and file it with the treasurer, who must note the facts on the tax roll and submit the affidavit to the county commissioners. The treasurer is authorized to administer oaths for this purpose. In such cases no warrant is issued.[4]

It is the sheriff's duty, in returning an uncollected delinquent tax warrant to the treasurer, to note the county to which the taxpayer may have moved and the date of his removal, so near as he can ascertain it. The treasurer then must issue an alias tax warrant directed to the sheriff of the other county, and may issue alias warrants to other sheriffs in counties where the taxpayer may have personal property. When a warrant is returned by the sheriff unsatisfied and the treasurer believes the taxpayer may have property which cannot be reached by the warrant, he must certify to the clerk of the district court an abstract of the amount due. The clerk enters the amount on his judgment docket where it becomes a lien upon any real estate owned by the taxpayer in the same manner as a judgment. The real estate then may be sold by the sheriff as upon execution. Any treasurer failing to issue warrants for delinquent personal property taxes as required by law is liable for the amount of the tax.[5]

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1. L. 1929, ch. 291, sec. 1; G.S. 1935, ch. 79, sec. 2005.
2. Terr. L. 1855, ch. 137, art. 3, secs. 16-18.
3. Terr. L. 1858, ch. 66, sec. 71; Terr. L. 1860, ch. 114, sec. 61; L. 1866, ch. 118, sec. 95; G.S. 1868, ch. 107, sec. 123; L. 1874, ch. 131, sec. 4; L. 1876, ch. 34, sec. 92; L. 1895, ch. 256, sec. 1; L. 1913, ch. 325, sec. 1; L. 1929, ch. 286, sec. 1; L. 1933, ch. 310, sec. 2; G.S. 1935, ch. 79, sec. 2101.
4. L. 1866, ch. 118, sec. 95; G.S. 1868, ch. 107, sec. 124; L. 1876, ch. 34, sec. 93; G.S. 1935, ch. 79, sec. 2102.
5. G.S. 1868, ch. 107, secs. 126, 127; L. 1876, ch. 34, secs. 94-98; L. 1931, ch. 305, sec. 1; G.S. 1935, ch. 79, secs. 2103-2105, 2107.

The first assembly also provided for the sale of real estate upon which the taxes had not been paid. The county commissioners certified the list of delinquent land to the land registrar. When taxes had not been paid by the first Monday in June the tax collectors were notified to advertise sale of such lands for the first Monday in October. Until then they could be redeemed upon payment of a 15 percent penalty. After the sale they could be redeemed within 2 years but only upon payment of double the amount of taxes, penalties, and costs and all subsequent taxes with 50 percent interest.[1]

Under current laws all real estate on which the taxes have not been paid by June 20 in each year is subject to sale. Between July 1 and 10 the county treasurer must make out a list describing all lands and towns lots subject to sale and publish it in some newspaper in the county, together with a notice that each tract described, or so much thereof as may be necessary, will be sold by him at public auction on the first Tuesday in September and succeeding days. On the designated day the sale must begin, and continue until each tract or the necessary amount thereof has been sold. In his discretion the treasurer may require immediate cash payment from anyone to whom property is sold, or if payment is not made within 24 hours after the bid he may cancel the sale, or sue the bidder for the money and 10 percent damages. If any parcel of the property cannot be sold for the necessary amount it must be bid off by the treasurer in the name of the county. It is not necessary that such property be sold as the property of any person or persons if its proper legal description is given.[2]

The treasurer must give each purchaser, upon payment of his bid, a certificate dated the date of the sale, describing the property and stating the amount paid and the date the purchaser will be entitled to a deed if the property is not redeemed. Such certificates are assignable and also may be recorded with the register of deeds. Any person wishing to pay subsequent taxes on property for which he holds the tax sale certificate may do so by presenting the certificate to the treasurer, who must endorse thereon the amount and the date of the payment.[3]

Immediately after the close of the sale the treasurer must enter in a book prepared for that purpose a list of all real estate sold, and all facts of the sale. Property bid in by the county also is recorded in the tax sales book, but no certificates are issued therefor. However,

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1. Terr. L. 1855, ch. 137, art. 5, secs. 1, 5-14.
2. Terr. L. 1860, ch. 114, secs. 35-37, 39-42, 45; L. 1866, ch. 118, secs. 65-67, 70-72, 75; L. 1867, ch. 160, sec. 2; G.S. 1868, ch. 107, secs. 80-82, 84-88, 92; L. 1869, ch. 120, sec. 1; L. 1874, ch. 131, secs. 2, 3; L. 1876, ch. 34, secs. 105-107, 109, 111-114, 118; G.S. 1935, ch. 79, secs. 2301-2303, 2306, 2308-2311, 2315.
3. Terr. L. 1860, ch. 114, secs. 43, 49; L. 1866, ch. 118, secs. 73, 79; G.S. 1868, ch. 107, secs. 90, 97; L. 1876, ch. 34, secs. 116, 123; L. 1877, ch. 38, sec. 1; G.S. 1935, ch. 79, secs. 2313, 2320.

anyone later paying into the treasury an amount equal to the cost of redeeming the property is given a certificate by the treasurer, which is assigned to the person by the county clerk, such assignment vesting in the holder all the interest of the county in and to such land. The treasurer must file with the county clerk all notices, affidavits, and papers in reference to tax sales of real estate.[1]

Lands bid in by the county continue liable to be taxed the same as though belonging to individuals but may not be sold for such subsequent taxes until they have been redeemed, or until they have been sold or assigned by the county. Such taxes, however, constitute an additional lien on the property.[2]

The legislature of 1891 provided that in counties which should adopt provisions of the act by resolution of the county commissioners, the treasurer shall not accept bids for any property advertised for delinquent taxes from other than the owner, or his executors or assigns, but that the property shall be bid in by the county and held for 3 years. If, at the expiration of 3 years, it has not been redeemed it is sold in the usual manner. The legislature of 1921 provided that the commissioners may revoke the resolution thus adopted whenever they see fit. In 1933 the time the property should be held by the county before sale was extended to 4 years, and the owners permitted to make partial redemption.[3]

Any owner, his agent, or attorney at any time within 4 years from the date the property has been sold for taxes, or any time before issuance of a tax deed to the purchaser, may redeem such property by paying to the county treasurer the amount for which the land was sold, and all subsequent taxes and charges paid by the purchaser, together with 10 percent interest on the whole amount. Where the land was bid off by the county and no certificate of purchase issued, a partial redemption may be made and the date when the tax deed would be issued is extended accordingly. The treasurer must give the person redeeming the property a certificate showing the name of the purchaser, description of the property redeemed, and the amount of redemption money paid. The certificate must be countersigned by the county clerk, and the treasurer must enter the facts concerning the redemption in his book of tax sales opposite the description of the property. The money so paid

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1. Terr. L. 1860, ch. 114, secs. 44, 46, 47; L. 1866, ch. 118, secs. 74, 76, 77; G.S. 1868, ch. 107, secs. 91, 94, 95; L. 1876, ch. 34, secs. 117, 120; G.S. 1935, ch. 19, secs. 2314, 2317, 2318.

2. Terr. L. 1860, ch. 114, sec. 48; L. 1866, ch. 118, sec. 78; L. 1867, ch. 160, sec. 1; G.S. 1868, ch. 107, sec. 96; L. 1876, ch. 34, sec. 122; L. 1911, ch. 327, sec. 1; G.S. 1935, ch. 79, sec. 2319.

3. L. 1891, ch. 162, secs. 1-3; L. 1911, ch. 326, sec. 1; L. 1913, ch. 324, sec. 1; L. 1921, ch. 288, secs. 1-5; L. 1933, ch. 312, sec. 1; G.S. 1935, ch. 79, secs. 2324-2326.

into the treasury he must pay to the purchaser upon surrender of the tax sales certificate. If only a partial redemption is made the treasurer endorses the amount on the tax sales certificate, which the purchaser retains.[1]

Before expiration of the time limited for redeeming lands sold for taxes, the treasurer must publish in some paper of general circulation within the county once a week for 4 consecutive weeks a list of such lands, showing their description as it appears on the tax roll, to whom the taxes are assessed, and the amount of taxes, penalties, and interest calculated to the last day for redemption, and stating that unless the lands are redeemed by the time specified, tax deeds shall be issued to the purchasers.[2] When lands bid in by the county have not been redeemed within 4 years or any extension of that time provided by law, and no one has offered to purchase the property, the county commissioners may authorize the treasurer to issue and the county clerk to assign compromise tax sales certificates to the owner or his agents for any sum less than the legal tax and interest due, as may in the judgment of the commissioners be to the best interests of the county.[3]

County commissioners are authorized to take possession of, and lease for periods of 1 year, lands which have been held for 3 years after being bid in by the county for delinquent taxes. The rental is paid to the county treasurer, who must issue a receipt in duplicate, giving one to the lessee and presenting the other to the county clerk, whose duty it then is to prepare the leases. The treasurer must enter all money paid as rental to the tax account held by the county against the property. It is the treasurer's duty to furnish the county commissioners at their request with a list of such lands held by the county and subject to lease.[4]

The State Inheritance Tax Commission determines and certifies to the county treasurer and the probate court the amount of taxes due on distributive shares of estates. When the tax is paid the treasurer must issue a receipt therefor in triplicate, one copy going to the

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1. Terr. L. 1860, ch. 114, secs. 50, 52, 53; L. 1862, ch. 198, secs. 7, 8; L. 1866, ch. 118, secs. 81, 86, 87; G.S. 1868, ch. 107, secs. 100, 102, 103; L. 1869, ch. 122, sec. 1; L. 1874, ch. 131, sec. 7; L. 1876, ch. 34, secs. 127, 129, 130; L. 1879, ch. 41, sec. 1; L. 1893, ch. 110, sec. 2; L. 1933, ch. 312, secs. 2-4; G.S. 1935, ch. 79, secs. 2401, 2403, 2404.

2. Terr. L. 1860, ch. 114, sec. 55; L. 1862, ch. 198, sec. 9; L. 1866, ch. 118, sec. 88; G.S. 1868, ch. 107, sec. 110; L. 1876, ch. 34, sec. 137; L. 1905, ch. 499, sec. 1; G.S. 1935, ch. 79, sec. 2410; L. 1939, ch. 325, sec. 1.

3. L. 1879, ch. 43, sec. 1; L. 1893, ch. 110, sec. 4; L. 1933, ch. 312, sec. 5; G.S. 1935, ch. 79, sec. 2411.

4. L. 1901, ch. 301, secs. 1-5; L. 1907, ch. 414, sec. 1; G.S. 1935, ch. 79, secs. 2701-2705.

payor, another to the county clerk, and the third to the probate court. Inheritance taxes collected by the county treasurer must be paid into the State Treasury, less 5 percent retained for the county. Such remittances must be made on the first days of January, April, July, and October and must be accompanied by the treasurer's report of the amounts received, for what estates, and when and by whom paid.[1] Taxes on intangible property are collected by the county treasurer and the sheriff the same as other personal property taxes are collected.[2] The register of deeds must remit to the county treasurer daily all fees received for registration of real estate mortgages and at the same time file with the treasurer a report of mortgages registered that day.[3] The legislature of 1927 provided for taxing of the bonds of any state, foreign government, or political subdivision thereof as "secured debts" at a rate of 1/10 of 1 percent per year, or a maximum of $2 per $100 of face value to maturity. Upon presentation of such evidences of debt and payment of the tax the treasurer attached thereto a stamp supplied by the State Treasurer, and the instrument was not thereafter taxable. The county treasurer also was required to enter a description of the instrument in a book provided for that purpose.[4] This law was repealed in 1930,[5] but in 1933 an act was passed to exempt refunded instruments from taxation for the full period of time for which the tax had been paid on the original instrument. Upon presentation, the county treasurer certifies on the new instrument the date to which the tax was originally paid, but must collect a certification fee of 50 cents.[6]

In 1933 an excise tax of 10 cents per pound was imposed on oleomargarine sold in the State which contains other than certain ingredients. The tax is in the form of stamps supplied to the county treasurers and sold by them. The treasurer retains 1 percent of the amount for the county and remits the remainder, together with a report of sale, to the State Treasurer by the 15th day of each month.[7]

The collection of delinquent poll taxes became a duty of the county treasurer by legislative enactment in 1917. The township trustees certified to the county clerk the names of delinquent poll tax payers

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1. L. 1909, ch. 248, secs. 18, 24-26; L. 1915, ch. 357, secs. 17, 18, 24-26; L. 1917, ch. 319, sec. 2; G.S. 1935, ch. 79, secs. 1517, 1518, 1525-1527.
2. L. 1925, ch. 277, sec. 6; L. 1927, ch. 326, sec. 6; L. 1931, ch. 311, sec. 6; G.S. 1935, ch. 79, sec. 3114.
3. L. 1925, ch. 273, sec. 4; L. 1927, ch. 335, sec. 1; G.S. 1935, ch. 79, sec. 3104.
4. L. 1927, ch. 327, secs. 1-6.
5. L. 1930, ch. 19 (Special Session).
6. L. 1933, ch. 324, secs. 1-3; G.S. 1935, ch. 79, secs. 3121-3123.
7. L. 1933, ch. 321, secs. 1, 2, 4; G.S. 1935, ch. 79, secs. 3501-3503.

in their respective townships and the clerk certified the lists to the county treasurer, who was required to collect them in the same manner as he collects personal property taxes. This law was repealed in 1933.[1]

Cities, townships, school districts, and other political subdivisions of the county authorized to levy taxes certify their levies to the county clerk, who enters them on the tax roll. The county treasurer must collect these taxes the same as other taxes and pay them into the treasuries of the respective subdivisions.[2] His October settlement must include a settlement of the financial affairs of each subdivision, and at the time he must file with the county clerk all receipts and vouchers for money paid out by him.[3]

Semiannually the treasurer must prepare a statement in duplicate showing the amount of taxes collected in his county and due the State, and forward one copy to the State Auditor and the other to the State Treasurer January 20 and July 20. Whenever he deems it necessary the State Auditor prepares an estimate of the amount of money necessary to be drawn from the several counties to meet current expenses of the State for the succeeding month and files it with the State Treasurer. The latter apportions the sum among the counties in proportion to the taxes assessed, then draws his draft on each county treasurer for the specified amount. A county treasurer willfully failing to pay such draft may be punished by a fine of $500 to $5,000, or by imprisonment for 1 year, or both.[4] The county is responsible to the State for the full amount of taxes levied for State and other purposes, except double and erroneous assessments, but no county treasurer may be required to pay into the State treasury more State taxes than he actually has collected.[5] When the full amount of the tax assessed is not realized from sale of property for delinquent taxes it is the duty of the county treasurer and county clerk to divide and charge the amount of such unrealized tax to the various taxing districts according to the levies of the tax years in which taxes were delinquent.[6] Similar procedure must be followed when taxes are compromised by the county commissioners.[7]

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1. L. 1917, ch. 267, sec. 1; L. 1933, ch. 237, sec. 1.
2. Terr. L. 1860, ch. 114, secs. 28, 29; L. 1866, ch. 118, secs. 55, 56; G.S. 1868, ch. 107, secs. 69-71; L. 1876, ch. 34, sec. 82; G.S. 1935, ch. 79, sec. 1801.
3. G.S. 1868, ch. 25, sec. 68; L. 1891, ch. 101, sec. 2; G.S. 1935, ch. 19, sec. 508.
4. Terr. L. 1860, ch. 114, sec. 63; L. 1866, ch. 118, sec. 105; G.S. 1868, ch. 107, sec. 129; L. 1874, ch. 131, sec. 5; L. 1876, ch. 34, sec. 99; L. 1891, ch. 41, sec. 1; L. 1905, ch. 471, sec. 1; L. 1923, ch. 224, sec. 1; G.S. 1935, ch. 79, sec. 2201; L. 1937, ch. 359, sec. 3.
5. L. 1866, ch. 118, secs. 108, 110; G.S. 1868, ch. 107, secs. 132, 134; L. 1876, ch. 34, secs. 102, 104; G.S. 1935, ch. 79, secs. 2203, 2204; L. 1937, ch. 359, sec. 4.
6. L. 1885, ch. 199, sec. 1; G.S. 1935, ch. 79, sec. 2914.
7. L. 1901, ch. 122, sec. 1; G.S. 1935, ch. 79, sec. 2413.

Fiscal Bonds. The legislature of 1872 required that bonds issued by school districts should be registered with the county clerk, who was required to furnish a copy of his register to the county treasurer. The taxes collected by the treasurer on the annual levy for that purpose remain in the treasurer's hands as a specific fund to pay the interest and retire the bonds at maturity. Upon payment of the bonds or coupons the county treasurer must cancel them and endorse thereon the date of payment. At the time of his annual settlement with the school district treasurers he must deliver to them the canceled bonds and coupons and take their receipts therefor. On the last Saturday in July of each year the treasurer must make a report to the county clerk of all such bonds and coupons canceled, and the dates when they were paid.[1]

Several laws enacted from time to time have made the county treasurer custodian of the sinking funds for retirement of bonds of townships and drainage districts as well as school districts. A law enacted in 1879 provides that whenever there shall remain in the hands of the county treasurer any money belonging to the bond fund of any township, city, or school district, after the bonds and coupons have been paid and canceled, he shall credit it to the general fund of the taxing district and pay it over to the taxing district treasurer upon demand.[2]

General Accounts. It is the duty of the county treasurer to receive all moneys belonging to the county, from whatever source derived, and all other moneys directed by law to be paid to him. He may pay out county moneys only upon order of the county commissioners, except where other provision is specifically made by law.[3] He must pay all properly attested county warrants presented to him in the order of their presentation. The legislature of 1868 required that if he did not have funds to pay a warrant upon presentation he should certify the fact upon the back of the instrument. Since 1875 he also has been required to make a record of such warrants in a book kept for that purpose, and when any money comes into his possession, to set aside a sum sufficient to pay such warrants when next they are presented.[4] A law enacted in 1891 requires that the county clerk, before delivering a warrant to the person for whose benefit it is drawn, shall present it to the treasurer, who must enter in a book kept by him for that purpose the number, date, and amount of the warrant; upon what fund drawn, and the name of

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1. L. 1872, ch. 94, secs. 1-3; L. 1876, ch. 122, art. 13, secs. 4-6, 9-11; ch. 124, sec. 1; L. 1879, ch. 49, secs. 4, 5, 7; G.S. 1935, ch. 72, secs. 2003-2005.
2. L. 1879, ch. 93, sec. 1; G.S. 1935, ch. 19, sec. 538.
3. Terr. L. 1858, ch. 13, sec. 87; Terr. L. 1860, ch. 28, sec. 109; G.S. 1868, ch. 25, sec. 66; G.S. 1935, ch. 19, sec. 506.
4. Terr. L. 1855, ch. 32, sec. 5; Terr. L. 1858, ch. 13, sec. 89; Terr. L. 1860, ch. 28, sec. 111; G.S. 1868, ch. 25, sec. 69; L. 1875, ch. 76, sec. 1; G.S. 1935, ch. 19, sec. 509.

the payee, and thereupon must countersign the warrant upon its face.[1] Upon receipt of a county warrant the treasurer must immediately endorse thereon the date of receipt, the amount of interest allowed, if any, and by whom presented. It is illegal for the treasurer of his deputies to receive any State, county, city, or township warrant for less than its face value, and at each settlement with the county commissioners he must file in the county clerk's office an affidavit that he has not violated this law.[2]

The treasurer must keep a "just and true account of the receipts and expenditures of all moneys which shall come into his hands by virtue of his office" in books provided for that purpose, which shall be open at all times for the inspection of the county commissioners and all other county and State officers.[3] He must make an annual settlement of his accounts with the county commissioners and exhibit to them his books, moneys, accounts, and vouchers to be audited. Originally this settlement was required to be made at the July meeting of the commissioners but since 1891 it must be made at the October meeting. The commissioners, however, have always been empowered to direct a settlement at any time.[4]

Since 1874 it has been the duty of the county treasurer to make a statement on the last business days of January, April, July, and October of each year showing the amount of money in the treasury at the time and the different funds to which it belongs. It must be signed and sworn to by the treasurer, and if he swears falsely to any statement his office may be declared vacant and he may be imprisoned in the State penitentiary for 1 year.[5] He must take receipts in duplicate for all moneys or orders paid out by him, and file one copy with the county clerk.[6]

Whenever ordered by the county commissioners to do so, it is the duty of the probate judge, assisted by two citizens and taxpayers appointed by the commissioners, to examine and count the funds in the hands of the county treasurer and to make such other examinations of

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1. L. 1891, ch. 249, sec. 5; G.S. 1935, ch. 10, sec. 805.
2. G.S. 1868, ch. 25, secs. 70, 74; G.S. 1935, ch. 19, secs. 510, 514.
3. Terr. L. 1858, ch. 13, sec. 88; Terr. L. 1860, ch. 28, sec. 110; G.S. 1868, ch. 25, sec. 67; G.S. 1935, ch. 19, sec. 507.
4. Terr. L. 1855, ch. 32, sec. 6; Terr. L. 1858, ch. 13, sec. 88; Terr. L. 1860, ch. 28, sec. 110; G.S. 1868, ch. 25, sec. 67; L. 1891, ch. 101, sec. 1; G.S. 1935, ch. 19, sec. 507.
5. L. 1874, ch. 8, secs. 1, 2 (Special Session); L. 1875, ch. 78, sec. 1; L. 1915, ch. 175, sec. 1; G.S. 1935, ch. 19, secs. 520, 521.
6. L. 1864, ch. 37, sec. 4; G.S. 1868, ch. 25, sec. 71; G.S. 1935, ch. 19, sec. 511.

his books and accounts as he may deem proper. The examiners must certify the results of their examination to the county clerk and if there is a deficiency in funds the clerk must immediately notify the county commissioners, who are required to meet and take such action as may be necessary to conserve and protect the funds of the county. If they consider it necessary they may suspend the treasurer and appoint another person in his place.[1]

In Shawnee County it is the duty of the county auditor to examine the county treasurer's accounts at least once every 3 months and make a detail report to the county commissioners at their next regular session. In the event the treasurer is carrying on his cash account anything that is not cash, such as tax receipts, assignments, notes, or protested checks, the auditor must require him to make the amount good to the cash account immediately, and upon his failure to do so the auditor must notify the county attorney. All accounts and settlements to be made by the treasurer with the county commissioners also must be examined by the auditor. The treasurer is liable on his official bond for the full amount carried on his books as cash.[2] The auditor must file with the treasurer a copy of his monthly report to the county commissioners of claims audited, and the treasurer may not pay or endorse any warrant, the amount of which has not been authorized by the report.[3]

The county clerk keeps the accounts of the county with the county treasurer. He charges the treasurer with the amount of the tax roll and all moneys paid to the treasurer, and credits him, upon presentation of the proper vouchers, with all moneys paid out and all taxes uncollected.[4]

It is the duty of the county treasurer to apply for and receive from the State Treasurer the amount of the State annual school fund apportioned to his county and pay it to the various district treasurers, upon application by them, accordingly as it is apportioned by the county superintendent. He also collects all moneys due the county for school purposes from fines, forfeitures, and proceeds from the sale of stray animals and pays it to the district treasurers in the same manner as the annual school fund.[5] The county treasurer also receives from the State Treasurer the amount of the State school aid fund apportioned

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1. L. 1874, ch. 8, sec. 4 (Special Session); G.S. 1935, ch. 19, sec. 523.
2. L. 1874, ch. 56, sec. 3; L. 1915, ch. 172, sec. 5; G.S. 1935, ch. 19, secs. 616, 624.
3. L. 1872, ch. 67, sec. 8; G.S. 1935, ch. 19, sec. 608.
4. L. 1864, ch. 37, sec. 2; G.S. 1868, ch. 25, sec. 51; G.S. 1935, ch. 19, sec. 312.
5. L. 1861, ch. 76, art. 8, secs. 2-4; G.S. 1868, ch. 92, secs. 73-75; L. 1876, ch. 122, art. 16, secs. 6, 7; art. 17, sec. 1; G.S. 1935, ch. 72, secs. 2306, 2307, 2401.

his county and credits it to the general funds of school districts as allotted by the State Superintendent of Public Instruction.[1] The county treasurer is custodian of the county normal institute fund, composed of fees collected by the county superintendent from persons taking teachers' examinations and attending the institute and any appropriations made by the county or State. This money may be expended only for expenses incurred in connection with the normal institutes and may be disbursed only upon order of the county superintendent.[2] When the State school lands were placed on the market in 1864 it was made the duty of the county treasurer to receive the original payments from purchasers, and afterward the annual installment payments of principal and interest, and to pay the money into the State Treasury semiannually.[3]

All moneys coming into his hands by virtue of his office must be deposited by the county treasurer daily, in his name as treasurer, in some bank or banks located in the county which have been designated by the county commissioners and from whom they have taken a sufficient bond to secure such funds.[4] In making up his bank deposits the treasurer must make a duplicate deposit ticket and file it with the county clerk, and whenever he transmits any money to any designated fiscal agent outside of the county he must file a statement of the amount with the county clerk. The fiscal agent must transmit to the clerk monthly a statement of the amounts received from the county treasurer and the amounts paid out. The county clerk charges the bank or fiscal agent and credits the county treasurer with money so deposited or transmitted. All checks drawn by the treasurer on banks holding county moneys must show upon their faces the purpose for which they were drawn, and it is unlawful for a bank to pay any such check unless it is countersigned by the county clerk. The clerk charges the treasurer with checks so countersigned and credits the bank with the amount.[5]

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1. L. 1911, ch. 268, sec. 4; G.S. 1935, ch. 72, sec. 5004; L. 1937, ch. 306, secs. 3-5.

2. L. 1877, ch. 136, secs. 3-7; L. 1901, ch. 267, secs. 1, 2; L. 1911, ch. 270, sec. 1; L. 1915, ch. 304, sec. 2; G.S. 1935, ch. 72, secs. 1404-1408.

3. L. 1864, ch. 102, secs. 7, 10; L. 1866, ch. 112, sec. 6; G.S. 1868, ch. 94, secs. 7, 10, 13, pp. 944, 945; L. 1876, ch. 122, art. 14, secs. 7, 10; L. 1879, ch. 162, sec. 1; L. 1883, ch. 140, sec. 1; L. 1903, ch. 477, sec. 1; L. 1909, ch. 218, sec. 11; L. 1923, ch. 195, sec. 1; G.S. 1935, ch. 72, secs. 2112, 2126.

4. L. 1872, ch. 183, sec. 2; L. 1876, ch. 78, sec. 1; L. 1887, ch. 131, sec. 1; L. 1889, ch. 189, sec. 1; L. 1891, ch. 102, sec. 1; L. 1895, ch. 116, sec. 1; L. 1897, ch. 94, sec. 1; L. 1901, ch. 130, sec. 1; L. 1909, ch. 101, sec. 1; L. 1933, ch. 159, sec. 1; ch. 160, sec. 1; G.S. 1935, ch. 19, sec. 530; L. 1937, ch. 82, sec. 2.

5. L. 1876, ch. 78, secs. 3-7; G.S. 1935, ch. 19, secs. 531-535.

Motor Vehicles. Since 1913 it has been the duty of the county treasurer to register motor vehicles in the county when application is made by the owners, and to distribute the license fees to the various road funds. Since 1929 such fees must be remitted to the State Treasurer, except 10 cents for each license application, which is credited to the county general fund.[1] When the uniform motor vehicle operators' and chauffeurs' license act was adopted in 1931 the law specified that applications for licenses should be made to the State Vehicle Department.[2] However, the State Department designated the county treasurers as its agents. The legislature of 1937 also required all motor vehicle owners to present certificates of title at the time they made application for registration, or to procure such certificates from the county treasurer.[3]

Records

The bulk of the county treasurer's records are kept by him in his capacity as collector of taxes and fiscal agent of the county. To these are added the records he keeps as motor vehicle registration agent of the county, and a few miscellaneous records. Like those in other county offices, many of the records in the treasurer's office are kept by implication rather than by requirement of the statutes. Others are kept because methods of business practice in the handling of money make their existence advisable. However, several of the financial records in current use, though they do not differ fundamentally from those which have been used for many years past, are decreed by the State Municipal Accounting Board provided by the legislature of 1935 to set up a uniform system of fiscal procedure for all Kansas municipalities.[4]

The tax roll for each year must be delivered to the county treasurer by the county clerk not later than November 1,[5] and remains as a record of his office. In some counties the roll of taxes levied on different kinds of property have been kept separate for varying periods. In Shawnee County the tax roll of railroad and other corporation property has been kept separately since 1874. That of taxes levied

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1. L. 1913, ch. 65, sec. 3; L. 1917, ch. 74, secs. 1, 2; L. 1919, ch. 88, secs. 1-5; L. 1921, ch. 69, secs. 1-5; L. 1929, ch. 81, secs. 5-10; L. 1933, ch. 73, sec. 2; G.S. 1935, ch. 8, secs. 129, 145.
2. L. 1931, ch. 80, sec. 8; G.S. 1935, ch. 8, sec. 208; L. 1937, ch. 73, sec. 7.
3. L. 1937, ch. 72, secs. 3-8.
4. L. 1935, ch. 275, secs. 8, 10; G.S. 1935, ch. 75, secs. 1118, 1120.
5. Terr. L. 1860, ch. 114, sec. 31; L. 1866, ch. 118, sec. 58; G.S. 1868, ch. 107, sec. 73; L. 1876, ch. 34, sec. 84; L. 1909, ch. 244, sec. 1; G.S. 1935, ch. 79, sec. 1803.

against bank property was kept separately from 1891 to 1936, when it was combined with the regular tax roll. The road tax roll was similarly kept separately from 1876 until 1889.

Certifications and determinations of the State Inheritance Tax Commission of taxes due on distributive shares of estates[1] are preserved by the county treasurer. The treasurer keeps copies of receipts he is required by law to give persons paying taxes on real or personal property,[2] and copies of receipts issued for payment of inheritance taxes,[3] poll taxes,[4] and special taxes levied for construction of hard surfaced roads under various laws. Though not specifically required by law, the treasurers of most counties formerly kept a separate record of tax collections. This book has been discontinued in some counties, but has been kept in Shawnee County since 1859 and shows the source of each tax payment. Most treasurers preserve duplicate copies of their semiannual reports to the State Auditor and State Treasurer of taxes collected in their counties and due the State.[5]

The secured debts stamp tax law of 1927 required the county treasurer to record in a book kept for that purpose a description of all instruments upon which the tax was paid, but this tax law was repealed in 1930.[6] In some counties the treasurer keeps a record of taxes paid under protest.[7]

The county treasurer is required to preserve printers' affidavits of the publication of his annual lists of real estate upon which the taxes are delinquent, and usually preserves copies of the lists themselves.[8] He also must keep a record of all sales of real property for delinquent taxes, recording the number and date of the sales certificate, the name of the owner, a description of the tract or lot, the name of the purchaser, the total amount of taxes due at the time of the sale,

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1. L. 1909, ch. 248, sec. 18; L. 1915, ch. 357, sec. 17; L. 1917, ch. 319, sec. 2; G.S. 1935, ch. 79, sec. 1517.
2. Terr. L. 1860, ch. 114, sec. 33; L. 1866, ch. 118, sec. 60; G.S. 1868, ch. 107, sec. 77; L. 1876, ch. 34, sec. 89; L. 1886, ch. 30, sec. 2; G.S. 1935, ch. 79, sec. 2002.
3. L. 1915, ch. 357, sec. 18; G.S. 1935, ch. 79, sec. 1518.
4. L. 1917, ch. 267, sec. 1. The poll tax was abolished by L. 1933, ch. 237, sec. 1.
5. L. 1905, ch. 471, sec. 1; G.S. 1935, ch. 79, sec. 2201; L. 1937, ch. 359, sec. 3.
6. L. 1927, ch. 327, sec. 6; L. 1930, ch. 19 (Special Session).
7. L. 1929, ch. 291, sec. 1; G.S. 1935, ch. 79, sec. 2005.
8. Terr. L. 1860, ch. 114, secs. 36-38; L. 1866, ch. 118, secs. 66-68; L. 1867, ch. 160, sec. 2; G.S. 1868, ch. 107, secs. 81-83; L. 1869, ch. 120, sec. 1; L. 1874, ch. 131, sec. 3; L. 1876, ch. 34, secs. 106-108; G.S. 1935, ch. 79, secs. 2302-2304.

the amounts and dates of subsequent taxes paid, to whom the sale is assigned, the date and amount of redemption, and the name of the person to whom the property is deeded and the date of the deed, if it is not redeemed.[1]

Though not legally required, county treasurers invariably keep stubs of duplicates of the tax sales certificates they issue to purchasers of real estate sold for delinquent taxes,[2] including certificates of compromised taxes on unredeemed property held by the county and the orders of the county commissioners for such compromises.[3] In Shawnee County the treasurer keeps a separate record of transfers of real property bid off by the county for delinquent taxes and not redeemed by the owner or his agents within the timelimit provided by law.[4]

Copies of notices he is required to send owners of personal property upon which the taxes have become delinquent[5] sometimes are preserved by the treasurer, and he invariably retains stubs of warrants he issues to the sheriff for the collection of delinquent personal property taxes.[6] The original warrants returned by the sheriff also are found among the treasurer's records. In Shawnee County it has been the custom for the treasurer to make only one copy of the warrants, however, and deliver them still in book form to the sheriff, who returns them in the same manner. From 1927 to 1931 the Shawnee County treasurer kept a record of delinquent poll taxes certified to him by the county clerk for collection, and warrants issued for the collection of such taxes and returned by the sheriff are present for the years 1920-26.[7]

Since 1860 the law has provided that the county treasurer shall enter a record of all redemptions or partial redemptions of real property in his book of tax sales, but in many counties, including Shawnee, a separate record of redemptions has been kept. The treasurer also retains duplicate copies of certificates he issues to persons redeeming

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1. Terr. L. 1860, ch. 114, sec. 46; L. 1866, ch. 118, sec. 76; G.S. 1868, ch. 107, sec. 94; L. 1876, ch. 34, sec. 120; G.S. 1935, ch. 79, sec. 2317.
2. Terr. L. 1860, ch. 114, sec. 43; L. 1866, ch. 118, sec. 73; G.S. 1868, ch. 107, sec. 90; L. 1876, ch. 34, sec. 116; G.S. 1935, ch. 79, sec. 2313.
3. L. 1879, ch. 43, sec. 1; L. 1893, ch. 110, sec. 4; L. 1933, ch. 312, sec. 5; G.S. 1935, ch. 79, sec. 2411.
4. L. 1891, ch. 162, sec. 3; L. 1911, ch. 326, sec. 1; L. 1913, ch. 324, sec. 1; G.S. 1935, ch. 79, sec. 2326.
5. L. 1913, ch. 325, sec. 1; G.S. 1935, ch. 79, sec. 2101.
6. Terr. L. 1860, ch. 114, sec. 61; L. 1866, ch. 118, sec. 95; G.S. 1868, ch. 107, sec. 123; L. 1874, ch. 131, sec. 4; L. 1876, ch. 34, sec. 92; L. 1895, ch. 256, sec. 1; L. 1913, ch. 325, sec. 1; L. 1929, ch. 286, sec. 1; L. 1933, ch. 310, sec. 2; G.S. 1935, ch. 79, sec. 2101.
7. L. 1917, ch. 267, sec. 1. Repealed by L. 1933, ch. 237, sec. 1.

property which has been sold for delinquent taxes.[1] Orders by the county commissioners to the treasurer for the abatement and refund of taxes erroneously charged also are usually found among his records,[2] as are original tax sales certificates surrendered by purchasers or assignees upon payment to them of redemption money.[3] In Shawnee County the treasurer keeps a record of the disbursements of tax moneys by funds and taxing districts, which also shows the amounts and sources of collections. Another distribution record kept by him shows also the amounts charged back to each fund and taxing district due to delinquency.

Various laws since 1866 have required that funding bonds of the county and its subdivisions be registered with the county clerk. There has been no law requiring the treasurer to keep a register of bonds except one enacted in 1872 requiring the county clerk to furnish the treasurer with a copy of his school bond register.[4] Nevertheless, as fiscal agent for the county's political subdivisions the treasurer keeps such a register of all bonds registered by the clerk. In practice, there are many instances in which bonds and coupons which have been paid by the treasurer are not called for by the issuing districts, and remain indefinitely in the treasurer's possession.

By virtue of the law requiring him to "keep a just and true account of the receipts and expenditures of all moneys which shall come into his hands by virtue of his office, in a book or books to be kept by him for that purpose,"[5] the county treasurer keeps ledgers of accounts with each separate fund handled by him, showing each credit, debit, and balance. At the close of each business day he transmits to the county clerk a statement of all his cash transactions, together with the canceled warrants, vouchers, and bank deposit slips as evidence of the money he has paid out.

The treasurer usually preserves copies of the reports showing the condition of the various funds in the treasury, which he makes to the county commissioners on the last business days of January, April, July, and October.[6] He keeps a record of money received from purchasers of

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1. Terr. L. 1860, ch. 114, sec. 50; L. 1862, ch. 198, sec. 8; L. 1866, ch. 118, sec. 87; G.S. 1868, ch. 107, sec. 102; L. 1876, ch. 34, sec. 129; L. 1933, ch. 312, sec. 3; G.S. 1935, ch. 79, sec. 2403.

2. L. 1913, ch. 322, sec. 1; L. 1917, ch. 321, sec. 1; G.S. 1935, ch. 79, sec. 1701; L. 1939, ch. 319, sec. 1.

3. Terr. L. 1860, ch. 114, sec. 53; L. 1866, ch. 118, sec. 81; G.S. 1868, ch. 107, sec. 103; L. 1876, ch. 34, sec. 130; L. 1933, ch. 312, sec. 4; G.S. 1935, ch. 79, sec. 2404.

4. L. 1872, ch. 94, secs. 1, 2; L. 1876, ch. 122, art. 13, secs. 9, 10; ch. 124, sec. 1; L. 1879, ch. 49, sec. 4; G.S. 1935, ch. 72, sec. 2003.

5. Terr. L. 1860, ch. 28, sec. 110; G.S. 1868, ch. 25, sec. 67; G.S. 1935, ch. 19, sec. 507.

6. L. 1874, ch. 8, sec. 1 (Special Session); L. 1875, ch. 78, sec. 1; L. 1915, ch. 175, sec. 1; G.S. 1935, ch. 19, sec. 520.

State school lands and remitted by him to the State Treasurer.[1] He also preserves the daily reports of the register of deeds of registration of real estate mortgages and fees remitted.[2] Since 1875 the statutes have required that the county treasurer and other county officers receiving fees in their official capacity keep a record thereof and make a quarterly report to the county commissioners of the amount collected and uncollected.[3] In 1936 Shawnee County by virtue of population came under the law of 1909 which provides that such officers shall keep fee books "in forms to be prescribed by the county auditor and approved by the board of county commissioners," and that they shall file with the auditor quarterly a statement of fees charged and not collected.[4] Copies of his quarterly statements of fees often are found in the treasurer's records.

Under the law of 1872 the county auditor is required to file with the county treasurer a copy of his monthly report to the county clerk of claims audited and allowed.[5] Since 1875 the treasurer has been required to keep a record of all warrants presented to him and not immediately paid for lack of funds.[6] Since 1891 the law has required that the county clerk, before delivering any warrant, shall present it to the county treasurer, who shall countersign it and enter in a register kept for that purpose the number, date, and amount of the warrant, on what fund drawn, and the name of the payee. In this book he must record warrants presented and not paid for lack of funds.[7] The effect of this law was to render obsolete the separate record of unpaid warrants required by the law of 1875.

Orders drawn on him by the treasurers of cities, townships, school districts, and other taxing subdivisions of the county for tax money due them[8] and also the orders of school district treasurers for State and

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1. L. 1864, ch. 102, secs. 7, 10; L. 1866, ch. 112, sec. 6; G.S. 1868, ch. 94, secs. 7, 10, 13, pp. 944, 945; L. 1876, ch. 122, art. 14, secs. 7, 10; L. 1879, ch. 162, sec. 1; L. 1883, ch. 140, sec. 1; L. 1903, ch. 477, sec. 1; L. 1909, ch. 218, sec. 11; L. 1923, ch. 195, sec. 1; G.S. 1935, ch. 72, secs. 2112, 2126.
2. L. 1925, ch. 273, sec. 4; L. 1927, ch. 335, sec. 1; G.S. 1935, ch. 79, sec. 3104.
3. L. 1875, ch. 93, secs. 2, 3; ch. 96, secs. 2, 3; L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1913, ch. 197, sec. 16; R.S. 1923, ch. 28, sec. 123; G.S. 1935, ch. 28, sec. 123.
4. L. 1909, ch. 145, secs. 16, 17; L. 1911, ch. 190, secs. 16, 17; G.S. 1935, ch. 28, secs. 315, 316; L. 1937, ch. 233, secs. 17, 18.
5. L. 1872, ch. 67, sec. 8; G.S. 1935, ch. 19, sec. 608.
6. L. 1875, ch. 76, sec. 1; G.S. 1935, ch. 19, sec. 509.
7. L. 1891, ch. 249, secs. 5-7; G.S. 1935, ch. 10, secs. 805-807.
8. Terr. L. 1860, ch. 114, sec. 29; L. 1866, ch. 118, secs. 55, 56; G.S. 1868, ch. 107, secs. 69-71; L. 1876, ch. 34, sec. 82; G.S. 1935, ch. 79, sec. 1801.

county school funds apportioned to their districts[1] usually are found among the county treasurer's records, as are copies of the receipts of such treasurers for the money he pays over to them. He likewise preserves receipts for miscellaneous payments made by him[2] and the receipts of the State Treasurer for State taxes and other moneys remitted.[3] He also retains duplicate copies of his own receipts, which to be valid must be countersigned by the county clerk, for all miscellaneous moneys paid to him;[4] for money received from the county superintendent for the normal institute fund;[5] mortgage registration fees remitted by the register of deeds,[6] and fines remitted by justices of the peace.[7]

Certificates from the State Registrar of Vital Statistics of fees due local registrars for reporting births and deaths in the county, payable from the county general fund, may usually be found among the treasurer's records.[8]

The treasurer keeps a record of his accounts with the various county depositories,[9] and usually preserves duplicates of his bank deposit slips, stubs of checks written by him on county depositories, and monthly bank statements.[10]

The Shawnee County treasurer, though the law does not specifically require it, keeps a record of motor vehicle licenses issued and copies of the applications for registration,[11] as well as duplicates of his

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1. L. 1861, ch. 76, art. 3, sec. 20; L. 1867, ch. 123, sec. 4; G.S. 1868, ch. 92, sec. 38; L. 1876, ch. 122, art. 4, sec. 16; G.S. 1935, ch. 72, sec. 1018.
2. L. 1864, ch. 37, sec. 4; G.S. 1868, ch. 25, sec. 71; G.S. 1935, ch. 19, sec. 511.
3. L. 1861, ch. 90, sec. 16; G.S. 1868, ch. 102, sec. 62; L. 1879, ch. 166, sec. 68; G.S. 1935, ch. 75, sec. 621.
4. L. 1864, ch. 37, sec. 6; G.S. 1868, ch. 25, sec. 54; G.S. 1935, ch. 19, sec. 316.
5. L. 1877, ch. 136, sec. 5; G.S. 1935, ch. 72, sec. 1406.
6. L. 1925, ch. 273, sec. 4; L. 1927, ch. 335, sec. 1; G.S. 1935, ch. 79, sec. 3104.
7. Terr. L. 1860, ch. 80, sec. 2; G.S. 1868, ch. 83, sec. 26; G.S. 1935, ch. 63, sec. 503.
8. L. 1911, ch. 296, sec. 14; G.S. 1935, ch. 65, sec. 143.
9. L. 1872, ch. 183, sec. 2; L. 1876, ch. 78, sec. 1; L. 1887, ch. 131, sec. 1; L. 1889, ch. 189, sec. 1; L. 1891, ch. 102, sec. 1; L. 1895, ch. 116, sec. 1; L. 1897, ch. 94, sec. 1; L. 1901, ch. 130, sec. 1; L. 1909, ch. 101, sec. 1; L. 1933, ch. 159, sec. 1; ch. 160, sec. 1; G.S. 1935, ch. 19, sec. 530.
10. L. 1876, ch. 78, secs. 3-6; G.S. 1935, ch. 19, secs. 531-534.
11. L. 1913, ch. 65, sec. 2; L. 1917, ch. 74, sec. 1; L. 1919, ch. 88, sec. 2; L. 1921, ch. 69, sec. 2; L. 1929, ch. 81, sec. 7; G.S. 1935, ch. 8, sec. 129.

monthly reports of license fees collected which accompany his monthly remittances to the State Treasurer.[1] He retains duplicate copies of applications for certificates of title to motor vehicles,[2] and copies of receipts for payment of operators' and chauffeurs' license fees.[3]

The statutes require that the surety bond executed by the county clerk as assurance of faithful performance of duties shall be filed with the county treasurer,[4] who also files the surety bonds of his own deputies.

Taxation

Tax Roll

411. TAX ROLL, 1861--. 380 vols. (dated).
Roll of taxes charged against real estate and personal property, showing to whom assessed, legal description of property, taxable valuation, school district number, amount of tax for each purpose, total; amounts due first and second half, amounts paid, receipt numbers; fees, penalties, and costs; amount unpaid, for what years, and date of sale if sold for delinquent taxes. Also contains: Bank Tax Roll, 1937--, entry 413; Road Tax Roll, 1890--, entry 414. Real estate arr. by twps. and cities and by sec., block, and lot nos. thereunder; personal property arr. by twps. and cities and alph. by names of owners thereunder. No index. Hdw. on pr. fm., 1861-1919; typed on pr. fm., 1920--. Aver. 600 pp. 19 x 13 x 4. 284 vols., 1861-1924, attic; 96 vols., 1925--, treas'. off.
For abstract of tax rolls, 1873--, see entry 68.

412. CORPORATION (Tax Roll), 1874--. 14 vols. Title varies: Railroad, 1874-1927.
Roll of taxes charged against railroads, telephone, telegraph, and other public utility corporations owning property in county, showing name of corporation, where incorporated, location and description of real estate and personal property, taxable valuation, total amount of taxes, rebates and penalties, dates and amounts of payments, receipt numbers, remarks, and certification of county clerk. Arr. alph. by names of corporations. Hdw. on pr. fm. 225 pp. 18 x 14 x 1. 10 vols., 1874-1914, attic; 4 vols., 1915--, treas'. off.

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1. L. 1929, ch. 81, sec. 23; L. 1933, ch. 75, sec. 2; G.S. 1935, ch. 8, sec. 145.
2. L. 1937, ch. 72, sec. 5.
3. L. 1931, ch. 80, sec. 8; G.S. 1935, ch. 8, sec. 208; L. 1937, ch. 73, sec. 7.
4. Terr. L. 1859, ch. 42, sec. 39; Terr. L. 1860, ch. 28, sec. 42; G.S. 1868, ch. 25, sec. 40; G.S. 1935, ch. 19, sec. 301.

413. BANK TAX ROLL, 1891-1936. 46 vols. 1937-- in Tax Roll, entry 411.
Record of taxes charged against banks, showing name of bank, names of stockholders, number and taxable valuation of shares, valuation of other items of property, amount of tax for each purpose, total, amount paid, receipt number, amount unpaid, and delinquent warrant numbers. Arr. alph. by names of banks. No index. Hdw. on pr. fm. Aver. 50 pp. 16 x 12 x 2/3. 30 vols., 1891-1920, attic; 16 vols., 1921, treas'. off.

414. ROAD TAX ROLL, 1876-89. 56 vols. 1890-- in Tax Roll, entry 411.
Roll of taxes charged against real estate for construction, maintenance, and improvement of county and township roads, showing name of township, school district number, name and address of property owner, legal description of real estate, taxable valuation, rate and amount of taxes assessed, date paid, and receipt numbers. Arr. alph. by names of twps. and num. thereunder by sec., twp. and range nos. No index. Hdw. on pr. fm. 100 pp. 17 x 12 x 1/2. Attic.

415. (INHERITANCE TAX STATEMENTS), 1922--. 1 f. dr.
Statements of State Inheritance Tax Commission determining valuation and amount of taxes payable on distributive shares of estates, showing date, name of decedent, date of death, description and assessed value of real estate and personal property, amount of debts and expense of administration, amount of exemptions, names and relationship of heirs, amount due each, rate and total amount of taxes, signature of Tax Commission secretary, date paid, and receipt number. Arr. chron. by dates of statements. No index. Typed. 12 x 4 x 14. Treas'. off.
For record of inheritance inventory and appraisement, 1900--, see entry 295; inheritance tax receipts, entry 417.

Collection

416. TAX RECEIPTS, 1861--. 2,217 vols. (1-52, and 2,165 labeled by contained receipt nos. 1-26000 for each year).
Duplicate copies of receipts issued by county treasurer for payment of real estate and personal property taxes, showing date, receipt number, name and address of taxpayer, description of property, taxable valuation, amount of tax for each fund, total period and amount of delinquency, fees, penalties and rebates, total amount paid, and signature of treasurer. Arr. num. by receipt nos. No index. Typed on pr. fm. 500 pp. 16 x 6 x 2. 1,828 vols., 1861-1933, attic; 389 vols., 1934--, treas'. off.

417. (INHERITANCE TAX RECEIPTS), 1927--. 2 vols.
Carbon copies of receipts issued by county treasurer for payment of inheritance taxes, showing date, receipt number, name of decedent, name of taxpayer, amount of legacy or bequest, names of heirs, amount of taxes paid, and signature of treasurer. Arr. num. by receipt nos. No index. Hdw. on pr. fm. 150 pp. 14 x 10 x 2. Treas'. off.
For inheritance tax statements, 1922--, see entry 415.

418. POLL TAX RECEIPTS, 1917, 1919-24, 1927-31. 21 vols.
Discontinued; law repealed.
Duplicate copies of receipts issued by county treasurer for payment of delinquent poll taxes, showing date, receipt number, name and address of taxpayer, name of township, amount of taxes paid, for what years, and signature of treasurer. Arr. num. by receipt nos. No index. Hdw. on pr. fm. 500 pp. 12 x 10 x 2. Attic.

419. (SPECIAL ROAD TAX RECEIPTS), 1921-25. 2 vols. Discontinued.
Duplicate copies of receipts issued by county treasurer for payment of special taxes levied for construction of hard surface roads, showing date, receipt number, name and address of taxpayer, project number, description of property, taxable valuation, amount of taxes, and signature of treasurer. Arr. num. by receipt nos. No index. Hdw. on pr. fm. 400 pp. 12 x 8 x 2. Attic.

420. (TAX COLLECTION REGISTER), 1859--. 74 vols., 2 cb. bs.
Treasurer's record of tax collections, showing receipt number, name of township, school district number, name of taxpayer, description of property, taxable valuation, amount of tax for each purpose, period and amount of delinquency, fees, penalties and refunds, total amount due, and date paid. Arr. chron. by dates of collections. No index. Hdw. 1859-1932; typed 1933--. Vols. aver. 200 pp. 18 x 16 x 2; cb. bs. 12 x 14 x 14. 72 vols., 2 cb. bs., 1859-1935, attic; 2 vols., 1936--, treas'. va.

421. (SEMIANNUAL REPORT OF TAXES DUE STATE), 1936--. 1 f. b.
Duplicate copies of treasurer's semiannual report to State Auditor of taxes collected and due State, showing date of report, total levy, percent of current taxes collected, amount delinquent, levy deficiency, amount collected by funds, county total, amount due State, and signature of treasurer. Arr. chron. by dates of reports. No index. Typed on pr. fm. 12 x 4 x 14. Treas'. off.
For county clerk's semiannual reports, 1906-7, 1912--, see entry 152-v.

Delinquency

422. (DELINQUENT TAX LIST), 1934--. 1 f. b.
Treasurer's list of delinquent real estate taxes, showing name and address of delinquent, location and description of property, number of acres, period and amount of delinquency, and remarks. Arr. by names of subdivisions. No index. Typed. 12 x 4 x 14. Treas'. off.

423. RECORD OF DELINQUENT TAX SALES, 1860--. 44 vols.
Record of sales of real estate for delinquent taxes, showing location and legal description of property, name and address of owner, period of delinquency, amount of taxes, date of sale, name and address of purchaser, tax sale certificate number, to whom assigned, date and by whom redeemed, amount of redemption; or date deeded, to whom, and remarks.

Arr. chron. by dates of sales. No index. Hdw. on pr. fm. 350 pp. 20 x 16 x 2. 26 vols., 1860-1919, attic; 18 vols., 1920--, treas'. off.
For county clerk's record, 1859-1915, 1920--, see entry 74.

424. TAX SALE CERTIFICATES, 1873--. 68 vols. 1895-- also in (School District Orders and Canceled Checks), entry 448.
Stubs of certificates issued by county treasurer to purchasers of real estate sold for delinquent taxes, showing date, certificate number, description of property, amount of taxes, fees and penalties, date of sale, name and address of purchaser, to whom assigned, date on which deed will be issued unless redeemed, and signature of treasurer. Arr. num. by certificate nos. No index. Hdw. on pr. fm. Aver. 250 pp. 15 x 11 x 2. 44 vols., 1873-1925, attic; 24 vols., 1926--, treas'. off.
For tax sales certificates surrendered for tax deeds and redemption money, 1859--, see entry 77.

425. COMPROMISE ASSIGNMENT ORDERS, 1931--. 2 vols.
Duplicate copies of orders of county commissioners to county treasurer to issue compromise tax assignment certificates to purchasers of real estate sold for less than legal amount of delinquent taxes, showing date and number of order, description of property, period and amount of delinquency, name and address of purchaser, compromise amount, and signature of chairman of commissioners. Arr. chron. by dates of issue. No index. Hdw. on pr. fm. 350 pp. 16 x 12 x 2. Treas'. off.

426. COMPROMISE ASSIGNMENT CERTIFICATES, 1910--. 4 vols.
Triplicate copies of compromise assignment certificates of real estate bid off by county and sold by authority of county commissioners for less than legal amount of delinquent taxes due, showing date, certificate number, description of property, amount of delinquent taxes, fees, costs and penalties, compromise amount, name of payer, and signature of treasurer. Arr. num. by certificate nos. No index. Hdw. on pr. fm. 500 pp. 16 x 12 x 2. Treas'. off.

427. TRANSFERRED COUNTY SALES, 1888--. 3 vols. (1-3).
Record of transfers of tax sales of real property bid off by county for delinquent taxes, showing tax sale certificate number, location and description of property, amount of delinquent taxes, to whom assessed, date of sale, sale price, name of purchaser, and to whom and date transferred. Arr. chron. by dates of transfers. No index. Hdw. on pr. fm. Aver. 480 pp. 20 x 16 x 2 1/2. Treas'. off.

428. (PERSONAL PROPERTY TAX WARRANTS), 1876--. 218 vols. (each labeled by contained warrant nos. 1-5000).
Warrants issued by county treasurer to sheriff for collection of delinquent personal property taxes, showing date issued, warrant number, name and address of taxpayer, period and amount of delinquency, fees, costs and penalties, date for return, signature of treasurer; and brief of sheriff's return, showing date, amount collected, remarks, and signature.

Arr. num. by warrant nos. No index. Hdw. on pr. fm. 250 pp. 16 x 8 x 1 to 500 pp. 14 x 8 x 2. 145 vols., 1876-1931, attic; 15 vols., 1932-34, treas'. off.; 58 vols., 1935--, shf's. off.

429. DELINQUENT POLL TAX ROLL, 1927-31. 2 vols. Discontinued; law repealed.
Record of delinquent poll taxes, showing name of township or city, name and address of delinquent, period and amount of delinquency, warrant number, date issued, amount paid, receipt number, and remarks. Arr. by names of twps. or cities and alph. thereunder by names of taxpayers. No index. Hdw. on pr. fm. 150 pp. 16 x 12 x 1. Attic.
For reports of delinquent poll taxes, 1931, see entry 79.

430. POLL TAX WARRANTS, 1920-26. 8 vols. Discontinued; law repealed.
Warrants issued by county treasurer to sheriff for collection of delinquent poll taxes, showing date of issue, warrant number, name and address of delinquent, period and amount of delinquency, fees and penalties, total, date for return, and signature of treasurer; brief of sheriff's returns, showing date, amounts collected and uncollected, and remarks. Arr. num. by warrant nos. No index. Hdw. on pr. fm. 500 pp. 14 x 8 x 2. Attic.

Redemption and Refund

431. REDEMPTION RECORD, 1885--. 3 vols.
Record of redemption of real estate sold for delinquent taxes, showing location and description of property, period and amount of delinquency, fees and penalties, date of sale, to whom sold, tax sale certificate number, date of redemption, redemption certificate number, and amount of redemption. Arr. chron. by dates of redemption. No index. Hdw. on pr. fm. 550 pp. 16 x 12 x 2. 2 vols., 1885-1931, attic; 1 vol., 1932--, treas'. off.

432. REDEMPTION (Certificates), 1873--. 122 vols. (each labeled by contained certificate nos. 1-4000).
Duplicate copies of certificates issued by treasurer to persons redeeming real estate sold for delinquent taxes, showing description of property, date of sale, to whom sold, sale price, certificate number, by whom redeemed, redemption certificate number, date and amount of redemption, and signature of treasurer. Arr. num. by certificate nos. No index. Hdw. on pr. fm. Aver. 500 pp. 16 x 8 x 2. 104 vols., 1873-1931, attic; 18 vols., 1932--, treas'. off.

433. (ORDERS FOR ABATEMENT AND REFUND OF TAXES), 1932--. 1 f. dr.
Orders to county treasurer for abatement and refund of taxes, showing date, order number, name of city or township, school district number, name of taxpayer, description of property, taxable valuation, amount of taxes, amount of abatement or refund, and signature of chairman of county board of equalization. Arr. num. by order nos. No index. Hdw. on pr. fm. 12 x 4 x 14. Treas'. off.
For record of refunded and uncollected taxes, 1918--, see entry 80.

Distribution

434. (RECORD OF TAX DISTRIBUTION), 1880--. 58 vols.
Treasurer's record of tax collections and disbursements of tax monies by funds and taxing districts, showing date, tax receipt number, total amount of collection, amount credited to each fund, and total to each taxing district. Arr. chron. by dates of transactions. No index. Hdw., 1880-1932; typed 1933--. Aver. 300 pp. 18 x 16 x 2. 56 vols., 1880-1935, attic; 2 vols., 1936--, treas'. va.

For county clerk's collection and distribution ledger, 1886--, see entry 94.

435. SETTLEMENT BLOTTER (Distribution and Charge Back of Taxes), 1864--. 30 vols.
Record of tax collection and distribution, showing name or number of taxing district, amount of levy for each fund, amount collected and distributed to each fund, amount uncollected, amount received from sales of real estate for delinquent taxes, amount charged back or added for correction, and distribution to funds for which levies were made. Arr. chron. No index. Hdw. on pr. fm. 350 pp. 18 x 15 x 2. 28 vols., 1864-1932, attic; 2 vols., 1933--, treas'. off.

For county clerk's collection and distribution ledger, 1886--, see entry 94.

Fiscal Bonds
(See also entries 104, 105)

436. (BOND REGISTER), 1866--. 3 vols.
Record of funding and improvement bonds issued by county, townships, school districts, and drainage districts, showing name or number of taxing unit, title of bond, purpose and date of issue, denominations, serial numbers of bond and interest coupons, where and to whom payable, rate and amount of interest, date of maturity, date registered, and date paid. Arr. chron. by dates of registration. No index. Hdw. on pr. fm. 300 pp. 16 x 12 x 2. 1 vol., 1866-71, attic; 2 vols., 1872--, treas'. off.

437. (CANCELED BONDS), 1903--. 1 cb. b.
Canceled and paid county, township, school district, and drainage district funding and improvement bonds and coupons, showing kind of bond, date and purpose of issue, denomination, serial number, to whom and where payable, date of maturity, rate and amount of interest, signatures of officials, and date canceled and paid. Arr. chron. by dates of payments. No index. Hdw. on pr. fm. Condition fair. 12 x 12 x 14. Treas'. va.

General Accounts

Ledgers

438. (GENERAL LEDGER), 1873--. 58 vols.
Treasurer's record of accounts with county, township, city, and other funds, showing name of fund, date, items and amounts of debits and credits, tax roll page number, and balance in each fund. Arr. by names of funds and chron. thereunder by dates of transactions. No index. Hdw., 1873-1931; typed, 1932--. 57 vols., 1873-1935, attic; 1 vol., 1936--, treas'. va.
For county clerk's ledger of accounts, 1865--, see entry 93.

439. (SCHOOL AND DRAINAGE DISTRICT LEDGER), 1868--. 22 vols. (four unlabeled; G-X).
Treasurer's record of accounts with the various school and drainage district funds, showing school or drainage district number, amount of levy, amount of each fund, date, items and amounts of debits and credits, and balance. Arr. num. by dist. nos. and chron. thereunder by dates of transactions. No index. Hdw. on pr. fm. 350 pp. 18 x 12 x 2 1/2. 15 vols., 1868-1919, attic; 7 vols., 1920--, treas'. va.
For county clerk's ledger of accounts, 1868--, see entry 93; for school fund apportionment record, 1881--, see entry 487.

440. DAILY STATEMENTS, 1884--. 36 vols., 3 cb. bs.
Treasurer's daily statement sheets of cash transactions, showing date, statement number; morning balance; items, amounts, and sources of receipts; items and amounts of disbursements; debits and credits to township, city, and school district accounts; motor vehicle license fees collected by townships, and evening balance. Arr. chron. by dates of statements. No index. Hdw. on pr. fm. 1884-1932; typed 1933--. Vols. aver. 200 pp. 14 x 8 x 2; cb. bs. 12 x 14 x 14. 36 vols., 2 cb. bs., 1884-1935, attic; 1 cb. b., 1936--, treas'. va.
For county clerk's copies, 1910--, see entry 92.

441. (QUARTERLY REPORTS OF COUNTY TREASURER), 1930--. 1 f. b.
Copies of county treasurer's quarterly reports to county commissioners on condition of county treasury, showing information as in entry 22. Arr. chron. by dates of reports. No index. Typed. 12 x 4 x 14. Treas'. off.

442. SCHOOL LAND SALES, 1868--. 3 vols.
Treasurer's record of sales of State school land in county, showing location and description of land, number of acres, appraised value, date of sale, name and address of purchaser, sale price, amounts and dates of payments, rate and amount of interest, and remarks. Arr. chron. by dates of sales. No index. Hdw. on pr. fm. Condition fair. 500 pp. 18 x 14 x 2. 2 vols., 1868-1902, attic; 1 vol., 1903--, treas'. off.
For county clerk's record of sales, 1866-1909, see entry 49; for county clerk's reports of sales and payments, 1882-1901, 1903-10, see entry 152-iv.

443. MORTGAGE REGISTRATION RECORD, 1927--. 2 vols.
Reports from register of deeds to county treasurer of mortgage registration fees collected, showing date of report, registration number, names of mortgagor and mortgagee, description of property, amount secured, registration fees, total amount collected, volume and page numbers where recorded, and certification of register of deeds. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. 350 pp. 16 x 12 x 2. Treas'. off.

For register of deeds copies, 1925--, see entry 170.

444. FEE BOOKS, 1879-91. 8 vols. Discontinued.
Record of fees charged and collected by county treasurer, showing date, nature of service, amount of fees, to whom charged, by whom and date paid, amount unpaid, and remarks. Arr. chron. by dates of service. No index. Hdw. Aver. 100 pp. 14 x 8 x 1. Attic.

For quarterly reports of fees collected, 1880--, see entry 470.

Warrants and Orders

445. COUNTY AUDITOR'S RECORD OF WARRANTS (Claims) ALLOWED, 1880-84. 2 vols. Discontinued.
County auditor's record to county treasurer of claims allowed by county commissioners, showing claim number, name of claimant, nature and amount of claim, amount allowed, reason for allowance, decision of auditor, and date. Arr. chron. No index. Hdw. on pr. fm. Aver. 240 pp. 16 x 14 x 2. Attic.

For auditor's reports to county clerk of claims audited, 1880--, see entry 89.

446. TREASURER'S RECORD OF COUNTY WARRANTS, 1885--. 28 vols. (two unlabeled; 1-6, 1-20).
Record of warrants paid by county treasurer from various county funds on approval of county commissioners, showing warrant number, date issued, name of payee, amount, purpose, on what fund, and date presented and paid. Arr. num. by warrant nos. No index. Hdw. on pr. fm. Aver. 510 pp. 16 1/2 x 13 x 2 1/2. 20 vols., 1885-1929, attic; 8 vols., 1930--, treas'. va.

For original canceled county warrants, 1907--, see entry 19; for county clerk's warrant register, 1874--, see entry 91.

447. (RECORD OF WARRANTS PRESENTED AND NOT PAID FOR LACK OF FUNDS), 1884-86. 1 vol. Discontinued.
Treasurer's record of county warrants presented and not paid for lack of funds, showing date of issue, warrant number, name of payee, amount of warrant, purpose, date presented, and remarks. Arr. chron. by dates presented. No index. Hdw. 130 pp. 12 x 10 x 1. Attic.

448. (SCHOOL DISTRICT ORDERS AND CANCELED CHECKS), 1895--. 3 ob. bs., 1 f. dr.
Orders drawn on county treasurer by treasurers of school districts, and county treasurer's paid and canceled checks returned by banks. Orders

show school district number, date, order number, amount, to whom payable, purpose, from what fund, and signature of district treasurer. Checks show date, name of bank, check number, name of payee, amount, purpose, signature of treasurer, endorsement, and date paid and canceled. Also contains: Tax Sale Certificates, entry 424; Correspondence, entry 468. Arr. chron. by dates of instruments. No index. Hdw. on pr. fm. Cb. b. 12 x 12 x 20; f. dr. 12 x 4 x 14. 3 cb. bs., 1895-1930, attic; 1 f. dr., 1931--, treas'. off.

Receipts

449. (MISCELLANEOUS RECEIPTS FOR MONEY PAID IN), 1898--. 50 vols. (each labeled by contained receipt nos. 1-3000).
Copies of receipts issued by county treasurer for money paid in for county officers' fees, school land sales and rent, delinquent personal property taxes, and other purposes, showing date, receipt number, amount, purpose, name of payer, funds credited, and treasurer's signature. Also contains: Receipts Normal Institute Fund, entry 454; (Receipts for Fines, 1925--, entry 456. Arr. num. by receipt nos. No index. Hdw. on pr. fm. 500 pp. 12 x 8 x 2. 39 vols., 1898-1919, attic; 11 vols., 1919--, treas'. va.
For county clerk's copies, 1927--, see entry 97.

450. (MISCELLANEOUS RECEIPTS, MONEY PAID OUT), 1891--. 1 cb. b., 52 vols.
Miscellaneous receipts issued to county treasurer for money disbursed, showing date, receipt number, amount, purpose, from what fund, name of treasurer, and signature of payee. Arr. num. by receipt nos. No index. Hdw. on pr. fm. Cb. b. 12 x 12 x 16; vols. 12 x 8 x 2. 1 cb. b., 46 vols., 1891-1931, attic; 6 vols., 1932--, treas'. va.

451. (TOWNSHIP TREASURER'S RECEIPTS), 1919--. 8 vols. 1886-1918 in County Treasurer's School District Receipts, entry 453.
Receipts issued by treasurers of townships for funds received from county treasurer, showing date, receipt number, amount, purpose, from what fund, and signature of township treasurer. Also contains: (City Treasurer's Receipts), entry 452. Arr. num. by receipt nos. No index. Hdw. on pr. fm. 250 pp. 12 x 8 x 2. 5 vols., 1919-29, attic; 3 vols., 1930--, treas'. va.

452. (CITY TREASURER'S RECEIPTS), 1886--. 1886-1918 in County Treasurer's School District Receipts, entry 453; 1919-- in (Township Treasurer's Receipts), entry 451.
Receipts issued by city treasurers for funds received from county treasurer, showing date, receipt number, amount, purpose, from what fund, and signature of city treasurer.

453. COUNTY TREASURER'S SCHOOL DISTRICT RECEIPTS, 1886--. 1 cb. b., 24 vols. (each labeled by contained receipt nos. 1-2500).
Receipts issued by treasurers of school districts for funds received from county treasurer, showing school district number, date, receipt

number, amount, purpose, from what fund, and signature of school district treasurer. Also contains: (Township Treasurer's Receipts), 1886-1918, entry 451; (City Treasurer's Receipts), 1886-1918, entry 452. Arr. num. by receipt nos. No index. Hdw. on pr. fm. Cb. b. 4 x 8 x 20; vols. 300 pp. 14 x 10 x 2. 1 cb. b., 17 vols., 1886-1929, attic; 7 vols., 1930--, treas'. va.

For county clerk's copies, 1901--, see entry 98.

454. RECEIPTS NORMAL INSTITUTE FUND, 1880-95. 1 vol. 1898-- in (Miscellaneous Receipts for Money Paid In), entry 449.
Copies of receipts issued by treasurer to county superintendent of public instruction for institute funds remitted, showing date, receipt number, amount of funds received, funds credited, name of county superintendent, and signature of county treasurer. Arr. num. by receipt nos. No index. Hdw. on pr. fm. Condition fair. 300 pp. 12 x 8 x 2. Attic.

For county superintendent's monthly reports of institute fund, 1933--, see entry 488.

455. (RECEIPTS FOR MORTGAGE REGISTRATION FEES), 1927--. 2 vols., 1 bdl.
Duplicate copies of receipts for mortgage registration fees remitted by register of deeds, showing date, receipt number, names of mortgagor and mortgagee, amount secured, amount of fees, total amount of remittance, and signature of treasurer. Arr. chron. by dates of payments. No index. Hdw. on pr. fm. Vols. 300 pp. 16 x 14 x 2; bdl. 8 x 8 x 14. 2 vols., 1927-34, treas'. off.; 1 bdl., 1934--, treas'. va.

456. (RECEIPTS FOR FINES), 1912-25. 1 vol. 1925-- in (Miscellaneous Receipts for Money Paid In), entry 449.
Duplicate copies of receipts issued to justices of peace for fines remitted to county treasurer, showing date, receipt number, name of justice, case number, title and cause, amount of fine, total amount of remittance, and signature of treasurer. Arr. chron. by dates of payments. No index. Hdw. on pr. fm. Condition fair. 250 pp. 12 x 9 x 2. Attic.

457. (STATE TREASURER'S RECEIPTS), 1932--. 2 f. drs.
Receipts issued by State Treasurer to county treasurer for payment of inheritance taxes, payments on State school land, license fees, and other remittances, showing date, receipt number, amount, purpose, funds credited, and signature of State Treasurer. Arr. chron. by date of payments. No index. Hdw. on pr. fm. 12 x 4 x 14. Treas'. off.

Bank Accounts (See also entry 448)

458. COUNTY FUNDS IN DEPOSITORIES, 1883--. 29 vols.
Record of treasurer's accounts with county depositories, showing name of bank, previous balance; date, items, and amounts deposited; date, items, and amounts withdrawn; accrued interest, and balance. Arr. by names of banks and chron. thereunder by dates of deposits. No index. Hdw. on pr. fm. 300 pp. 14 x 6 x 2. 24 vols., 1883-1926, attic; 5 vols., 1927--, treas'. off.

For county clerk's record, 1900--, see entry 100.

459. CHECK REGISTER, 1903--. 41 vols.
Record of checks written by county treasurer, showing name and number of depository, check number, name of drawee, amount, purpose, to what fund charged or credited, by whom endorsed, and remarks. Arr. num. by check nos. No index. Hdw. and typed on pr. fm. 250 pp. 16 x 10 x 1. 36 vols., 1903-32, attic; 5 vols., 1933--, treas'. va.
For county clerk's record, 1914--, see entry 101.

460. BANK CHECK BOOK (Stubs), 1885--. 50 vols.
Stubs of checks issued by county treasurer, showing date, name of bank, check number, name of payee, amount, purpose, and signature of treasurer. Arr. num. by check nos. No index. Hdw. on pr. fm. 100 pp. 18 x 14 x 1. 45 vols., 1885-1931, attic; 5 vols., 1932--, treas'. va.
For canceled checks, 1910--, see entry 92.

461. BANK STATEMENTS, 1905--. 1 cb. b., 1 f. dr.
Monthly statements from banks handling county funds, showing date of statement, name of bank, previous balance; date, items, and amounts of deposits; date, items, and amounts of withdrawals; amount of interest, and balance at close of month. Arr. chron. by dates of statements. No index. Hdw. on pr. fm. Cb. b. 12 x 16 x 18; f. dr. 12 x 4 x 14. 1 cb. b., 1905-14, attic; 1 f. dr., 1915--, treas'. off.
For county clerk's bank statements, 1925--, see entry 103.

Motor Vehicles
(See also entry 391)

462. MOTOR VEHICLE LICENSE RECORD, 1935--. 3 vols.
Record of motor vehicle licenses issued, showing license number, date of issue, name and address of licensee; make, style, model, weight, horse power, and engine number of vehicle; amount of fees paid, previous license number, and remarks. Arr. alph. by names of licensees. No index. Hdw. on pr. fm. 300 pp. 14 x 12 x 2. Treas'. off.

463. (MOTOR VEHICLE LICENSE APPLICATIONS), 1931--. 3 cb. bs., 24 f. drs.
Copies of applications for automobile, truck, trailer, and motorcycle licenses, showing date of application, name and address of applicant; make, style, model, weight, and engine number of vehicle; previous license number, amount of fees, and signature of applicant. Arr. num. by license nos. No index. Hdw. on pr. fm. Cb. b. 12 x 12 x 20; f. drs. 8 x 6 x 20. 3 cb. bs., 1931-35, attic; 24 f. drs., 1936--, treas'. off.

464. (REPORT OF MOTOR VEHICLE LICENSE FEES COLLECTED), 1932--. 1 f. dr.
Duplicate copies of treasurer's monthly reports to State Treasurer of motor vehicle license fees collected, showing date, number and classification of licenses issued and previously reported, number of licenses

issued during month, amount of fees, penalties, additional collections, deductions, and balance, and signature of treasurer. Arr. chron. by dates of reports. No index. Typed on pr. fm. 12 x 4 x 14. Treas'. off.

465. (APPLICATIONS FOR CERTIFICATES OF TITLES), 1937--. 180 vols.
Duplicate copies of applications for certificates of title to motor vehicles, showing date of application, name and address of applicant; make, style, model, weight, and engine number of vehicle; amount of fees paid, and signature of treasurer. Arr. chron. by dates of applications. No index. Hdw. on pr. fm. Aver. 100 pp. 14 x 10 x 2. Treas'. off.

466. (Motor Vehicle) OPERATORS' RECEIPTS, 1937. 3 vols.
Discontinued; subsequent records kept by State Motor Vehicle Department.
Duplicate copies of receipts issued by county treasurer for payment of motor vehicle operators' license fees, showing date, receipt number, names and addresses of owner and operator, amount of fees paid, and signature of treasurer. Arr. chron. by dates of payments. No index. Hdw. on pr. fm. 350 pp. 14 x 12 x 2. Treas'. off.

Miscellaneous

467. BONDS OF COUNTY OFFICERS, 1920--. 1 f. dr.
Surety bonds and oaths of office executed by county clerks and assistant county treasurers as assurance of faithful performance of official duties, showing date, name of officer, title of office, amount and conditions of bond, affidavits and signatures of sureties, and date approved. Arr. chron. by dates of bonds. No index. Hdw. and typed on pr. fm. 12 x 4 x 14. Treas'. off.
For other oaths and bonds see entries 119-124, 186, 187, 261.

468. (CORRESPONDENCE), 1928--. 10 f. bs. 1895-- also in (School District Orders and Canceled Checks), entry 448.
Original and duplicate copies of correspondence to and from various sources pertaining to collection and distribution of taxes, sales of and payments on State school land, license and county officers' fees, settlement of financial affairs with cities, townships, and school districts; and other official business of county treasurer's office. Arr. alph. by subjects or names of correspondents, and chron. thereunder. No index. Hdw. and typed. 12 x 3 x 12. Treas'. va.

(Next entry 469, p. 512)

XVIII. COUNTY AUDITOR

Structural Organization and Evolution

Selection and Term. The first Territorial assembly empowered the board of county commissioners to "audit, adjust, and settle all accounts against the county," and also to appoint its own clerk.[1] The assembly of 1858 created the office of county auditor and provided that the officer should be elected biennially in each organized county and be ex officio clerk of the board of county supervisors, or commissioners.[2] A contradictory act of the same assembly, however, provided anew for the office of clerk of the county board and made it elective for a 2-year term.[3] There is no record that an auditor was elected under the 1858 law in Shawnee County. The assembly of 1859 repealed this act[4] and created the office of county clerk, elective for a 2-year term.[5] The assembly of 1860 decreed that the county clerk should be ex officio county auditor,[6] but when the statutes were revised in 1868 all reference to a county auditor was eliminated.

The office as it exists today was created in 1872 in all counties with more than 30,000 inhabitants and made appointive by the district court, subject to confirmation by the county commissioners, for a 2-year term.[7] An amendment 2 years later provided that the probate court and the county attorney should share the appointive power with the district court,[8] but in 1876 the exclusive power was restored to the district court, the provision for confirmation by the county commissioners eliminated, and the act was made to apply to all counties with more than 25,000 inhabitants.[9] In 1891 the office was restricted to counties of more than 45,000 population and there has been no subsequent change.[10] An act of the legislature of 1915 providing for auditors in counties of more than 75,000 population made the same provisions for appointments as did the old law. An amendment in 1917 made the new act apply to all counties of more than 70,000 population.[11]

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1. Terr. L. 1855, ch. 44, secs. 33, 35.
2. Terr. L. 1858, ch. 5, secs. 1, 9.
3. Ibid., ch. 42, sec. 39.
4. Terr. L. 1859, ch. 89, sec. 2.
5. Ibid., ch. 42, sec. 39.
6. Terr. L. 1860, ch. 28, sec. 43.
7. L. 1872, ch. 67, sec. 1.
8. L. 1874, ch. 56, sec. 1.
9. L. 1876, ch. 67, sec. 1.
10. L. 1891, ch. 87, sec. 1; G.S. 1935, ch. 19, sec. 601.
11. L. 1915, ch. 172, sec. 1; L. 1917, ch. 130, sec. 1; G.S. 1935, ch. 19, sec. 620.

County Auditor - Structural Organization and Evolution

(Next entry 469, p. 512)

By virtue of population Shawnee County came under the provisions of the law in 1880 and the first county auditor was appointed by the district court on July 28 of that year.[1]

Qualifications - Oath - Bond. Since 1872 the statutes have required that the county auditor shall be an elector of the county in which he is appointed.[2] The law of 1915 specifies the same qualification.[3] However, an act of the 1937 legislature regulating fees and salaries in counties of 80,000 to 115,000 population, which includes Shawnee County, specifies that after expiration of the term of the auditor then in office no person shall be eligible for appointment unless he possesses one or more of the following qualifications: Shall have had at least 5 years experience in municipal or governmental accounting, or an equal amount of experience with one or more accredited public accounting firms engaged in municipal practice; or who is a licensed public accountant.[4]

Within 10 days after his appointment the auditor must execute to the county and file with the clerk of the district court a bond, to be approved by the court and conditioned for faithful performance of duties. The original law fixed the amount of the bond at $50,000 but it was reduced to $3,000 by the legislature of 1905.[5] The law governing counties of more than 70,000 population, under which Shawnee County operates, fixes the auditor's bond at $20,000.[6] He also must file with the clerk of the court an affidavit that he will faithfully perform the duties of the office.[7]

Compensation - Clerks. The compensation of county auditors varies with the population of the county. In counties with populations between 45,000 and 70,000 the salary has varied from $500 to $2,000 per year.[8] Current laws fix the salary of the Shawnee County auditor at $2,500 per year and authorize the county commissioners to allow such sum for clerk hire as may be necessary to properly expedite the business of the office.[9]

Removal - Vacancy. The district court may remove the county auditor for cause, and the cause must be made a part of the records of the board of county commissioners. This provision is contained both in the law

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1. District Court Journal, vol. N., p. 32, see entry 196.
2. L. 1872, ch. 67, sec. 1; G.S. 1935, ch. 19, sec. 601.
3. L. 1915, ch. 172, sec. 1; G.S. 1935, ch. 620.
4. L. 1937, ch. 233, sec. 13.
5. L. 1872, ch. 67, sec. 2; L. 1905, ch. 186, sec. 1; G.S. 1935, ch. 19, sec. 602.
6. L. 1915, ch. 172, sec. 2; G.S. 1935, ch. 19, sec. 621.
7. L. 1872, ch. 67, sec. 3; G.S. 1935, ch. 19, sec. 603.
8. L. 1872, ch. 67, sec. 10; L. 1874, ch. 56, sec. 2; L. 1876, ch. 67, sec. 2; L. 1919, ch. 204, sec. 1; G.S. 1935, ch. 19, sec. 610.
9. L. 1937, ch. 233, secs. 13, 16.

governing counties of 45,000 to 70,000 population[1] and that governing counties of more than 70,000 population.[2] There is no provision for the filling of vacancies other than the law governing the original appointment.

Functions

The law of 1915 governing the office of auditor in counties of more than 75,000 inhabitants and as amended in 1917, counties of more then 70,000 inhabitants, contains a provision that certain provisions of the law of 1872 and amendments thereto shall apply to county auditors appointed under this act.[3] By virtue of population, Shawnee County operates under the 1915 law.

It is the duty of every county auditor "to audit all claims of every nature and description presented to or claimed against his county, showing the nature of the claim, the amount allowed, to whom, and keep a perfect record thereof, and of his decisions thereon. And it shall be the duty of the county clerk to certify to the auditor on or before the first Monday of each month, all claims or demands against the county on file in his office, and to furnish the auditor all information he may have in regard thereto." It is the auditor's duty to immediately examine and audit the claims, and return them to the clerk on or before the first Monday of the succeeding month. He must attach a report stating the specific amounts allowed by him, and to whom; and a memoranda stating under what law and by virtue of what contract the allowance was made. When a claim is disallowed in whole or in part he must state his reasons therefor.[4]

It is illegal for the auditor to allow any claim not expressly provided for by law, and unless it is due according to the terms of the law or by virtue of a contract authorized by the law. It is the duty of the county clerk to present the auditor's report to the county commissioners at their next succeeding meeting. It is competent for the commissioners to disallow, in whole or in part, any claim the auditor has allowed. An appeal may be taken from such decision, or from confirmation of the auditor's report disallowing a claim, to the district court. A copy of the auditor's monthly report must be deposited with the county treasurer, who is forbidden to pay or endorse any warrant the amount of which is not authorized in the report. The auditor must publish in the newspaper in which the county printing is done an abstract of his monthly report showing generally the amounts allowed, to whom, and on what account.[5]

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1. L. 1872, ch. 67, sec. 1; G.S. 1935, ch. 19, sec. 601.
2. L. 1915, ch. 172, sec. 1; G.S. 1935, ch. 19, sec. 620.
3. L. 1915, ch. 172, sec. 8; G.S. 1935, ch. 19, sec. 627.
4. L. 1872, ch. 67, secs. 5, 6; L. 1876, ch. 67, sec. 3; L. 1915, ch. 172, secs. 3, 4; G.S. 1935, ch. 19, secs. 605, 606, 622, 623.
5. L. 1872, ch. 67, secs. 7-9; G.S. 1935, ch. 19, secs. 607-609.

County Auditor - Functions (Next entry 469, p. 512)

The auditor must make an annual report to the county commissioners stating under appropriate heads the total amount of claims allowed by him during the year. He also must make a present to the commissioners an estimate of the amount of money required, in his judgment, to be raised by taxation for county purposes for the ensuing year. Any auditor who shall corruptly allow any claim is liable to the county in an amount four times that allowed, and in such case is forever barred from holding any office under the laws of the State. It also is unlawful for him to be interested in any contract with the county.[1]

In Shawnee County the auditor is required to keep account of all receipts, disbursements, assets, and liabilities of the county. He also must keep an account with each county officer who receives any money as such and must check the financial records of such officer at least monthly, and as often as he is required to do so by the county commissioners. He is empowered to state in what manner cash record books required by law shall be kept, except those specifically outlined by statute. He must make an annual report to the county commissioners and the judge of the district court of all assets, liabilities, receipts, and disbursements of the county.[2]

Sworn statements of all fees, fines, and other moneys collected by them for the county must be filed with the auditor monthly by the county treasurer, county clerk, sheriff, register of deeds, probate judge, clerk of the district court, clerk of the city court, and every other officer making any such collections. It is the auditor's duty to examine the books of such officers, compare their sworn statements with his own records, and report the examination to the county commissioners.[3] Prior to 1915 these reports were made quarterly by these officers to the county commissioners,[4] though the sheriff and clerk of the district court have been required to report to the auditor quarterly since 1874.[5] A provision of the fees and salaries act of 1911, applicable to counties with more than 90,000 inhabitants, requires the same officers to make a report to the county auditor quarterly of fees charged by them but not collected.[6] The legislature of 1937 made the same provision for counties of 85,000 to 115,000 population.[7]

At least once every 3 months the auditor of Shawnee County must examine the accounts of the county treasurer and report thereon in detail

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1. L. 1872, ch. 67, secs. 11, 13; G.S. 1935, ch. 19, secs. 612, 614.
2. L. 1915, ch. 172, sec. 4; G.S. 1935, ch. 19, sec. 623.
3. L. 1915, ch. 172, sec. 6; G.S. 1935, ch. 19, sec. 625.
4. L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1913, ch. 197, sec. 16; G.S. 1935, ch. 28, sec. 123.
5. L. 1874, ch. 56, sec. 4; G.S. 1935, ch. 19, sec. 617.
6. L. 1911, ch. 190, sec. 16; G.S. 1935, ch. 28, sec. 315.
7. L. 1937, ch. 233, sec. 17.

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to the county commissioners at their next regular meeting. In event the treasurer is carrying in his cash account anything that is not cash, such as tax receipts, redemption receipts, assignments, notes, or protested checks it is the auditor's duty to require the treasurer to make the amount good to the cash account immediately and if the treasurer fails to do so, to notify the county attorney. The auditor also must examine all accounts and settlements to be made by the treasurer with the board of county commissioners, and make such preparation of the treasurer's accounts before settlement as may be ordered by the commissioners.[1] In counties under 70,000 population the auditor examines the treasurer's accounts once in 2 months and reports to the county board.[2]

Records

The law of 1915 requires that the county auditor shall keep "a ledger in which shall be shown all assets of the county and accounts showing the outstanding indebtedness thereof." It also must show separate accounts with current tax collections, refunded taxes, redemptions, and assignments. It also must include a separate account with each county officer who receives money in his official capacity, and a record of the receipts and disbursements of the county.[3]

The Shawnee County auditor formerly preserved the county clerk's reports of claims certified for auditing, 1880-86,[4] and files the quarterly reports made to him by the sheriff and the clerk of the district court, under the law of 1874, of fees, fines, and other moneys collected by them in their official capacities[5] and the monthly reports made to him under the law of 1915 by all county officers collecting money in their official capacities.[6] These files also include the quarterly fee reports of these officers made to the county commissioners prior to 1915, under the law of 1897 and amendments thereto.[7]

In some instances copies of the auditor's monthly reports to the county commissioners of claims allowed;[8] copies of his annual reports to

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1. L. 1915, ch. 172, sec. 5; G.S. 1935, ch. 19, sec. 624.
2. L. 1874, ch. 56, sec. 3; G.S. 1935, ch. 19, sec. 616.
3. L. 1915, ch. 172, sec. 4; G.S. 1935, ch. 19, sec. 623.
4. L. 1872, ch. 67, sec. 5; L. 1876, ch. 67, sec. 3; L. 1915, ch. 172, sec. 3; G.S. 1935, ch. 19, secs. 605, 622.
5. L. 1874, ch. 56, sec. 4; G.S. 1935, ch. 19, sec. 617.
6. L. 1915, ch. 172, sec. 6; G.S. 1935, ch. 19, sec. 625.
7. L. 1897, ch. 131, sec. 14; L. 1899, ch. 141, sec. 1; L. 1913, ch. 197, sec. 16; G.S. 1935, ch. 28, sec. 123.
8. L. 1872, ch. 67, sec. 6; L. 1915, ch. 172, sec. 4; G.S. 1935, ch. 19, secs. 606, 623.

the county commissioners of claims allowed during the year,[1] and copies of the published abstract of his monthly report of claims allowed[2] are found among the auditor's records, as are copies of his monthly reports to the commissioners of the examinations of the books of county officers and his annual reports of the assets and liabilities of the county.[3]

For county auditor's annual reports to county commissioners on financial condition of county, 1890-1911, 1930--, see entry 20; on condition of county treasury, 1907--, see entry 21.

469. (REPORT OF CLAIMS), 1880-86. 2 vols. Discontinued.
County clerk's monthly reports to county auditor of claims presented to county commissioners, showing date of report, claim number, name and address of claimant, amount and nature of claim, amounts allowed or disallowed, remarks, and signature of county clerk. Arr. num. by claim nos. No index. Hdw. on pr. fms. 480 pp. 17 x 13 x 2. Treas'. va.
For county clerk's record of claims presented to county commissioners, 1912, 1933--, see entry 90.

470. REPORTS OF COUNTY OFFICIALS (of Fees Collected), 1885--.
10 f. drs. (four unlabeled; 62, 75, 128, 138, 139, 216, 226), 1 wood b. 1880-85 in Bonds (of County Commissioners), entry 187; 1892-1917 also in Duplicate Reports to City and State (Miscellaneous Records), entry 152.
Original monthly and quarterly reports to county auditor of fees collected by county clerk, clerk of the district court, county treasurer, county attorney, register of deeds, sheriff and probate judge, showing date, amount of fees, to whom charged, nature of service rendered, amount and date paid, by whom, amount unpaid, total for quarter, amount remitted to treasurer, signature of official, and dates filed and approved. Also contains: (Monthly Reports of Poor Commissioner), 1933-37, entry 24; (Monthly Reports of County Health Officer), 1930--, entry 28; (Monthly Reports of County Physician), 1933--, entry 29; (Monthly Reports of County Engineer), 1919--, entry 36; (Miscellaneous Receipts for Money Paid In), 1934--, entry 97. Arr. chron. by dates of reports. No index. Hdw. and typed on pr. fm. F. drs. 10 x 4 x 14; b. 12 x 16 x 20. 9 f. drs., 1885-1933, co. clk's. va.; 1 b., 1920-29, attic; 1 f. dr., 1934--, co. clk's. off.
For county clerk's fee book, 1898--, see entry 96; register of deeds' fee book, 1898--, see entry 193; district court clerk's fee book, 1887--, see entry 253; probate judge fee book, 1899--, see entry 322; sheriff's fee book, 1907--, see entry 381; county attorney's fee book, 1898-1915, see entry 402; county treasurer's fee book, 1879-91, see entry 444.

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1. L. 1872, ch. 67, sec. 11; G.S. 1935, ch. 19, sec. 612.
2. L. 1872, ch. 67, sec. 9; G.S. 1935, ch. 19, sec. 609.
3. L. 1915, ch. 172, secs. 4, 6; G.S. 1935, ch. 19, secs. 623, 625.

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XIX. COUNTY SUPERINTENDENT OF PUBLIC INSTRUCTION

Structural Organization and Evolution

Selection and Term. The office of county superintendent of public instruction was created in each organized county by the Territorial assembly of 1858, which provided that the officer should be elected for a 1-year term and take office October 1.[1] The same assembly required the Governor to appoint a Territorial Superintendent of Common Schools to have charge of the educational interests of the Territory.[2]

The State Constitution, effective January 29, 1861, specifies that "the State Superintendent of Public Instruction shall have the general supervision of the common school funds and educational interests of the State, and perform such other duties as may be prescribed by law. A superintendent of public instruction shall be elected in each county, whose term of office shall be 2 years and whose duties and compensation shall be prescribed by law."[3] From 1861 the county superintendent's term of office, like that of other county officers, began on the second Monday in January following his election[4] until 1901. The legislature of 1899 decreed that he should take office on the second Monday in May in each odd-numbered years.[5] Since 1923, by virtue of a law enacted in 1921, he has taken office on the first Monday of July of each odd-numbered year.[6]

In providing for the election of a county superintendent "in each county" the Constitution made no exception of counties which might contain incorporated cities. The law provides that cities of the first and second class shall be governed by their own boards of education, which are designated as bodies corporate and have power to appoint a superintendent of city schools.[7] Attempts have been made to provide by law that

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1. Terr. L. 1858, ch. 8, sec. 13.
2. Ibid., sec. 1.
3. Const., art. 6, sec. 1.
4. L. 1861, ch. 28, sec. 40; G.S. 1868, ch. 36, sec. 58; G.S. 1935, ch. 25, sec. 313.
5. L. 1899, ch. 244, sec. 1.
6. L. 1921, ch. 225, sec. 1; G.S. 1935, ch. 72, sec. 201.
7. L. 1862, ch. 46, art. 4, sec. 2; L. 1864, ch. 67, sec. 2; L. 1867, ch. 69, sec. 5; G.S. 1868, ch. 18, sec. 73; L. 1872, ch. 100, secs. 103, 113; L. 1876, ch. 122, art. 10, secs. 2, 5; art. 11, sec. 16; L. 1881, ch. 149, sec. 1; L. 1885, ch. 100, sec. 1; L. 1899, ch. 178, sec. 2; L. 1911, ch. 267, sec. 1; ch. 269, sec. 4; L. 1917, ch. 271, sec. 1; R.S. 1923, ch. 72, sec. 1601; L. 1925, ch. 227, sec. 1; G.S. 1935, ch. 72, secs. 1601, 1608.

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electors in cities of the first and second class should not be permitted to vote for county superintendent but such measures have been defeated on the ground that they were in conflict with the Constitution.[1]

Qualifications. The office of county superintendent existed for 42 years before any requirements appeared in the statutes regarding qualifications of candidates. The legislature of 1899 specified that to be eligible for the office the candidate must hold a first grade or second grade teacher's certificate, or a State certificate, or be a graduate of an accredited college or normal school, and must have taught for at least 18 months.[2] The legislature of 1907 amended the law to eliminate holders of second grade certificates from eligibility.[3]

Oath and Bond. Before entering upon the duties of his office the county superintendent must subscribe and file with the county clerk an oath to uphold the Constitutions of the United States and the State of Kansas and to faithfully discharge the duties of his office.[4] The 1858 assembly which created the office also required that he execute a bond[5] but the first State law governing the office made no mention of a bond,[6] nor was it again required until 1877, when the legislature decreed that before entering upon the duties of his office the county superintendent should execute and file with the county clerk a bond in the penal sum of $1,000 conditioned for faithful performance of duties and to be approved by the county commissioners.[7]

Compensation - Assistants. Laws governing the compensation of county superintendents have been repeatedly revised since the beginning of Statehood. For many years their compensation was based upon the school enumeration and this plan still is used in counties of less than 45,000 population Under current laws the county superintendent of Shawnee County receives a salary of $2,400 per year and the county commissioners are required to allow him $600 per year to maintain an automobile for use in visiting schools. He also is allowed $1,500 a year for a first deputy, and is entitled to all money actually expended for stationary, postage, supplies, freight, and express. There also is a provision that when the county commissioners are of the opinion that the amount allowed for clerical

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1. 98 Kan. 435-438; 158 Pac. 38.
2. L. 1899, ch. 245, sec. 1.
3. L. 1907, ch. 167, sec. 1; G.S. 1935, ch. 72, sec. 202.
4. Terr. L. 1858, ch. 8, sec. 14; L. 1861, ch. 76, art. 2, sec. 1; G.S. 1868, ch. 92, sec. 9; L. 1876, ch. 122, art. 2, sec. 1; L. 1881, ch. 152, sec. 1; G.S. 1935, ch. 72, sec. 203.
5. Terr. L. 1858, ch. 8, sec. 14.
6. L. 1861, ch. 76, art. 2, sec. 1.
7. L. 1877, ch. 136, sec. 8; L. 1881, ch. 152, sec. 1; G.S. 1935, ch. 72, sec. 203.

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hire is insufficient to properly expedite the business of the office they may allow such additional amount, not to exceed 10 percent of the original allowance, as they deem necessary.[1] Since 1869 the county superintendent of any county has been authorized to appoint a deputy in case of illness of temporary absence.[2]

Removal - Vacancy. The legislature of 1861 provided that any county superintendent who should neglect or refuse to make an annual report to the State Superintendent within the time specified by law should be required to pay the full amount of money lost to the county through such neglect or refusal. In 1881 this law was amended to provide that every county superintendent who shall neglect or refuse to perform any act which it is his duty to perform, or who shall "corruptly or oppressively perform any such duty," shall forfeit his office, and also shall be liable on his official bond for all damages occasioned thereby, to be recovered in the name of the State for the benefit of the proper party, district, or county.[3]

In the event of a vacancy in the office of county superintendent it is the duty of the county clerk to notify the county commissioners who, as soon as practicable, must appoint some suitable person to fill the vacancy. The appointee must take an oath and execute a bond in the same manner as a regularly elected county superintendent, and holds the office until a successor is regularly elected and qualified. Since 1911 the law has provided that if the county commissioners are unable to make such appointment from the residents of the county the county clerk shall notify the State Superintendent, who shall appoint some legally qualified resident of Kansas to fill the vacancy until the next ensuing election.[4]

Functions

Formation and Alteration of School Districts. Provisions for the establishment of common schools in each county of the Territory were made by the first assembly in 1855 and the board of county commissioners was charged with the duty of forming school districts upon petition of a majority of the voters therein.[5] In creating the office of county

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1. L. 1937, ch. 233, secs. 10, 16.
2. L. 1869, ch. 86, sec. 6; G.S. 1935, ch. 72, sec. 215.
3. L. 1861, ch. 76, art. 9, sec. 4; G.S. 1868, ch. 92, sec. 84; L. 1876, ch. 122, art. 2, sec. 6; L. 1881, ch. 152, sec. 15; G.S. 1935, ch. 72, sec. 217.
4. L. 1861, ch. 76, art. 2, sec. 10; G.S. 1868, ch. 92, sec. 18; L. 1876, ch. 122, art. 2, sec. 10; L. 1881, ch. 152, sec. 8; L. 1911, ch. 278, sec. 1; G.S. 1935, ch. 72, sec. 209.
5. Terr. L. 1855, ch. 144, art. 1, secs. 1, 2.

superintendent in 1858 the assembly made it his duty to divide the county into districts, to regulate and alter them according to law, and to number and describe them and file a record thereof in his office.[1] The first State legislature retained these provisions and also required that if any county had been imperfectly or partly districted the county superintendent should as soon as practicable complete and perfect the work.[2]

Shawnee County's first superintendent of common schools was R. M. Fish, appointed by the county commissioners on June 21, 1859 to serve until the general election of November 9 of that year, at which time he was elected to the office.[3] A few private and select schools had been maintained in Topeka with more or less regularity since the autumn of 1855.[4] The first county superintendent was reported to have organized 14 districts in 1859 but apparently school was taught in few of them.[5] In 1861 only three Shawnee County districts reported to the county superintendent, though there were two select schools and a female seminary in operation.[6] In 1863 there were 21 districts reporting with an enrollment of 593 students.[7] Thereafter the districting of the county and establishment of common schools went steadily forward. In the school year ending June 30, 1938 there were 102 districts in the county under the jurisdiction of the county superintendent, of which 93 were operating schools and nine were sending their students elsewhere.[8]

The statutes provide that when any school district shall be formed or altered the county superintendent must within 15 days prepare a notice describing the boundaries of the new or altered districts and the number given each, and post such notice in at least five public places in every district so affected. In the case of a new district he must within 10 days after its formation, if there is no appeal from his action, appoint a time and place for a special district meeting for election of officers and the transaction of such business as the law prescribes. No district may be formed or altered that shall contain less than 15 inhabitants of school age, nor may any district with a bonded indebtedness be changed so that its indebtedness shall exceed 5 percent of its assessed

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1. Terr. L. 1858, ch. 8, sec. 15.
2. L. 1861, ch. 76, art. 2, sec. 2; G.S. 1935, ch. 72, sec. 213.
3. Commissioners' Journal, 1855-62, pp. 145, 155, see entry 2.
4. Giles, op. cit., pp. 161, 162.
5. Annual Report of the Territorial Superintendent of Common Schools, 1859, pp. 4, 20.
6. Ibid., 1861, p. 11.
7. Report of the State Superintendent of Public Instruction, 1863, table No. 1, p. 6.
8. Thirty-first Biennial Report of the State Superintendent of Public Instruction of Kansas, 1938, p. 287.

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valuation, but desirable changes in boundaries may be made, notwithstanding these provisions, if they are approved by the county commissioners. The superintendent must number all districts when they are formed and must keep in a book for that purpose a plat and description of each district, the names of the district officers and dates of their appointment or election, and any subsequent changes in district boundaries.[1] A school district is a body corporate[2] and is deemed duly organized when the officers constituting the district board shall have been elected and qualified and have signified their acceptance to the county superintendent in writing.[3] The governing body of each district consists of a director, a clerk, and a treasurer elected alternately for terms of 3 years by the qualified electors of the district at their annual meeting.[4]

Anyone feeling aggrieved by the county superintendent's action in forming or altering, or refusing to form or alter a school district may appeal to the board of county commissioners, whose decision after they have conferred with the county superintendent is final. Notice of such appeal must be served on the county superintendent within 10 days after he has posted his notices of the formation or alteration of the district, and a copy must be filed with the county clerk and the clerks of all districts affected by the change.[5] A joint school district lying partly in two or more counties may be formed by joint action of the county superintendents upon petition of five householders in any one of the counties, after proper notice and hearing. The boundaries of such districts may be altered only by the joint action of the superintendents of the several counties concerned, but in all other matters the district is under the jurisdiction and control of the superintendent of the county in which the main school building is located. Appeals in boundary disputes in such districts are taken to the State Superintendent, whose decision is final.[6] The county superintendent must furnish to the

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1. L. 1861, ch. 76, art. 2, secs. 2, 7; G.S. 1868, ch. 92, secs. 10, 15; L. 1872, ch. 110, sec. 1; ch. 185, sec. 1; L. 1876, ch. 122, art. 2, secs. 13, 14; ch. 123, sec. 1; L. 1881, ch. 152, secs. 12, 13; L. 1907, ch. 329, sec. 1; L. 1921, ch. 227, sec. 1; G.S. 1935, ch. 72, secs. 213, 214.

2. Terr. L. 1858, ch. 8, sec. 37; L. 1861, ch. 76, art. 3, sec. 6; L. 1868, ch. 92, sec. 24; L. 1876, ch. 122, art. 3, sec. 2; R.S. 1923, ch. 72, sec. 302; G.S. 1935, ch. 72, sec. 302.

3. L. 1861, ch. 76, art. 3, sec. 4; L. 1868, ch. 92, sec. 22; L. 1876, ch. 122, art. 3, sec. 1; G.S. 1935, ch. 72, sec. 301.

4. Terr. L. 1858, ch. 8, sec. 45; L. 1861, ch. 76, art. 3, sec. 5; G.S. 1868, ch. 92, sec. 23; L. 1874, ch. 118, sec. 1; L. 1876, ch. 122, art. 4, sec. 1; G.S. 1935, ch. 72, sec. 1001.

5. L. 1861, ch. 76, art. 5, sec. 2; G.S. 1868, ch. 92, sec. 51; L. 1872, ch. 185, sec. 2; L. 1874, ch. 122, sec. 7; L. 1876, ch. 122, art 3, sec. 5; G.S. 1935, ch. 72, sec. 309.

6. L. 1861, ch. 76, art. 5, sec. 3; G.S. 1868, ch. 92, sec. 52; L. 1869, ch. 86, sec. 9; L. 1876, ch. 122, art. 3, sec. 3; L. 1879, ch. 158, sec. 1; L. 1915, ch. 303, secs. 1-3; G.S. 1935, ch. 72, secs. 303-305.

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county clerk annually, on or before the last Monday in May, a description of the boundaries of each school district in the county.[1]

Supervision of Common Schools. It is the duty of the county superintendent to visit every school in his county at least once each 6-months term, correcting any deficiency that may exist in the government of the school, the classification of the pupils, or the methods of instruction.[2] He must make such suggestions in private to the teachers as he deems necessary to the welfare of the school;[3] note the character and condition of the buildings, furniture, apparatus, and grounds and make a report in writing to the district board suggesting any improvements he may deem necessary,[4] and must examine the accounts and record books of the district officers and see that they are kept as required by law.[5] The legislature of 1869 required him to "deliver a public lecture to the people in each of the several neighborhoods of the county each year for the purpose of elevating the standard of education and increasing the general interest of the people in the public schools."[6] This clause was omitted from the revised school laws of 1876[7] but an enactment of 1881 requires him to hold a public meeting in each school district annually "for the purpose of discussing school questions and elevating the standard of education."[8]

The clerk of each school district must report to the county superintendent in writing the names and addresses of the district officers elected at the annual meeting within 2 weeks thereafter, and also the time of the commencement of each term of school.[9] In the event of a

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1. L. 1867, ch. 123, sec. 9; G.S. 1868, ch. 92, p. 936, sec. 9; L. 1876, ch. 122, art. 2, sec. 15; L. 1887, ch. 219, sec. 1; G.S. 1935, ch. 72, sec. 218.
2. L. 1861, ch. 76, art. 2, sec. 4; G.S. 1868, ch. 92, sec. 12; L. 1869, ch. 86, sec. 3; L. 1875, ch. 95, sec. 3; L. 1876, ch. 122, art. 2, sec. 3; L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
3. L. 1869, ch. 86, sec. 3; L. 1875, ch. 95, sec. 3; L. 1876, ch. 122, art. 2, sec. 3; L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
4. L. 1875, ch. 95, sec. 3; L. 1876, ch. 122, art. 2, sec. 3; L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
5. L. 1876, ch. 122, art. 2, sec. 3; L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
6. L. 1869, ch. 86, sec. 3.
7. L. 1876, ch. 122, art. 2, sec. 3.
8. L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
9. L. 1866, ch. 110, sec. 2; G.S. 1868, ch. 92, p. 935, sec. 2; L. 1869, ch. 86, sec. 11; L. 1876, ch. 122, art. 4, sec. 13; G.S. 1935, ch. 72, sec. 1015.

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vacancy on a school board it is the county superintendent's duty to appoint some suitable resident of the district to fill the office until the next annual meeting.[1] The clerk of each district must make an annual report and submit it to the voters of the district at their annual meeting, and after making any changes ordered by them, submit it to the county superintendent,[2] whose duty it is to see that the various clerks make such reports correctly and on time.[3] In the event an organized school district does not have sufficient record books the county superintendent may purchase them and draw an order on the county treasurer for the amount, which the treasurer must pay out of any funds in his possession belonging to the district.[4] Once a year the county superintendent must hold a convention of members of school district boards for consultation purposes and for instruction of board members in matters of district school administration.[5]

At least 10 days before the date for holding the annual school district meetings the county superintendent must obtain from the county clerk a certified statement of the total assessed valuation of the property in each district and certify it to the various district clerks for the information of the annual meeting. On the last Mondays of March, June, September, and December of each year the county superintendent must make out and transmit to the State Superintendent a report of his activities and duties in the preceding 3 months and such other information as the State Superintendent may require. The statutes forbid the drawing of a warrant for the county superintendent's salary until the quarterly report has been made, a copy filed with the county clerk for publication, and the fact certified to the county commissioners. The superintendent also is required to keep a record of his official acts.[6] He also must make out and transmit to the State Superintendent an annual report, dated

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1. L. 1861, ch. 76, art. 4, sec. 8; G.S. 1868, ch. 92, sec. 49; L. 1869, ch. 86, sec. 8; L. 1876, ch. 122, art. 2, sec. 11; L. 1881, ch. 152, sec. 7; G.S. 1935, ch. 72, sec. 208.
2. Terr. L. 1858, ch. 8, sec. 60; L. 1861, ch. 76, art. 3, sec. 16; G.S. 1868, ch. 92, sec. 34; L. 1874, ch. 118, sec. 3; L. 1876, ch. 122, art. 4, sec. 8; L. 1887, ch. 219, sec. 3; L. 1889, ch. 220, sec. 2; R.S. 1923, ch. 72, sec. 1008; L. 1925, ch. 223, sec. 1; G.S. 1935, ch. 72, sec. 1008.
3. L. 1861, ch. 76, art. 2, sec. 5; G.S. 1868, ch. 92, sec. 13; L. 1876, ch. 122, art. 2, sec. 4; L. 1881, ch. 152, sec. 9; G.S. 1935, ch. 72, sec. 210.
4. L. 1870, ch. 108, sec. 1; L. 1876, ch. 122, art. 2, sec. 12; L. 1881, ch. 152, sec. 11; G.S. 1935, ch. 72, sec. 212.
5. L. 1915, ch. 302, sec. 1; L. 1933, ch. 250, sec. 1; G.S. 1935, ch. 72, sec. 205.
6. L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.

October 1, giving complete information regarding all the schools in the county, including those in cities of the first and second classes.[1]

Supervision of Secondary Schools. From the beginning of statehood the statutes have authorized any school district to establish graded schools for instruction of pupils in the higher grades of education, and also have authorized two or more districts to unite for this purpose,[2] but it was not until 1886 that legislation was enacted enabling counties to participate directly in the administration and support of high schools. An act of that year authorized all counties of 6,000 or more population to establish county high schools upon majority vote of the electors, to be governed by a board of six trustees. The county superintendent was declared, by virtue of his office, to be president of the board.[3] When, in 1923, all county high schools were disorganized and community high schools were created in their stead, the county superintendent in each county was declared to be ex officio chairman of the community high school board, with power to cast the deciding vote.[4]

In 1905 the legislature enacted the so-called "Barnes Law" under which Shawnee County operates. This law enables counties to levy a tax for the support of high schools not maintained as county institutions. It is the duty of the county superintendent, not later than July 25 each year, to certify to the county commissioners the number of teachers employed in the several high schools in the county complying with provisions of the act, whereupon it becomes the duty of the commissioners to make a levy sufficient to produce an amount equal to $1,200 multiplied by the number of teachers employed in such schools the preceding year. In the event the commissioners fail to make the levy it is the superintendent's duty to certify it to the county clerk, who must enter it on the tax rolls. The principal of each such school must make a report to the county superintendent at the close of each school year showing the total enrollment, the daily attendance of each pupil, the average daily attendance, and such other information as the superintendent may require.[5]

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1. Terr. L. 1858, ch. 8, sec. 16; L. 1861, ch. 76, art. 2, sec. 8; G.S. 1868, ch. 92, sec. 16; L. 1869, ch. 86, sec. 5; L. 1876, ch. 122, art. 2, sec. 5; L. 1881, ch. 152, sec. 5; G.S. 1935, ch. 72, sec. 207.

2. L. 1861, ch. 76, art. 7, secs. 1, 9; G.S. 1868, ch. 92, secs. 63, 71; L. 1876, ch. 122, art. 7, secs. 1, 9; L. 1907, ch. 331, sec. 1; L. 1915, ch. 301, sec. 1; G.S. 1935, ch. 72, secs. 310, 316.

3. L. 1886, ch. 147, secs. 1-5.

4. L. 1923, ch. 187, sec. 3; L. 1925, ch. 231, sec. 1; L. 1929, ch. 235, sec. 1; L. 1931, ch. 257, sec. 1; L. 1933, ch. 258, sec. 1; G.S. 1935, ch. 72, sec. 2503.

5. L. 1905, ch. 397, secs. 1, 5, 6; L. 1907, ch. 333, sec. 1; L. 1913, ch. 277, sec. 1; L. 1917, ch. 281, sec. 1; L. 1920, ch. 52, sec. 10 (Special Session); L. 1925, ch. 235, sec. 1; G.S. 1935, ch. 72, secs. 3001, 3004, 3005.

County Superintendent of Public Instruction - Functions

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A law enacted in 1931 increases the amount to be levied in Shawnee County to $1,500 multiplied by the number of teachers employed.[1] Under this law Shawnee County supports eight high schools.[2]

Examination of Teachers. From 1858 until 1869 the county superintendent had exclusive authority to examine applicants for teaching positions in the schools of his county. The first State legislature required that the examinations be held annually. No qualifications were specified other than the applicant's moral character, learning, and ability to teach school. To those he found qualified the superintendent was required to issue a certificate entitling them to teach. The legislature of 1864 required that he designate a time and place in the spring and autumn of each year for a general examination. Persons failing to take the general examination could take a special examination later on payment of a $1 fee.[3] Private examinations were abolished in 1867 and the times for the regular public examinations fixed as the first Saturday in January and every 3 months thereafter, and at such other times as might be necessary to fill vacancies.[4]

The legislature of 1869 created a board of county examiners composed of the county superintendent and two "competent persons" to be appointed by the county commissioners. The county superintendent was required to keep a record of certificates issued by the board.[5] An enactment in 1881 designated the county superintendent as ex officio chairman of the county board.[6] In 1885 the county superintendent was authorized, upon written request of a district board and after satisfying himself of the applicant's ability, to issue a termporary certificate in case of necessity, valid only in the designated district and until the next meeting of the board of examiners. This clause was repealed in 1903.[7] From 1905 until 1937 the law required that every State certificate, normal school diploma or other document issued as a teacher's certificate should be registered by the superintendent of the county in which the holder had a contract to teach.[8] Since 1881 the law has specified that the

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1. L. 1931, ch. 259, secs. 1, 2; G.S. 1935, ch. 72, secs. 3011a, 3011b.
2. Thirty-first Biennial Report of the State Superintendent of Public Instruction of Kansas, 1938, p. 257.
3. Terr. L. 1858, ch. 8, secs. 26, 29; L. 1861, ch. 76, art. 2, sec. 6; L. 1864, ch. 100, sec. 3.
4. L. 1867, ch. 123, sec. 5; G.S. 1868, ch. 92, p. 934, sec. 3.
5. L. 1869, ch. 86, sec. 4.
6. L. 1881, ch. 151, sec. 1; L. 1885, ch. 175, sec. 1; L. 1901, ch. 303, sec. 1; L. 1905, ch. 390, sec. 1; L. 1921, ch. 233, sec. 1; G.S. 1935, ch. 72, sec. 1317; L. 1937, ch. 296, sec. 7. See Board of County Examiners, p. 537.
7. L. 1885, ch. 175, sec. 7; L. 1903, ch. 424, sec. 8.
8. L. 1905, ch. 394, sec. 1; L. 1915, ch. 298, sec. 2; G.S. 1935, ch. 72, sec. 1302.

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superintendent shall keep a record of all candidates for teachers' certificates and a record of all teachers employed in his county.[1]

Normal Institutes. The legislature of 1864 required that the State Superintendent and the county superintendents should organize annually and hold a teachers' institute in each senatorial district of the State, provided that the citizens of the community where the meeting was held should furnish free board to all teachers attending.[2] The legislature of 1869 required that the State Superintendent should hold a teachers' institute annually in each judicial district. Each county superintendent in the district was required to attend and take such part as might be assigned him on the program, and also to use his personal efforts in securing the attendance of as many teachers as possible. It was made the duty of the superintendent of the county in which the institute was held to secure a meeting place and make such other local and preliminary arrangements as might be necessary. In addition to the district institute the county superintendent of each county maintaining 15 schools during the year was required to hold a county institute of not less than 2 days nor more than 5 days. Two or more counties could unite in such programs.[3]

The legislature of 1877 provided that "the county superintendents of public instruction shall hold annually in their respective counties for a term of not less than 4 weeks a normal institute for the instruction of teachers and those desiring to teach." An amendment in 1915 fixes the duration of the meeting at not less than 5 days nor more than 20 days.[4] The county superintendent, with the advice and consent of the State Superintendent, fixes the time and place of holding the institute and appoints a conductor and instructors. No one may be paid from the institute funds for such services who has not received a certificate from the State Board of Examiners attesting his special qualifications for that work. The county superintendent, at the close of each institute, must transmit to the county treasurer all moneys received by him as fees, and the names of the persons contributing. This money the treasurer must credit to the normal institute fund, of which he is custodian, and which may be disbursed only for services in connection with the institutes and upon the county superintendent's order.[5] In addition to the fees collected by the superintendent the county commissioners may appropriate a sum to cover any deficiency but not exceeding $100 in any 1 year. When 25 persons have registered for an institute and paid the prescribed fees

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1. L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
2. L. 1864, ch. 101, sec. 2; G.S. 1868, ch. 92, p. 933, sec. 2.
3. L. 1869, ch. 86, secs. 19-22; L. 1876, ch. 122, art. 6, secs. 2-4.
4. L. 1877, ch. 136, sec. 1; L. 1915, ch. 304, sec. 1; G.S. 1935, ch. 72, sec. 1401.
5. L. 1877, ch. 136, secs. 2, 4, 5, 7; G.S. 1935, ch. 72, secs. 1403, 1405, 1406, 1408.

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the State Superintendent certifies the fact to the State Auditor, who forwards to the county treasurer an order for $50 on the State Treasurer to be credited to the institute fund.[1]

The statutes still require the county superintendent to attend the normal institute and use his influence to secure the attendance of teachers; to make a daily personal inspection of the institute in session and keep a record thereof; and to do such work in connection with the exercises of the institute as he may deem necessary.[2] It also is his duty to encourage the formation of associations of teachers and educators for mutual improvement and so far as possible to attend their meetings and participate in their exercises.[3]

Diploma Examinations. Public examinations for common school diploma must be held for rural schools on the third and fourth Saturdays in April, and for graded schools on the second Saturday in May and the Friday next preceding. They must be held at the county seat, or at such place or places as the county superintendent may designate. He must appoint two persons as an examining board, one of whom must not be the teacher of any pupil taking the examination. Notice of the examination must be published by the superintendent at least 10 days before the first day on which it is held. The examiners must forward the papers to the county superintendent. The law still requires that the papers shall be graded by the board of county examiners, or under their direction by assistants appointed by the county superintendent.[4] Inasmuch as the board of examiners was abolished by the legislature of 1937[5] and no other provision made for the examinations, the papers now are graded by the examiners appointed by the county superintendent and the diplomas issued by them in the same manner as formerly was done by the county board.

Truancy. The first compulsory school attendance law in Kansas was enacted in 1874.[6] In 1903 the county superintendent was required to divide the county into truant districts. Upon his nomination the county commissioners must appoint a truant officer for each district whose duty it is to enforce the law. His itemized statement of time employed in

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1. L. 1877, ch. 136, secs. 3, 6; L. 1901, ch. 267, secs. 1, 2; L. 1911, ch. 270, sec. 1; L. 1915, ch. 304, sec. 2; G.S. 1935, ch. 72, secs. 1404, 1407.
2. L. 1869, ch. 86, sec. 21; L. 1876, ch. 122, art. 6, sec. 3; L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
3. L. 1869, ch. 86, sec. 3; L. 1875, ch. 95, sec. 3; L. 1876, ch. 122, art. 2, sec. 3; L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
4. L. 1913, ch. 271, sec. 3; L. 1915, ch. 300, sec. 1; L. 1921, ch. 234, sec. 1; G.S. 1935, ch. 72, sec. 5103.
5. L. 1937, ch. 296, sec. 11.
6. L. 1874, ch. 123, sec. 1; G.S. 1935, ch. 72, sec. 4801.

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such service must be certified to by the county superintendent before his salary claim may be allowed. All school officers are required to make all reports that may be required by the county superintendent with reference to the workings of the act. As an aid in the enforcement of the law school enumerators are required to record the name and the place and date of birth of every child enumerated and to make a record of all such children who are physically or mentally defective, which the parents or guardian must subscribe under oath. The county superintendent must send a certified copy of the list of defective children to the State Board of Administration.[1]

Apportionment of School Funds. The State Constitution provided that the proceeds of all lands granted to the State by the Federal Government for the support of schools; the State's share of the 500,000 acres of public lands distributed among the states; all estates of persons dying without heir or will; and such percent as might be granted by the Congress on the sale of public lands in Kansas "shall be the common property of the State and shall be a perpetual school fund which shall not be diminished, but the interest of which, together with all the rents of the lands and such other means as the legislature may provide by tax or otherwise, shall be inviolably appropriated to the support of common schools." It specified that the income from the perpetual school fund should be disbursed annually to the several county treasurers on order of the State Superintendent.[2] The first State legislature decreed that the annual school fund "shall consist of the annual income derived from the interests and rents of the perpetual school fund," and by the amount which would be raised by an annual tax of 1 mill on the dollar property valuation. The tax was abolished by the legislature of 1879.[3] The State Superintendent is required to distribute the annual school fund to the counties on the basis of the number of persons of school age residing in the county. He draws his order on the State Treasurer in favor of the county treasurers and certifies the amount for each county to the respective county treasurers and county superintendents. Since 1867 the law has required a semiannual apportionment.[4]

The Constitution also provides that all money paid by persons as an equivilant for exemption from military duty; the clear proceeds from the sale of stray animals, ownership of which shall vest in the taker-up,

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1. L. 1903, ch. 423, secs. 1-6; L. 1907, ch. 317, sec. 1; L. 1919, ch. 272, sec. 1; L. 1923, ch. 182, secs. 1-4; G.S. 1935, ch. 72, secs. 4801-4806.
2. Const., art. 6, secs. 3, 4.
3. L. 1861, ch. 76, art. 8, sec. 5; G.S. 1868, ch. 92, sec. 76; L. 1876, ch. 122, art. 16, sec. 1; L. 1879, ch. 149, sec. 4; G.S. 1935, ch. 72, sec. 2301.
4. L. 1861, ch. 76, art. 1, sec. 5; L. 1867, ch. 126, sec. 1; G.S. 1868, ch. 92, sec. 5; L. 1879, ch. 166, secs. 81, 82; G.S. 1935, ch. 75, secs. 805, 806.

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and all fines for any breach of the penal laws shall be exclusively applied in the county where the money is collected to the support of the common schools.[1] The statutes require the county treasurer to collect such moneys and pay them to the school district treasurers, upon their applications, as apportioned to the various districts by the county superintendent.[2] The county clerk must transmit to the county superintendent semiannually a true statement of any school moneys then in the county treasury. Each justice of the peace must report to the county superintendent semiannually the amount received from the proceeds of fines and estrays during the proceeding 6 months and belonging to the school fund.[3]

Within 5 days after receiving the certificates of the State Superintendent informing him of the amount of the State school fund apportioned to his county, the county superintendent must apportion it, together with the unapportioned county school fund, among the school districts and parts of districts in the ratio which the number of persons of school age in each district bears to the total number in all the districts of the county. No district in which school has not been taught for at least 3 months in the preceding year is entitled to any part of the school funds. The law provides that the superintendent then shall draw his order on the county treasurer in favor of each district treasurer for the amount due his district.[4] However, another section of the law provides that "each county treasurer receiving such moneys shall, upon proper application of the district treasurer of any district, pay over to the said district treasurer the amount apportioned to the district by the county superintendent."[5] This is the practice ordinarily followed, the district treasurer drawing his order on the county treasurer for the required amount.

The county superintendent also apportions the State aid fund to the districts. The legislature of 1881 required a minimum school term of 4 months in each district having "a good and sufficient school building" and provided that if the district board failed to make a tax levy sufficient for the purpose that it should be the duty of the county superintendent, in conjunction with the county commissioners, to certify a sufficient levy to the county clerk, employ a teacher, and provide fuel and equipment for the school. Districts which would have to levy

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1. Const., art. 6, sec. 6.
2. L. 1861, ch. 76, art. 8, sec. 4; G.S. 1868, ch. 92, sec. 75; L. 1876, ch. 122, art. 17, sec. 1; G.S. 1935, ch. 72, sec. 2401.
3. L. 1876, ch. 122, art. 17, secs. 2, 3; G.S. 1935, ch. 72, secs. 2402, 2403.
4. L. 1861, ch. 76, art. 2, sec. 3; L. 1866, ch. 110, sec. 1; G.S. 1868, ch. 92, sec. 11; ch. 92, p. 934, sec. 1; L. 1876, ch. 122, art. 2, sec. 2; L. 1881, ch. 152, sec. 3; G.S. 1935, ch. 72, sec. 206.
5. L. 1861, ch. 76, art. 8, sec. 3; G.S. 1868, ch. 92, sec. 74; L. 1876, ch. 122, art. 16, sec. 7; G.S. 1935, ch. 72, sec. 2307.

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more than 1 percent for this purpose were excepted.[1] The legislature of 1903 raised the minimum term requirement to 5 months and the maximum levy to 2 percent.[2]

The legislature of 1911 repealed this law and provided for State and county aid for all districts not having sufficient funds to maintain a minimum school term of 7 months. The difference between the total income of the district from all sources and the amount necessary to maintain the minimum term was paid one-fourth by the county at large and three-fourths by State appropriation. It was the county superintendent's duty to estimate the amount of the deficiency in each district to be paid by the county and certify it under oath to the county clerk. The county commissioners then were required to make a levy on all property in the county sufficient to raise the amount. The superintendent also was required to certify to the county treasurer the amounts due each district from both the county and the State under the provisions of the act, and to certify to the State Superintendent the number of each district entitled to State and county aid, and the amount due it from the State. The State Superintendent certified the amount of State aid to each county treasurer and the State Auditor, and the latter drew his warrant on the State Treasurer for the amount due the respective counties. Upon the failure of any district board to carry out the provisions of this law, the county superintendent was required to do so. Subsequently the minimum school term was increased to 8 months.[3]

The legislature of 1937 repealed the law of 1911 and created a State school aid fund composed of "all moneys credited to it as authorized by law" but forbidding levy of any additional ad valorem tax to maintain it.[4] Levying a 2 percent tax on all retail sales, this legislature provided that $2,500,000 of the amount thus raised annually should be placed to the credit of the State school aid fund.[5] Each one-teacher elementary school district in the State levying a 3-mill tax is guaranteed a minimum of $675 to maintain a school. If the tax does not raise $675 the State pays the deficiency if the average daily attendance during the preceding year was twelve or more pupils, and a proprotionate amount if the attendance was less than twelve daily. Districts employing two or more teachers have the same guarantee if the average daily attendance is 25 pupils or less, and if it is more than 25 the amount of the State aid is $27 per pupil less the amount raised by the 3-mill tax. The county superintendents must furnish the State Superintendent with whatever reports he may require for enforcement of the law. The State

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1. L. 1881, ch. 150, secs. 1-3.
2. L. 1903, ch. 431, secs. 1-3.
3. L. 1911, ch. 268, secs. 1-6; L. 1919, ch. 273, sec. 1; L. 1923, ch. 181, secs. 1-4; G.S. 1935, ch. 72, secs. 5001-5006.
4. L. 1937, ch. 306, sec. 1.
5. L. 1937, ch. 374, sec. 21.

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Superintendent must apportion the fund among the counties semiannually and certify to the county superintendents and county treasurers as well as to the State Auditor the amount apportioned each district within their jurisdictions. The State Treasurer pays the allotted amounts to the county treasurers, who must pay them to their respective school districts as shown by the State Superintendent's certificate.[1]

The county normal institute fund is composed of fees paid by those attending it; fees paid by persons registering State certificates or diplomas and taking examinations for county certificates; and under later laws, any appropriations which may be made by the county commissioners or the State. The county treasurer is designated as custodian of the institute fund and the county superintendent must remit to him any fees he collects for this purpose. The fund may be used only to defray expenses in connection with the normal institutes and only upon the order of the county superintendent.[2]

Miscellaneous Duties. When the State school lands were placed on the market in 1864 it was made the duty of the county superintendent, when petitioned by a specified number of householders in a township to expose school lands in that township for sale, to appoint three disinterested householders of the county, by and with the consent of the county commissioners, to appraise the property and file their appraisements with the county clerk. An amendment in 1913 vested the appointive power entirely in the county commissioners, and since 1915 the law provides that they shall direct the sale of any remaining lands.[3]

For a dozen years prior to creation of the State Schoolbook Commission in 1897 the county superintendent was designated as ex officio chairman of the county textbook board in those counties operating under provisions of the act. Whenever a majority of the school districts in the county in one year should indicate by a majority vote at their respective annual meetings, a desire for a county uniformity in their textbooks the county superintendent was required to call for the election, at a designated time and place, of one delegate from each municipal township, to be chosen by the school boards of the township. These delegates constituted the county textbook board, whose duty it was to select and prescribe the textbooks to be used in each branch of study required by law to be taught in the public schools. A list of the books thus selected, constituting the only legal textbooks for the schools of that county, was certified to each school district by the county superintendent. No changes could be made in less than 5 years.[4]

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1. L. 1937, ch. 306, secs. 2-5; L. 1939, ch. 260, sec. 1.
2. L. 1877, ch. 136, secs. 3-7; L. 1901, ch. 267, secs. 1, 2; L. 1911, ch. 270, sec. 1; L. 1915, ch. 304, sec. 2; G.S. 1935, ch. 1404-1408.
3. L. 1864, ch. 102, sec. 2; G.S. 1868, ch. 94, sec. 2; L. 1876, ch. 122, art. 14, sec. 2; L. 1909, ch. 218, sec. 1; L. 1913, ch. 274, sec. 1; L. 1915, ch. 322, sec. 9; G.S. 1935, ch. 72, sec. 2136.
4. L. 1885, ch. 171, secs. 1-9.

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The legislature of 1881 authorized the State Board of Administration to bind out as an apprentice any boy committed to the State Industrial School for Boys whenever in their judgment such an indenture would be to his benefit. The county superintendents of the several counties were designated as visiting agents, to have local supervision over indentured boys. It is their duty to visit at least twice annually all boys of the Industrial School indentured to persons residing in their counties and make such reports as the State Board may prescribe. No boy may be indentured until notice of the application has been given the county superintendent and his report of his investigation is filed with the Industrial School. The superintendent also must seek out persons in his county who are willing to receive boys from the Industrial School under articles of indenture and report them, together with his recommendations, to the State Board.[1] Precisely similar provisions were made in 1889 regarding inmates of the State Industrial School for Girls at Beloit.[2]

The county superintendents also are designated as visiting agents of the State Orphans' Home. It is their duty to visit twice annually all children placed in homes in their counties by the State Board of Administration and make a written report to the superintendent of the Orphans' Home. For this service the county superintendent receives $3 for each child visited, but not exceeding $3 for 1 day.[3]

Records

From the beginning of statehood the State Superintendent has been required to prepare and cause to be printed the forms necessary for use in the administration of the common school system, and to distribute them to the school officers. The legislature of 1869 specified that he should cause such forms and blanks to be prepared and printed as are "necessary in the details of the common school system, so as to secure its uniform operation throughout the State; and shall cause the same to be forwarded to the several county superintendents, to be by them distributed to the several persons entitled to receive the same."[4]

Thus most of the forms for records used by the county superintendents as well as by the school district boards and school teachers are prescribed

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1. L. 1881, ch. 129, secs. 10, 11, 13-15; G.S. 1935, ch. 76, secs. 2112, 2113, 2115-2118.

2. L. 1889, ch. 158, secs. 15, 17-19; G.S. 1935, ch. 76, secs. 2211, 2213-2215. By L. 1939, ch. 202, sec. 7 the Industrial schools were placed under jurisdiction of the State Department of Social Welfare.

3. L. 1889, ch. 236, sec. 6; G.S. 1935, ch. 76, sec. 1710.

4. L. 1861, ch. 76, art. 1, sec. 4; G.S. 1868, ch. 92, sec. 4; L. 1869, ch. 86, sec. 2; L. 1879, ch. 166, sec. 84; G.S. 1935, ch. 75, sec. 808.

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by the State Superintendent. In only a few instances do the statutes specifically require that records be kept, and in those cases the form in which they shall be kept is not prescribed, though in some cases the information to be recorded is specified.

Since creation of the office the county superintendent has been required to file in his office the numbers and descriptions of school districts formed by him. The legislature of 1881 specified that "he shall keep in a book for that purpose a description of the boundaries of each school district and part of district in his county, with plat of the same date of organization, date and full record of all changes of boundaries, and a list of district officers in his county, the date of election or appointment, and the time the term of each is to expire."[1] But prior to enactment of the law of 1881 many county superintendents kept a record of school district officers appointed by them to fill vacancies,[2] and of school district officers elected, which the district clerks have been required since 1869 to report within 2 weeks after their election.[3]

The county superintendent of Shawnee County since 1883 has kept a register of certificates issued by the State normal training schools and the State Board of Education to teachers in the county, although this record was not specifically required by law until 1905, when the legislature required that every State certificate, normal school diploma, or other document issued as a teacher's certificate should be registered by the county superintendent of the county in which the holder had a contract to teach.[4] This law was repealed in 1937.[5] Since 1881 the law has specified that the county superintendent shall keep a record of all candidates for teacher's county certificates and a record of all teachers employed in his county.[6]

The Shawnee County superintendent files the original enrollment cards of teachers attending the county normal institute, and also is required to keep a record of the institute programs and attendance.[7] The minutes of

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1. Terr. L. 1858, ch. 8, sec. 15; L. 1861, ch. 76, art. 2, sec. 2; G.S. 1868, ch. 92, sec. 10; L. 1872, ch. 110, sec. 1; L. 1876, ch. 122, art. 2, sec. 13; L. 1881, ch. 152, sec. 12; L. 1907, ch. 329, sec. 1; G.S. 1935, ch. 72, sec. 213.
2. L. 1861, ch. 76, art. 4, sec. 8; G.S. 1868, ch. 92, sec. 49; L. 1869, ch. 86, sec. 8; L. 1876, ch. 122, art. 2, sec. 11; L. 1881, ch. 152, sec. 7; G.S. 1935, ch. 72, sec. 208.
3. L. 1869, ch. 86, sec. 11; L. 1876, ch. 122, art. 4, sec. 13; G.S. 1935, ch. 72, sec. 1015.
4. L. 1905, ch. 394, sec. 1; L. 1915, ch. 298, sec. 2; G.S. 1935, ch. 72, sec. 1302.
5. L. 1937, ch. 296, sec. 11.
6. L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
7. Ibid.

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the county teachers' association formerly were kept by the county superintendent but since 1918 those in Shawnee County have been in the custody of the secretary of the association.

The attendance and history record cards of common school pupils are kept by the county superintendent of Shawnee County. He also keeps a record of the examination of students for grade school diplomas.[1]

The State superintendent requires that teachers of district schools make a report to the county superintendent the first week of the school term and another at the end of the sixth week. High school teachers and principals are required to make similar reports. The statutes also require teachers to make a full report to the district clerk at the end of the term and imply that a copy shall be filed with the county superintendent.[2] The principals of Barnes high schools are required by law to make an annual report to the county superintendent.[3] The clerk of each school district is required to submit a full report for the year to the annual meeting of the voters of the district, after which it must be filed with the county superintendent.[4]

In most counties the superintendent keeps copies of his quarterly reports to the State Superintendent,[5] and copies of the annual reports he is required to make to the State Superintendent regarding each school district and type of school in the county, including those of cities of the first and second classes.[6]

Beginning in 1881 the county superintendent was required by law to keep a record of the semiannual apportionment of the State and county school funds.[7] The Shawnee County superintendent keeps copies of his monthly reports which accompany his remittances of county normal institute funds to the county treasurer and in some counties the superintendent retains copies of orders drawn by him on the institute fund.[8] Since 1881

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1. L. 1913, ch. 271, sec. 3; L. 1915, ch. 300, sec. 1; L. 1921, ch. 234, sec. 1; G.S. 1935, ch. 72, sec. 5103.
2. L. 1861, ch. 76, art. 9, sec. 1; G.S.1868, ch. 92, sec. 81; L. 1876, ch. 122, art. 6, sec. 1; G.S. 1935, ch. 72, sec. 1346.
3. L. 1905, ch. 397, sec. 5; G.S. 1935, ch. 72, sec. 3004.
4. L. 1861, ch. 76, art. 3, sec. 16; G.S. 1868, ch. 92, sec. 34; L. 1874, ch. 118, sec. 3; L. 1876, ch. 122, art. 4, sec. 8; L. 1887, ch. 219, sec. 3; L. 1889, ch. 220, sec. 2; L. 1925, ch. 223, sec. 1; G.S. 1935, ch. 72, sec. 1008.
5. L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
6. L. 1861, ch. 76, art. 2, sec. 8; G.S. 1868, ch. 92, sec. 16; L. 1869, ch. 86, sec. 5; L. 1876, ch. 122, art. 2, sec. 5; L. 1881, ch. 152, sec. 5; G.S. 1935, ch. 72, sec. 207.
7. L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
8. L. 1877, ch. 136, secs. 5, 7; G.S. 1935, ch. 72, secs. 1406, 1408.

the law has required him to keep a complete record of his official acts, which is used as the basis for his quarterly reports to the State Superintendent.[1]

The Shawnee County superintendent retains copies of his score cards of elementary schools which he sends to the State Superintendent.[2]

Since 1929 the State Superintendent has supplied the county superintendents with uniform record books in which to keep the records of the organization and boundaries of school districts, school district officers elected and appointed, teachers' State certificates registered, the normal institute registration, county teacher's examination grades, teachers employed in the county, county diploma examinations, county certificates issued, and the semiannual apportionment of the State and county school funds. Prior to 1929 these records usually were kept separately.

Organization and Boundaries
(See also entry 4-vi)

471. (Organization of School Districts and Record of) SCHOOL DISTRICT BOUNDARIES, 1859, 1869, 1877--. 4 vols. 1929-- also in Uniform (County Superintendent's) Record, entry 493.
Record of organization of school districts, and establishment and alteration of school district boundaries, showing name and number of district, date and place of first meeting, description and population of proposed district, time limit of appeal, results of first meeting, officers elected, date organization perfected, plats and drawings of district and description of boundaries as finally fixed, record of subsequent alterations, and description of territory attached and detached. Arr. num. by school dist. nos. No index. Hdw., 1859, 1869; hdw. on pr. fms., 1877--. Aver. 270 pp. 16 x 10 x 2. 2 vols., 1859, 1869, attic; 2 vols., 1877--, co. supt's. off.

District Officers

472. RECORD OF SCHOOL DISTRICT OFFICERS, 1879-1929. 3 vols. 1929-- in Uniform (County Superintendent's) Record, entry 493.
Record of school district officers elected at annual meeting, showing school district number, date of meeting, name and address of officer elected, for what office, date of expiration, amount of bond, and names and addresses of sureties. Arr. num. by school dist. nos. No index. Hdw. on pr. fms. 300 pp. 16 x 11 x 2. Attic.

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1. L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
2. L. 1915, ch. 296, sec. 8; G.S. 1935, ch. 72, sec. 103.

Teachers
(See also entries 478-481, 494, 495)

473. (REGISTER OF TEACHERS' STATE CERTIFICATES), 1883--. 1883-1929 in County Superintendent's Record of Official Acts, entry 490; 1929-- in Uniform (County Superintendent's) Record, entry 493.
Register of teachers' State certificates, showing name and address of teacher, grade and number of certificate, and dates of issuance, expiration, and registration.

473 1/2. RECORD OF TEACHERS EMPLOYED, 1881-1928. 1 vol. 1929-- in Uniform (County Superintendent's) Record, entry 493.
Record of teachers employed in county schools, showing school district number, name of teacher, school address, salary, date of contract, date of commencement and length of term, grade of certificate, date of expiration, and remarks. Arr. chron. by dates of contracts. No index. Hdw. on pr. fms. 200 pp. 18 x 14 x 2. Co. supt's. off.

474. (NORMAL INSTITUTE ENROLLMENT CARDS), 1935--. 1 b.
County normal institute enrollment cards, showing date, faculty, daily programs, and attendance. Arr. chron. by dates of enrollment. No index. Hdw. on pr. fm. 8 x 12 x 16. Co. supt's. off.

475. RECORD OF NORMAL INSTITUTE REGISTRATION, 1879-86. 1 vol. 1886-1929 in County Superintendent's Record of Official Acts, entry 490; 1929-- in Uniform (County Superintendent's) Record, entry 493.
Record of registration and attendance at county normal institute, showing names and addresses of conductors and instructors, program for each day, names and addresses of teachers attending, number of days each was present, and remarks. Arr. chron. by dates of institutes. No index. Hdw. on pr. fms. 100 pp. 12 x 8 x 1/2. Attic.
For county superintendent's monthly reports of institute fund, 1933--, see entry 488.

476. RECORD OF COUNTY TEACHERS' ASSOCIATION (Minutes of Meetings), 1883-1918. 2 vols. Subsequent records kept by secretary of Association.
Minutes of county teachers' association meetings, showing date and place of meeting, names of officers and teachers present; proposals, recommendations, and motions discussed; business transacted, committees appointed, and remarks. Arr. chron. by dates of meetings. No index. Hdw. on pr. fms. 150 pp. 16 x 10 x 1. Attic.

Pupils
(See also entry 493)

477. (PUPILS' ATTENDANCE AND HISTORY RECORD CARDS), 1937--. 1,500 cards in 1 f. dr.
Pupils' attendance and history record cards, showing school district number, name of school; name, address, age, color, sex, and grade of pupil; date of birth, names of parents or guardian, names of brothers and sisters, and remarks. Arr. num. by school dist. nos. No index. Hdw. on pr. fms. 5 x 3 x 16. Co. supt's. off.

Reports

478. TEACHER'S FIRST WEEK'S REPORT, 1929--. 4 cb. bs., 2 bdls. Prior records destroyed.
Reports of rural elementary and graded teachers to county superintendent of first week of school term, showing date, district number, name of school, length of term; teacher's name, home and school addresses, and telephone number; length of contract, monthly salary, kind of certificate held, dates of issuance and expiration; attendance record, total credits and degrees from preparatory schools, and years taught; names, addresses, and telephone numbers of district officers; number volumes in library; enrollment by grades; names, addresses, and ages of pupils enrolled; names of parents or guardians; daily program, and score card. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. Cb. bs. 8 x 10 x 16; bdls. 1 1/2 x 6 x 9. 4 cb. bs., 1929-38, attic; 2 bdls., 1938--, co. supt's. off.

479. HIGH SCHOOL TEACHER'S FIRST WEEK'S REPORT, 1935--. 1 cb. b., 2 bdls.
High school principals' and teachers' reports to county superintendent of first week of school term, showing date, name of school, district number; name, address, and telephone number of teacher; teaching experience, years in present position, annual salary, kind of certificate, when issued, date of expiration, names of preparatory schools attended, total credits, and degrees obtained. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. Cb. b. 10 x 12 x 16; bdls. 1 1/2 x 6 x 9. 1 cb. b., 1935-38, attic; 2 bdls., 1938--, co. supt's. off.

480. TEACHERS' MONTHLY (Six Weeks) REPORTS, 1930--. 4 cb. bs., 2 bdls.
Teachers' monthly reports to county superintendent, at end of sixth week of school term, showing district number, date, name and address of teacher, number of days taught; names, ages, sex, and grade of pupils; attendance record, visits by school officers and others, equipment added and needed, and remarks. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. Cb. bs. 4 x 8 x 14; bdls. 1 1/2 x 8 x 6. 4 cb. bs., 1930-38, attic; 2 bdls., 1938--, co. supt's. off.

481. TEACHER'S TERM REPORT TO DISTRICT CLERK, 1930--. 1 f. dr.
Term reports of district school teachers to district clerks and county superintendent, showing date, district number, name of school, teacher's name and sex, kind of certificate held, enrollment of pupils by grades and sexes, average attendance, length of term, number of pulils residing outside of district, number volumes in library, names of pupils and report of attendance, scholarship and classification, daily program, work done in special subjects, and teacher's signature. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. 16 x 12 x 20. Co. supt's. off.

482. PRINCIPAL'S TERM REPORT TO DISTRICT CLERK AND COUNTY SUPERINTENDENT, 1935--. 1 f. dr.
Term reports of principals of elementary school districts to district clerks and county superintendent, showing date, district number, name of school, length of term; principal's name and sex, kind of certificate held; enrollment by grades, color, and sexes; average daily attendance; number of grade, teachers, average enrollment per teacher, number of grade buildings and rooms, number of volumes in library, names and salaries of principals and teachers, total operating expenses and cost per pupil, number of pupils transported by district, and number of weeks each subject taught. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. 16 x 12 x 20. Co. supt's. off.

483. HIGH SCHOOL PRINCIPAL'S (Six Weeks) REPORT TO COUNTY SUPERINTENDENT, 1930--. 2 cb. bs., 2 bdls.
Reports of high school principals to county superintendent, at end of sixth week of school term, showing date, names of school and principal, report number, for what month, number of days taught, total enrollment by grade and sex, number attending from outside of district, average daily attendance, number carrying more than four full time subjects, number failing in more than one subject, number of teachers doing systematic reading, equipment added since last report, equipment needed, names and grades of new pupils, and pupils dropped from roll and reinstated. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. Cb. bs. 8 x 8 x 12; bdls. 1 1/2 x 9 x 6. 2 cb. bs., 1930-38, attic; 2 bdls., 1938--, co. supt's. off.

484. ANNUAL REPORT OF BARNES HIGH SCHOOL, 1931--. 1 f. dr.
Annual report of Barnes high schools to county superintendent, showing date, district number, number of pupils outside of district, number of days school was in session, total enrollment, average daily attendance, length of course in years, average number of classes per day, salaries of teachers, names of pupils and attendance record, and total expense for current year. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. 16 x 12 x 20. Co. supt's. off.

485. RECORD OF ANNUAL REPORTS (of District Clerk), 1880--. 54 bdls., 5 vols.
Annual reports of school district clerks to county superintendent, showing date, school district number, school census; enrollment by grades,

color, and sex; length of term; names and salaries of superintendents, principals, and teachers; names and terms of district board members elected; number of school buildings and rooms; volumes in library; value of school property, assessed valuation of district, financial statement, rate and amount of levy, remarks, and clerk's signature; and reports of school district officers elected and qualified. Arr. num. by school dist. nos. and chron. thereunder. by dates of reports. No index. Hdw. on pr. fms. Bdls. 3 x 6 x 8; vols. 225 pp. 16 x 12 x 1. 53 bdls., 1880-1932, attic; 1 bdl., 5 vols., 1933--, co. supt's. off.

486. SUPERINTENDENT'S ANNUAL REPORT (to State Superintendent), 1884--. 4 vols.

Duplicate copies of county superintendent's annual reports to State Superintendent concerning each school district and type of school in county, including cities of first and second class, showing date, district number or city, school census, enrollment by grades and sexes, length of term, number of teachers, names and salaries of grade and high school superintendents and principals, number of school houses and rooms, volumes in libraries, value of school property, number and cost of new buildings erected, financial statement, tax levy, taxable value of property, budget adopted at annual meeting, number of pupils promoted and graduated, number of organized districts, number of teacher's certificates granted, number of physically defective children, report on school transportation, summary of health supervision, normal institute and truant officer's work, remarks and superintendent's signature. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. 200 pp. 16 x 14 x 1. Co. supt's. off.

For copies of county superintendent's quarterly reports, 1927--, see entry 149.

School Fund

487. APPORTIONMENT BOOK (of State and County School Funds), 1881-1929. 1 vol. 1929-- in Uniform (County Superintendent's) Record, entry 493.

Record of apportionment of State and county school funds, showing date, balance from last apportionment, amount received from State and county funds, total for apportionment, school census, amount apportioned each pupil, balance unapportioned; school district number, name and address of treasurer, number of pupils, and amount apportioned to each district. Arr. chron. by dates of apportionments. No index. Hdw. on pr. fms. 430 pp. 16 x 12 x 2. Co. supt's. off.

For treasurer's ledger of accounts with school districts, 1868--, see entry 439; for district treasurers' receipts for funds, 1886--, see entry 453.

County Superintendent of Public Instruction - Miscellaneous (488-492)

488. COUNTY SUPERINTENDENT'S REPORT OF INSTITUTE FUND, 1933--. 1 f. dr.
County superintendent's monthly report of normal institute fund, showing date of report, name of county treasurer; dates, items, and amounts of fees charged and collected; from whom, for what purpose, total amount collected, and oath and signature of county superintendent. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. 16 x 12 x 20. Co. supt's. off.
For treasurer's receipts for normal institute funds remitted, 1880-95, 1898--, see entry 454; for normal institute record, 1879--, see entry 475.

489. (RECORD SCHOOL DISTRICT TAX LEVIES), 1866. 1 vol. Discontinued.
Record of taxes levied by the various school districts, showing school district number, location of each by township and range numbers, total valuation of all taxable property, rate and total amount of levy, and remarks. Arr. num. by school dist. nos. and chron. thereunder by tax years. No index. Hdw. 103 pp. 12 x 7 x 2. Attic.
For certificates of amounts voted, 1929--, see entry 70.

Miscellaneous

490. COUNTY SUPERINTENDENT'S RECORD OF OFFICIAL ACTS, 1883-1929. 2 vols. Title varies: Record of Official Acts of Superintendent, 1883-1919.
Record of county superintendent's official acts, showing number of applications for teachers' examinations received, school district officers appointed to fill vacancies, number teachers' meetings held, number district clerks' and treasurers' records examined, number lectures given, and remarks. Also contains: (Register of Teachers' State Certificates), entry 473; Record of Normal Institute Registration, 1886-1929, entry 475; (County Teachers' Examination Grades), entry 494; (Record of Teachers' County Certificates), entry 495. Arr. chron. No index. Hdw. on pr. fm. 400 pp. 16 x 12 x 2. Co. Supt's. off.

491. CORRESPONDENCE, 1930--. 2 f. drs.
Original and duplicate copies of miscellaneous correspondence to and from various sources pertaining to official business of county superintendent's office. Arr. chron. No index. Typed. 16 x 12 x 20. Co. supt's. off.

492. SCORE CARD FOR ELEMENTARY SCHOOLS, 1935--. 1 f. dr.
Score cards for elementary schools, showing date, name of school, district number, calssification, organization, and scores given for building, site and equipment. Arr. chron. by dates scored. No index. Hdw. on pr. fm. 16 x 12 x 20. Co. supt's. off.

493. UNIFORM (County Superintendent's) RECORD, 1929--. 1 vol. This is a combination of nine types of records kept on standard approved forms, and which prior to 1929 were kept separately or in connection with other records. Record of county diploma examinations shows school district number, date and place of examination; name, age, and grade of pupil; grade obtained in each subject, average, and date of diploma if issued. Also contains: (Organization of School Districts and Record of) School District Boundaries, entry 471; Record of School District Officers, entry 472; (Register of Teachers' State Certificates), entry 473; Record of Teachers Employed, entry 473 1/2; Record of Normal Institute Registration, entry 475; Apportionment Book (of State and County School Funds), entry 487; (County Teachers' Examination Grades), 1929-39, entry 494; (Record of Teachers' County Certificates), 1929-39, entry 495. Arr. by subjects and chron. thereunder by dates of entries. No index. Hdw. on pr. fms. 300 pp. 18 x 14 x 2. Co. supt's. off.

For pupils' attendance and history record cards, 1937--, see entry 477.

XX. BOARD OF COUNTY EXAMINERS

Structural Organization and Evolution

Selection and Term. The first Territorial assembly provided that the voters of each school district should annually elect three trustees and one inspector. The inspector was required to examine applicants for teaching positions and to grant and revoke certificates.[1] This authority was vested in the county superintendent of common schools when that office was created in 1858.[2] The legislature of 1869 decreed that the county superintendent and two "competent persons" appointed by the county commissioners should constitute a board of county examiners, two of whom should constitute a quorum. The length of their term of service was not mentioned. The examiners were authorized to conduct public examinations of applicants for teaching positions in the county "at such times and places as they may deem best."[3]

The legislature of 1881 specified that the county superintendent should be ex officio chairman of the county board of examiners and that the other two members should be appointed by the county commissioners

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1. Terr. L. 1855, ch. 144, art. 1, secs. 3, 5.
2. Terr. L. 1858, ch. 8, sec. 26; L. 1861, ch. 76, art. 2, sec. 6; L. 1864, ch. 100, sec. 3; L. 1867, ch. 123, sec. 5; G.S. 1868, ch. 92, p. 934, sec. 3.
3. L. 1869, ch. 86, sec. 4; L. 1876, ch. 122, art. 6, sec. 6.

upon his nomination.[1] The county board was abolished in 1937 by an act vesting in the State Board of Education exclusive authority to issue teachers' certificates valid in the State. This act provides for an examining committee of three members, one of whom shall be the county superintendent, and the others shall be principals or superintendents of schools in the county, recommended by the county superintendent and appointed by the State Board. The authority of this committee, however, is limited to conducting the examinations.[2]

Qualifications. The original act creating the board of county examiners made no requirements as to the qualifications of the two appointive members except that they should be "competent persons." The legislature of 1881 required that they should be holders of first grade certificates.[3] The 1885 legislature made holders of State certificates and diplomas from the State University, State Normal School, and State Agricultural College eligible for the appointment.[4] No oath or bond is required.

Compensation. No provision for payment of salaries to the two appointive board members was made by the legislature of 1869. The law of 1881 specified that they should receive $3 a day for not exceeding 3 days in one quarter year.[5] In 1885 the maximum number of days for which they could be paid was increased to 4 in each quarter.[6] The act of 1905 increased the allowable number of days to 24 in each year,[7] and in 1921 the salary was increased to $5 per day.[8]

The statutes are silent as to the removal of the appointive board members or the filling of vacancies.

Functions

The legislature of 1869 required that the board of county examiners shall "publicly examine, at such times and places as they may deem best, all candidates proposing to teach in the county, incorporated towns and cities excepted, as to their competency and capacity to teach all the branches required to be taught in common schools; and if the application

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1. L. 1881, ch. 151, sec. 1; L. 1885, ch. 175, sec. 1; L. 1901, ch. 303, sec. 1; L. 1905, ch. 390, sec. 1; L. 1921, ch. 233, sec. 1; G.S. 1935, ch. 72, sec. 1317.
2. L. 1937, ch. 296, secs. 2, 7, 11.
3. L. 1881, ch. 151, sec. 1.
4. L. 1885, ch. 175, sec. 1; L. 1901, ch. 303, sec. 1; L. 1905, ch. 390, sec. 1; L. 1921, ch. 233, sec. 1; G.S. 1935, ch. 72, sec. 1317.
5. L. 1881, ch. 151, sec. 1.
6. L. 1885, ch. 175, sec. 1.
7. L. 1905, ch. 390, sec. 1.
8. L. 1921, ch. 233, sec. 1; G.S. 1935, ch. 72, sec. 1317.

is for a graded school, candidates shall be examined as to their competency and capacity to teach the additional branches required for such school; and if satisfied of the competency and capacity of the applicant to teach and govern such school and that he is of good moral character, the board of examiners shall give a certificate accordingly . . . No certificate issued by the county board shall be of force except in the county in which it was issued, nor for a longer period than 1 year. The certificates issued under this act may be revoked by the board of examiners on the ground of immorality or any cause which would have justified the withholding thereof when the same was granted."[1]

Previous laws were repealed by the legislature of 1937, which vested in the State Board of Education exclusive authority to issue teachers', supervisors', and administrative officers' certificates valid in the State. The examinations are held annually at any towns in the State which the State Board may designate, and if less than ten applications are received the State Board may order the applicants transferred to the next nearest town where examinations are scheduled. All candidates are designated by code numbers; the manuscripts are graded by the examining committee and forwarded to the State Board, where they must be held for a period of 1 year. The State Board must within 10 days after receipt of the papers issue certificates to all those qualifying.[2]

Since 1885 the statutes have required that the questions used in teachers' examinations shall be prepared by the State Board of Education and forwarded to the various county superintendents. They must not be opened until the time set for the examination, and then only in the presence of the examining board or committee.[3] The legislature of 1876 first provided for the grading of certificates issued by the Board of county examiners. There were numerous subsequent amendments affecting the grades, the length of time they should remain in force, and the minimum age and qualifications of the applicants.[4]

The legislature of 1873, which created the State Board of Education, authorized it to issue State diplomas and certificates, which superceded the necessity for the holders taking any further examination at the hands of local boards.[5] It was made the duty of county superintendents in

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1. L. 1869, ch. 86, sec. 4; L. 1876, ch. 122, art. 6, sec. 6; L. 1881, ch. 151, sec. 2; L. 1885, ch. 175, sec. 2; L. 1903, ch. 424, sec. 2; L. 1905, ch. 391, sec. 1; G.S. 1935, ch. 72, sec. 1320.
2. L. 1937, ch. 296, secs. 2, 7.
3. L. 1885, ch. 180, secs. 1, 2; G.S. 1935, ch. 72, secs. 1318, 1319; L. 1937, ch. 296, sec. 7.
4. L. 1876, ch. 122, art. 6, sec. 6; L. 1881, ch. 151, sec. 3; L. 1885, ch. 175, sec. 3; L. 1903, ch. 424, sec. 3; L. 1907, ch. 341, sec. 1; L. 1911, ch. 277, sec. 1; L. 1915, ch. 298, sec. 11; L. 1925, ch. 225, sec. 1; G.S. 1935, ch. 72, sec. 1326.
5. L. 1873, ch. 133, secs. 1, 2; L. 1876, ch. 122, art. 6, sec. 8; L. 1915, ch. 298, sec. 1; G.S. 1935, ch. 72, sec. 1301; L. 1937, ch. 296, secs. 2-7.

1905 to register such certificates in their counties when presented to them by the holders, and to make semiannual reports thereof to the State Board.[1] This act was repealed in 1937.[2] Between 1885 and 1937 the county superintendent was empowered to endorse certificates of certain grades which had been issued in other counties, and thereafter they were good in the county where endorsed for the remainder of the term for which they had been issued.[3] This act also was repealed in 1937.[4]

The law providing for public examinations for common school diplomas specifies that the examination papers shall be forwarded to the county superintendent and graded by the board of county examiners, or under the direction of the board by assistants appointed by the county superintendent. The diplomas, the law provides, shall be issued by the board of county examiners.[5] However, inasmuch as this board was abolished by the law of 1937[6] the grading now is done by the persons appointed to give the examinations.

Records

A law enacted in 1881 requires that the county superintendent shall keep a record of the name, age, and postoffice address of each candidate for a teacher's certificate, together with the number of weeks he has attended a normal school or institute, the number of weeks he has taught, his standing in each study, and the dates of issue and expiration of each certificate granted.[7] Under the law making him ex officio chairman of the board of county examiners[8] this is regarded as a record of the board.

In Shawnee County the superintendent also kept a record of the grades made by applicants, and in some counties stubs of the certificates issued were retained by the officer.

494. (COUNTY TEACHERS' EXAMINATION GRADES), 1883-1939. 1883-1929 in County Superintendent's Record of Official Acts, entry 490; 1929-39 in Uniform (County Superintendent's) Record, entry 493. Record of teachers' county examination grades, showing name, age, and address of teacher; number of high school and college credits, record of examination and grade in each subject, average grade, grade of certificate, and dates of issuance and expiration.

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1. L. 1905, ch. 394, secs. 2, 5; G.S. 1935, ch. 72, secs. 1350, 1353.
2. L. 1937, ch. 296, sec. 11.
3. L. 1885, ch. 175, sec. 6; L. 1903, ch. 425, sec. 1; L. 1915, ch. 298, sec. 11; G.S. 1935, ch. 72, sec. 1326.
4. L. 1937, ch. 296, sec. 11.
5. L. 1913, ch. 271, sec. 3; L. 1915, ch. 300, sec. 1; L. 1921, ch. 234, sec. 1; G.S. 1935, ch. 72, sec. 5103.
6. L. 1937, ch. 296, sec. 11.
7. L. 1881, ch. 152, sec. 2; G.S. 1935, ch. 72, sec. 204.
8. L. 1881, ch. 151, sec. 1; G.S. 1935, ch. 72, sec. 1317.

495. (RECORD OF TEACHERS' COUNTY CERTIFICATES), 1883-1939. 1883-1929 in County Superintendent's Record of Official Acts, entry 490; 1929-39 in Uniform (County Superintendent's) Record, entry 493. Discontinued.

Record of county certificates issued to teachers, showing name, age, and address of teacher; teaching experience, high school credits, hours of college credits, institute record, and dates of issuance, expiration, and renewal.

XXI. COUNTY BOARD OF HEALTH

Structural Organization and Evolution

Creation and Composition. Powers of the counties to regulate health and sanitation date from 1885, when the legislature created a State Board of Health composed of nine members appointed by the Governor with the approval of the senate.[1] The act specified that "the county commissioners of the several counties of this State shall act as local boards of health for their respective counties. . . . The local boards of health hereby created shall not supercede or in any way interfere with such boards established by municipal regulations in any of the counties of this State; but all local boards of health of this State created by this act or existing by authority of municipal law shall be governed by the provisions of this act."[2]

County Health Officer. The law required that each local board of health thus constituted "shall elect a physician, preference being given to adepts in sanitary science, who shall be ex officio a member of said local board and the health officer of the same. He shall hold his office during the pleasure of the board but may be removed for just cause at any regular meeting of the same by a majority of the members voting therefor, on which motion he shall not vote." An amendment in 1909 provided that he also could be removed by the State Board for any failure or neglect to perform his duties.[3] The statute permits him to receive "such reasonable compensation as his board may allow, to be paid from the county treasury."[4] Since 1909 he has been required, before entering upon the duties of his office, to execute a bond in the sum of $500

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1. L. 1885, ch. 129, sec. 1; L. 1903, ch. 357, sec. 1; G.S. 1935, ch. 74, sec. 901.
2. L. 1885, ch. 129, sec. 7; G.S. 1935, ch. 65, sec. 201.
3. L. 1885, ch. 129, sec. 7; L. 1909, ch. 102, sec. 1; G.S. 1935, ch. 65, sec. 202.
4. L. 1885, ch. 129, sec. 8; G.S. 1935, ch. 65, sec. 202.

conditioned for faithful performance of duty and must take the same oath of office prescribed by law for county officers.[1]

The first health officer in Shawnee County was appointed by the county board on July 8, 1885.[2]

Health Nurse. The legislature of 1925 authorized county boards of health in counties of 75,000 to 100,000 population and containing a city of the first class to employ a skilled professional nurse, when necessary, at a salary of $5 per day and all necessary transportation and incidental expenses. An amendment in 1927 made this law apply to all counties and also authorized the county board to employ additional personnel when deemed necessary for the protection of the public health.[3]

A full time health nurse was first appointed in Shawnee County on June 28, 1928.[4]

Functions

The law provides that the State Board shall supervise the health interests of the people of the State and also supervise the registration of marriages, births, and deaths and the forms of disease prevalent in the State.[5]

Disease Control. Whenever any part of the State appears to be threatened with infectious or contagious disease from an adjoining State, the State Board of Health may establish and maintain quarantine stations at such points as they are deemed necessary, and may enforce such regulations, after they have been adopted and published, as are deemed necessary to prevent the spread of the disease. The State Board may declare any or all of such rules in effect in the whole or a part of the district of any local or municipal board of health.[6] Any physician knowing of any case of infectious or contagious disease must report it to the nearest board of health or health officer. Any board of health or health officer having knowledge of such a case of disease must exercise a supervision thereof and see that all provisions of law relating to isolation, quarantine, and disinfection are properly complied with. All information concerning the case must be communicated immediately to the State Board and the health officer must confer with the physician in attendance as

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1. L. 1909, ch. 102, sec. 1; G.S. 1935, ch. 65, sec. 202.
2. Commissioners' Journal, vol. G., p. 411, see entry 2.
3. L. 1925, ch. 202, sec. 1; L. 1927, ch. 240, sec. 1; G.S. 1935, ch. 65, sec. 202.
4. Commissioners' Journal, vol. R, p. 117, see entry 2.
5. L. 1885, ch. 129, secs. 4, 5; G.S. 1935, ch. 65, secs. 101, 102.
6. L. 1893, ch. 74, sec. 1; G.S. 1935, ch. 65, sec. 104.

to its future management. Whenever infectious or contagious diseases show a tendency to become epidemic and the local health authorities neglect to isolate and quarantine them, the State Board may quarantine any city, township, or county in which the disease prevails.[1]

Every physician having knowledge of a case of tuberculosis must report to the county health officer, if outside a city of the first class, the name, age, sex, color, address, and place of last employment of the patient. Chief officers in charge of hospitals, asylums, and other private and public institutions must similarly report any such cases coming under their care. Each health officer must keep in a register a record of such cases reported to him, together with the results of examinations showing the presence of bacilli. Such information must not be divulged to anyone other than the health authorities of the State, city, or county. When a person infected with tuberculosis has died in or been removed from any premises, the attending physician must notify the local health officer, who must see that the law is complied with regarding disinfection, or that the premises are not occupied until disinfected. When a tuberculosis patient is not attended by a physician it is the duty of the local health officer to see that all precautions for the safety of other persons in the house are taken.[2]

Whenever contagious or infectious diseases exist in a city of the second or third class the governing body of the city, the county health officer, and the county commissioner of the district in which the city is located must take such action as in their judgment may be necessary to control and suppress the disease.[3]

Each local health officer must keep on hand ample report blanks and printed instructions of the State Board and furnish them to physicians reporting cases of tuberculosis. He must also keep on hand materials for preventing the spread of tuberculosis and supply them to the physician upon his requisition. Upon the recovery of any person from tuberculosis the physician must make a report to the local health officer, who is required to enter the facts on his records and relieve the patient of any further liability under the law. A copy of each report of tuberculosis received by him during the preceding month must be made by the local health officer to the State Board before the 10th day of each month.[4]

Local boards of health as well as the State Board are authorized to examine into all nuisances, sources of filth, and causes of sickness that may in their opinion be injurious to the health of the inhabitants. When such condition is found to exist on any private property or watercourse the board may require the owner, upon written notice, to remove

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1. L. 1901, ch. 285, secs. 1, 3, 10; G.S. 1935, ch. 65, secs. 117, 119, 126.
2. L. 1909, ch. 227, secs. 1-6, 8; G.S. 1935, ch. 65, secs. 105-110, 112.
3. L. 1919, ch. 145, sec. 1; G.S. 1935, ch. 65, sec. 301.
4. L. 1909, ch. 227, secs. 9-11; G.S. 1935, ch. 65, secs. 113-115.

it within 24 hours under penalty of a fine of from $10 to $100 for every day of neglect thereafter.[1]

An act of 1927 makes it the duty of the local health officer to make a sanitary inspection of each school building and grounds at the opening of the fall term of school, and such additional inspections as may be necessary for the health of the students.[2]

It is the duty of every physician who attends the child of an indigent person, if the child is afflicted with a deformity or malady curable by surgical operation or hospitalization, to immediately report the facts to the county board of health. If in the physician's opinion the malady is curable, it is the board's duty to provide transportation for the child and its attendant to the hospital conducted by the State Board of Administration.[3]

Vital Statistics. The county health officer was required to "receive and distribute without delay in the county for which he is appointed, all forms from the State Board of Health to the rightful persons and all returns from physicians, assessors, and local boards to the State Board of Health; and he shall perform such other duties of this act, his local board, or the State Board of Health may require of him." It was provided that assessors of personal property in the several townships and wards of cities should annually "collect such information as to marriages, births, and deaths as may be required by the State Board of Health and report the same . . . to the local board of health."[4] It was made the duty of every practicing physician in the State to keep a record of the deaths occuring in his practice, or that came to his knowledge where death occurred without medical attendance, and to report them to the local board.[5] And under the blanket authority given it by law the State Board required persons performing the marriage ceremony to report such marriages, and required physicians and midwives to report deaths occuring in their practice, and prescribed a penalty of a $10 fine for failure to make the reports on time. The local health officers were required to make these enrollments monthly to the State Board.[6] In practice the reports in many counties appear to have been made to the county clerk, who is required to keep the records of the county commissioners,[7] who constitute the county board of health.[8]

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1. L. 1907, ch. 383, sec. 1; G.S. 1935, ch. 65, sec. 159.
2. L. 1927, ch. 240, sec. 1; G.S. 1935, ch. 65, sec. 202.
3. L. 1911, ch. 292, secs. 1-3; G.S. 1935, ch. 39, secs. 401-403. For other laws providing for treatment of crippled children, see Probate Court, pp. 361, 362.
4. L. 1885, ch. 129, secs. 8, 10; G.S. 1935, ch. 65, secs. 149, 202.
5. L. 1885, ch. 129, sec. 9; G.S. 1935, ch. 65, sec. 148.
6. First Annual Report of the State Board of Health, 1886, pp. 21, 24-26.
7. Terr. L. 1858, ch. 13, sec. 29; Terr. L. 1859, ch. 42, sec. 43; G.S. 1868, ch. 25, secs. 43, 44; G.S. 1935, ch. 19, secs. 304, 305.
8. L. 1885, ch. 129, sec. 7; G.S. 1935, ch. 65, sec. 201.

Enactment of the vital statistics law of 1911 requiring that reports of births and deaths be made to local registrars[1] and the law of 1913 requiring reports of marriages to be made to the State Board[2] relieved the local health officers of these duties, except that physicians still are required to report deaths to the local board.[3] The law requiring assessors to report births, deaths, and marriages to the local health boards also is still on the statute books,[4] but is inoperative.

Records

The proceedings of the board of county commissioners, meeting in their various capacities, usually are kept together in their journals. Under the law which requires the county clerk to attend all sessions of the county commissioners and record in a book to be provided for that purpose all proceedings of the board,[5] the record of their proceedings when sitting as a county board of health[6] is entered in the journals.

Though either the State or local board of health had power to require the health officer to keep such records as they saw fit,[7] it was not until 1909 that the statutes specifically required him to "keep an accurate record of all the transactions of his office,"[8] and also to keep a register of tuberculosis cases reported in the county and the results of all examinations showing the presence of tuberculosis bacilli. This record is open to the inspection of none but the health authorities of the State, county, or city.[9] When an attending physician reports to him the recovery of any person having tuberculosis, the health officer is required to "record the same in the records of his office."[10]

Under these laws the county health officer of Shawnee County keeps records of the various contagious, infectious, and communicable diseases reported in the county, and the results of his inspections of sanitary conditions and cases of disease. He keeps a record of children in Topeka

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1. L. 1911, ch. 296, secs. 3, 9, 13; G.S. 1935, ch. 65, secs. 132, 138, 142.
2. L. 1913, ch. 224, sec. 1; G.S. 1935, ch. 23, sec. 105.
3. L. 1885, ch. 129, sec. 9; G.S. 1935, ch. 65, sec. 148.
4. L. 1885, ch. 129, sec. 10; G.S. 1935, ch. 65, sec. 149.
5. Terr. L. 1858, ch. 13, sec. 29; Terr. L. 1859, ch. 42, sec. 43; G.S. 1868, ch. 25, secs. 43, 44; G.S. 1935, ch. 19, secs. 304, 305.
6. L. 1885, ch. 129, sec. 7; G.S. 1935, ch. 65, sec. 201.
7. L. 1885, ch. 129, sec. 8.
8. L. 1909, ch. 102, sec. 1; L. 1925, ch. 202, sec. 1; L. 1927, ch. 240, sec. 1; G.S. 1935, ch. 65, sec. 202.
9. L. 1909, ch. 227, sec. 3; G.S. 1935, ch. 65, sec. 107.
10. L. 1909, ch. 227, sec. 10; G.S. 1935, ch. 65, sec. 114.

and nearby cities who have contracted smallpox and typhoid fever; a record of vaccinations for smallpox and immunizations for typhoid fever and diphtheria, and a record of Schick tests. He also keeps graphs of the mortality rate in the county due to various causes.

The law of 1885 specifically made it the duty of physicians to report to the local board of health all deaths occuring in their practice, or coming to their knowledge where death occurred without medical attention.[1] Under the blanket powers given it by the 1885 law the State Board of Health also prescribed the forms for reporting of births and marriages and required midwives and physicians to report to the local board such cases occuring in their practices.[2] In some counties the original forms may still be found. In Shawnee, as in most of the counties of the State, these reports were recorded in books. These reports were abandoned when the law providing for a State system of reporting and recording of vital statistics was enacted in 1911.[3]

The lists of births, deaths, and marriages reported by the assessors under the vital statistics law of 1885 also were considered records of the county boards of health.[4]

Unless otherwise indicated in the entry the following records are located in the county health officer's office in the courthouse.

Proceedings

496. (JOURNAL, BOARD OF HEALTH), 1885--. In Commissioners' Journal, entry 2.
Journal of board of county commissioners sitting as a county board of health, showing date of meeting, commissioners present; complaints, reports, resignations, bills, and claims received; bills allowed and disallowed; appointments made, resolutions adopted, orders issued, and all other proceedings.

Disease Records

497. COUNTY PHYSICIAN AND HEALTH OFFICER'S RECORD, 1931--. 1 vol.
Record of contagious diseases reported in county, showing name, address, age, sex, and color of patient; number in family, number affected, nature

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1. L. 1855, ch. 129, sec. 9; G.S. 1935, ch. 65, sec. 148.
2. First Annual Report of the State Board of Health, 1886, p. 21, 24-26.
3. L. 1911, ch. 296, sec. 1; G.S. 1935, ch. 65, sec. 130.
4. L. 1885, ch. 129, sec. 10; G.S. 1935, ch. 65, sec. 149.

of disease, date of onset, when placarded, date of isolation or quarantine, name and address of reporting physician, and date of return. Arr. chron. by dates reported. No index. Hdw. 500 pp. 15 x 12 x 3.

498. (HEALTH AND SANITATION SURVEY), 1936--. 3 f. drs.
Survey of health and sanitation of cities and townships made by county health officer, showing date; names, addresses, and dates of birth of parents and children; conditions as to sanitation of premises and land, and record of immunizations and illnesses. Arr. alph. by names of families. No index. Hdw. on pr. fm. 20 x 8 x 24.

School Children

499. (CONTRACTED CASES OF SMALLPOX AND TYPHOID), 1936--. 1 vol.
Record of children in Topeka and adjacent cities who have contracted smallpox or typhoid fever, showing name and address of child, date of onset, and nature of disease. Arr. chron. by dates reported. No index. Typed. 60 pp. 9 x 6 1/2 x 1/2.

500. (Record of) SMALLPOX (Vaccinations), 1930--. 1 vol.
Record of vaccination of pupils for smallpox, showing date, name of school, and names of pupils vaccinated. Arr. chron. by dates of vaccination. No index. Typed. 100 pp. 9 x 6 x 1/2.

501. (Record of) TYPHOID (Immunizations), 1928--. 1 vol.
Record of immunization of pupils from rural districts against typhoid, showing name, age, and address of child, and dates of first, second, and third inoculations. Arr. chron. by dates of first inoculations. Indexed alph. by names of pupils. Hdw. 150 pp. 11 1/2 x 10 1/2 x 1 1/2.

502. TOXOID (Record of Diphtheria Immunizations), 1928--. 1 vol.
Record of immunization of city and rural school pupils for diphtheria, showing date, name of school, and names of pupils immunized. Arr. chron. by dates of immunizations. No index. Typed. 150 pp. 11 1/2 x 10 1/2 x 2.

503. (Record of) SCHICK TEST, 1931--. 1 vol.
Record of pupils of Topeka schools and schools of county who have taken Schick tests to determine negative and positive results of diphtheria immunization, showing date of test, name of school, names of pupils taking test, and results. Arr. chron. by dates of tests. No index. Hdw. 150 pp. 12 1/2 x 10 1/2 x 1.

504. NINE POINT PUPILS, 1933--. 2 vols.
Examination record of children entering their first year of school who measure up to the nine-point standard, showing results of examinations and tests in vision, hearing, teeth, throat, weight, posture, toxin anti-toxin, smallpox vaccination, and birth registration. Arr. chron. by dates of examinations. Indexed alph. by names of children. Hdw. 50 pp. 9 x 7 x 1.

Vital Statistics

505. (RECORD OF INFANT MORTALITY), 1918-31. 1 vol. Discontinued as a separate record.
Record of infant mortality, showing date of death, names of child and parents, address, and causes contributing to infant death rate, generally. Arr. chron. by dates of deaths. No index. Typed. 100 pp. 9 x 6 x 1/2.
For subsequent related record, see entry 506.

506. (GRAPHS), 1918--. 1 vol.
Graphs depicting mortality rate from various causes, including smallpox, diphtheria, typhoid, mumps, measles, chickenpox, infant death, maternal death, and others. Arr. chron. No index. Typed. 100 pp. 9 x 6 x 1/2.
For separate record of infant mortality, 1918-31, see entry 505.

507. VITAL STATISTICS, 1894-1910. 1 vol. Discontinued; subsequent records kept by local registrars.
Register of vital statistics compiled from returns made to the county board of health by physicians and persons performing marriage ceremonies, containing:

i. Register of births, showing name, sex, race, and color of child; date and place of birth, name and address of parents, and name of person making return.

ii. Register of deaths, showing name, age, sex, color and nationality of deceased, occupation, date of death, length of residence, place and cause of death, place and date of burial, names and addresses of attending physicians and person making return.

iii. Register of marriages, showing license number; names, ages and addresses of contracting parties; names of parents, date and place of marriage, names of witnesses, and name and address of person making return. For probate court marriage license record, 1856--, see entry 321.

Arr. alph. by subjects and chron. thereunder by dates of returns. No index. Hdw. on pr. fm. 300 pp. 16 x 12 x 2. Attic.

(Next entry 508, p. 562)

XXII. COUNTY SOCIAL WELFARE BOARD

Structural Organization and Evolution

Structural Background. From the beginning of local government in Kansas the support of the poor has devolved upon the respective counties, and the general administration of poor relief laws has been a duty incumbent upon the board of county commissioners.

The first legislative assembly in 1855 decreed that "poor persons shall be relieved, maintained, and supported by the county of which they are inhabitants," and required the county commissioners to provide for such relief at county expense, as they deemed necessary.[1] The State Constitution, effective in 1861, provides that "the respective counties of the State shall provide as may be prescribed by law for those inhabitants who, by reason of age, infirmity, or other misfortune may have claims upon the sympathy and aid of society."[2]

In 1862 the trustees of townships and the mayors and councils of cities were designated as overseers of the poor within their respective jurisdictions and required to settle annually with the county commissioners, upon whose orders the money for the support of the poor was paid from the county treasury.[3] Ten years later the office of commissioner of the poor was created in counties of more than 30,000 population and made appointive by the county commissioners for a 2-year term, to have the general care and supervision of the poor of the county under control of the board of county commissioners. Duties of the township trustees and city officials as overseers of the poor were abolished in counties coming under provisions of the act,[4] which then affected Leavenworth County only. However, Shawnee County, by virtue of increased population, came under the law in 1882 and a poor commissioner was appointed June 19 of that year.[5] An amendment to the law in 1891 restricted its provisions to counties of more than 45,000 population,[6] which then included Shawnee County only, but thereafter it was gradually extended to counties of lesser population until in 1933 it was made to apply to all counties in the State.[7]

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1. Terr. L. 1855, ch. 126, secs. 1, 4-6.
2. Const., art. 7, sec. 4.
3. L. 1862, ch. 163, secs. 1, 6, 19, 22, 23.
4. L. 1872, ch. 161, secs. 1, 10.
5. Commissioners' Journal, vol. F, p. 471, see entry 2.
6. L. 1891, ch. 155, sec. 1.
7. L. 1901, ch. 133, sec. 1; L. 1913, ch. 162, sec. 1; L. 1931, ch. 199, sec. 1; L. 1933, ch. 196, sec. 6; G.S. 1935, ch. 39, sec. 517.

County Social Welfare Board - Structural Organization and Evolution

(Next entry 508, p. 562)

On November 3, 1936 the voters adopted an amendment to the State Constitution which, though the former provision requiring counties to support their poor is retained, permits the State to "participate financially in such aid and supervise and control the administration thereof."[1] The legislature of 1937, under this authority, created the State Board of Social Welfare consisting of five members appointed by the Governor and designated as a body corporate. This Board was authorized and required "to develop State plans, as provided under the Federal Social Security Act, whereby the State cooperates with the Federal Government in its program of assisting the States financially in furnishing public assistance to the needy aged, the needy blind, and dependent children, and in furnishing child welfare services and other social welfare services within the State."[2] The legislature of 1939 abolished this Board and created another by the same name but consisting of only three members, and provided that the State Board and such agents and officers as it may designate shall comprise the State Department of Social Welfare.[3]

Creation and Composition. In setting up the new social welfare system the 1937 legislature designated boards of county commissioners as county social welfare boards and required them to provide for such employees as might in their judgment be needed from time to time to carry out the provisions of the act, and to prescribe their compensation and duties. No additional bond or oath is required of a county commissioner in his capacity as a member of the county social welfare board, nor is any additional remuneration provided.[4]

County Director. Successor in a general way to the commissioner of the poor is the county social welfare director, whom each county board was required to appoint as executive and administrative officer. The law specifies that he "shall be properly qualified in the field of social welfare work," and possess qualifications meeting standards set by the State Board. His compensation "shall be fixed from time to time by the county board," and he must give such bond as the board requires conditioned for faithful performance of duties. Subject to approval of the county board he may appoint one of his assistants as deputy county director and assign to him his own powers and duties of office during his absence or incapacity. Both the director and his deputy hold office at the pleasure of the county board, or until the approval of either is withdrawn by the State Board.[5]

Under the law of 1862 the township and city officials were not required to take an additional oath or give additional bond in their

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1. Const., art. 7, sec. 4.
2. L. 1937, ch. 327, secs. 3, 8.
3. L. 1939, ch. 202, secs. 1, 2, 8.
4. L. 1937, ch. 327, secs. 10, 12.
5. L. 1937, ch. 327, sec. 11.

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capacities as overseers of the poor, but received from the county treasury $1 per day for each day actually employed in such work, payable from the county treasury. In 1870 this sum was increased to $3 per day.[1] The law creating the office of poor commissioners fixed the officer's salary at $1,200 a year[2] and in 1874 it was reduced to $500.[3] In counties of larger population a larger salary was paid after 1915, but in Shawnee County the officer's salary continued at $500 per year until 1924 when by virtue of population Shawnee came under the law of 1921 which provided for a salary of $2,100 per year in counties of 75,000 to 100,000 inhabitants.[4] In 1927 the compensation was cut to $1,000 per year.[5] The law of 1933 allowed the county commissioners to prescribe the poor commissioner's salary, not exceeding $1,500 per year, and authorized appointment of as many assistants for him as conditions required.[6] The original law fixed the poor commissioner's bond at $5,000, but the law of 1933 left the sum to the discretion of the county commissioners.[7]

Superintendent of County Home. Boards of county commissioners have had authority since 1855 to employ a superintendent for the county poor farm, or county home. He must be a "humane and responsible person" and resident of the county. He must execute a bond in the penal sum of $500 as guaranty of faithful performance of duty, and receives such compensation as the county commissioners may determine.[8] The law of 1937 provides that "the county board shall supervise the county home" and that "the superintendent shall be under the supervision of the county director as regards the assistance of the persons admitted to the county home and the kind and amount of work, if any, which they may be required to do."[9]

The county commissioners also are required to appoint annually a "well qualified physician" to attend the inmates of the county home and "allow him a reasonable compensation for his services." In their discretion the commissioners may also appoint annually a board of visitors consisting of one person from each township in the county, or a less number if they think best, and allow them such compensation "as they adjudge reasonable."[10]

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1. L. 1862, ch. 163, sec. 20; G.S. 1868, ch. 79, sec. 20; L. 1870, ch. 89, sec. 1; G.S. 1935, ch. 39, sec. 319.
2. L. 1872, ch. 161, sec. 9.
3. L. 1874, ch. 90, sec. 2.
4. L. 1921, ch. 192, sec. 1.
5. L. 1927, ch. 230, sec. 1.
6. L. 1933, ch. 196, secs. 6, 7; G.S. 1935, ch. 39, secs. 517, 518.
7. L. 1872, ch. 161, sec. 7; L. 1933, ch. 196, sec. 8; G.S. 1935, ch. 39, sec. 519.
8. Terr. L. 1855, ch. 126, sec. 9; L. 1862, ch. 163, secs. 25, 31; G.S. 1868, ch. 79, secs. 25, 31; G.S. 1935, ch. 39, secs. 324, 330.
9. L. 1937, ch. 327, sec. 12a.
10. L. 1862, ch. 163, secs. 27, 37, 38; G.S. 1868, ch. 79, secs. 27, 37, 38; G.S. 1935, ch. 39, secs. 326, 336, 337.

The first record in Shawnee County of a poor farm superintendent occurs April 4, 1871, when Daniel Dawson was appointed to the post following an agreement the day before for lease of his farm to the county.[1] On January 9, 1872 a contract was awarded to a physician for the care of the poor and of prisoners in the county jail.[2]

Functions

General Assistance. The first Territorial assembly, decreeing that "poor persons shall be relieved, maintained, and supported by the county of which they are inhabitants," left it to the county commissioners to dispense such relief as they deemed necessary.[3] The liability of the counties to support their aged, poor, and unfortunate inhabitants was reimposed by the terms of the State Constitution in 1861.[4]

The legislature of 1862, repealing all former laws, passed a new act governing the administration of relief to the poor. The mayors and councils of incorporated cities and the trustees of civil townships were designated as overseers of the poor within their respective jurisdictions. It was made their duty to "enter in the poor book of their respective township or city all poor persons in their township or city who are unable to take care of themselves and who shall, in their judgment, be entitled to the benefit of the provisions of this act." When any person believed he was entitled to the benefits of the law and the overseers refused to assist him, he could apply to the county commissioners, who, if they saw fit, could direct the overseers to receive the applicant on the poor list.[5]

In counties having no common poorhouse it was the duty of the overseers to publish, 2 weeks preceding the first Monday in May of each year, an advertisement certifying the number of poor persons to be provided for and asking for sealed proposals for their maintenance for 1 year. The bids were opened and acted upon on a specified day, but the overseers could accept or reject propositions at any other time. The county commissioners, in their discretion, could allow and pay to poor persons "who may become chargeable as paupers, and who are of mature years and sound mind and who, from their general character, will probably be benefitted thereby," an annual sum not exceeding the cost of their maintenance in the same manner as other unfortunates. Upon complaint that a poor person was not being properly provided for, or was being ill-treated by the

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1. Commissioners' Journal, vol. BC, pp. 359, 363, see entry 2.
2. Ibid., vol. D, p. 29.
3. Terr. L. 1855, ch. 126, secs. 1-6.
4. Const., art. 7, sec. 4.
5. L. 1862, ch. 163, secs. 1, 2, 6, 10, 11; G.S. 1935, ch. 39, secs. 301, 302, 306, 309, 310.

person having him in charge, the overseers were authorized to withhold any part of the compensation allowed for the keep of the poor person, and to place the latter in the care of some other person.[1]

From the beginning of county government the county commissioners of each county were authorized to purchase a tract of land and erect a poorhouse, or asylum for the poor thereon, and to hire a superintendent thereof. Two or more counties could join in such an enterprise, as well as in other activities for relief of the poor. Any asylum so established could be discontinued and disposed of in the discretion of the commissioners. When an asylum was established the commissioners were required, when suitable buildings had been provided, to order the overseers of the poor to remove thereto all persons who had become permanent charges as paupers. The commissioners could adopt such measures for their employment and support as they deemed advisable.[2]

The legislature of 1937 decreed that admittance of needy persons to the county home should be in the discretion of the commissioners. Those admitted must be "provided with proper clothing, sufficient food, clean quarters, and means of recreation. Persons admitted to the home may be assigned tasks in accordance with their ability, age, and physical health." A strict account must be kept of the cost of operating the county home, and of income derived from its activities, including farming, dairying, and poultry raising.[3]

In all counties having a commissioner of the poor, as provided in the laws of 1872 and subsequent amendments,[4] The duties of the local overseers of the poor were abolished.[5] It was made the poor commissioner's duty "to keep his office at the county seat in such place as the county board shall determine, and to personally inform himself of the necessity of all expenditures of public moneys for the relief of paupers; to make all purchases that may be required for the assistance of paupers not in the public poorhouse, and to certify all accounts for such expenditures. He was required to visit the poorhouse each week and "keep himself informed of the condition thereof and of the inmates therein, and to report monthly to the county board the condition thereof, with any suggestions he has to make concerning the same." He also was required to make a report to the commissioners on the first Monday of each month stating the names of all persons in the poorhouse the preceding month and the number of days there, the condition of the health of each inmate,

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1. L. 1862, ch. 163, secs. 7-9; G.S. 1935, ch. 39, secs. 307, 308, 601.

2. Terr. L. 1855, ch. 126, secs. 7-9, 11; L. 1862, ch. 163, secs. 25, 30; G.S. 1935, ch. 39, secs. 324, 329; L. 1937, ch. 327, sec. 12a.

3. L. 1937, ch. 327, sec. 12a.

4. L. 1872, ch. 161, sec. 1; L. 1891, ch. 155, sec. 1; L. 1901, ch. 133, sec. 1; L. 1931, ch. 199, sec. 1; L. 1933, ch. 196, sec. 6; G.S. 1935, ch. 39, sec. 517.

5. L. 1872, ch. 161, sec. 10; G.S. 1935, ch. 39, sec. 510.

the total expense incurred, and the total amount received by him as commissioner during the month.[1] To this report the law of 1933 required him to add full information as to persons assisted outside the poorhouse and what had been done to assist any poor persons to become self-dependent.[2]

He also was required to make an annual report stating in detail the number and names of persons in the poorhouse the preceding year and the number of days present; the amount paid for them; the number and names of poor persons cared for who were not inmates of the poorhouse and the amount expended for each; and an estimate of the amount which, in his judgment, it would be necessary to raise by taxation for support of the poor in the ensuing year. Additional details of aid rendered, including the names of all persons in the family of any client, were required to be made in his annual report by the laws of 1933.[3]

The legislature of 1933 enacted new laws for relief of the poor, declaring it to be the object of the act "to provide a more just, sympathetic, and economical system for the relief of those persons who have claims upon the sympathy and aid of society, avoid duplication of aid and effort on the part of public relief agencies, and in general to aid such persons by instruction and other helpful means to become self-dependent at the earliest possible date." It was decreed that "all such relief hereafter furnished shall be furnished only to those who have filed a proper application for poor relief with the poor commissioner, whose condition has been investigated, and who have been regularly budgeted to receive poor relief on the forms and in the manner prescribed by the board of county commissioners." A uniform system of records prescribed by the State Board of Administration was required. All public relief agencies receiving money from taxation were required to register annually with the county commissioners and use the prescribed forms.[4]

It was made the duty of the poor commissioner or his assistants to "investigate the condition of all applicants for county poor relief and . . secure such information and keep and preserve such records as the board of county commissioners shall require. He shall cooperate with private and other public relief agencies. He shall use his best endeavors to assist by instruction and other helpful means those who receive relief to become self-dependent."[5]

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1. L. 1872, ch. 161, secs. 2-4.
2. L. 1933, ch. 196, sec. 11; L. 1935, ch. 191, sec. 1; G.S. 1935, ch. 39, sec. 522.
3. L. 1872, ch. 161, sec. 8; L. 1933, ch. 196, sec. 14; G.S. 1935, ch. 39, sec. 525.
4. L. 1933, ch. 196, secs. 2-5, 15; G.S. 1935, ch. 39, secs. 513-516, 526.
5. L. 1933, ch. 196, sec. 9; G.S. 1935, ch. 39, sec. 520.

County Social Welfare Board - Functions (Next entry 508, p. 562)

The social welfare act of 1937 provides that "the State Board shall supervise all social welfare activities of the county boards of social welfare, and rules and regulations made by the State Board under the provisions of this act shall be binding upon the county boards." It was made the duty of the county boards to "provide aid, assistance, and service on the basis of need in the county, in accordance with State laws and the rules and regulations of the State Board." The county boards was required to "determine the general policy and make all social welfare rules and regulations regarding aid, assistance, or service to persons in need within the county, not inconsistent with State laws and rules and regulations of the State Board."[1]

The county board must maintain at least one intake office and as many additional intake offices as it deems necessary. General requirements for eligibility to receive general assistance, aid to the blind, aid to dependent children, and old age assistance are prescribed by law.[2]

Aid to the Blind. No special provisions of law for the assistance of blind persons by the counties existed prior to 1937. The social welfare law provides that aid shall be granted to any needy blind person above the age of 15 years who is otherwise eligible, and who is not receiving old age assistance.[3] The law of 1939 provides that $75,000 per year of the social welfare fund shall be appropriated "for the prevention of blindness, restoration of sight, and rehabilitation of the blind."[4]

Aid to Dependent Children. The laws of 1862 provided that "it shall be the duty of the overseers of the poor of the different townships and cities, and also of the superintendents of the county asylums, to bind out such poor children as fall under their care and charge from time to time; and it shall also be the duty of said overseers to see that children so bound be properly treated by the persons to whom they are bound, and to take legal means of redress in case of maltreatment." It was made the duty of the superintendent of the poor asylum to direct the education of poor children under his care, and send them to the common school in the township in which the asylum was situated. In their discretion, the county commissioners could pay an annual cash allowance to the indigent parents of children who were idiots, or otherwise helpless and requiring the attention of their parents.[5]

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1. L. 1937, ch. 327, secs. 8, 10, 12.
2. L. 1937, ch. 327, secs. 8a, 12.
3. L. 1937, ch. 327, sec. 8a.
4. L. 1939, ch. 334, sec. 1.
5. L. 1862, ch. 163, secs. 8, 28, 33; G.S. 1868, ch. 79, secs. 8, 28, 33; L. 1905, ch. 385, sec. 1; G.S. 1935, ch. 39, secs. 327, 331, 601.

The legislature of 1915 enacted a law authorizing the county to pay to mothers of children under 16 years old a sum not exceeding $25 per month when neither mother nor child had other means of support. The legislature of 1921 reduced to 14 years the maximum age of children for whom aid could be thus given, but increased the maximum amount which could be paid to $50 per month.[1]

The social welfare law of 1937 defines dependent children as those under 16 years old "who have been deprived of parental support or care by reasons of the death, continued absence from the home, or physical or mental incapacity of a parent, and who are living with their father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt in a place of residence maintained by one or both of such relatives as his or their home." Local welfare boards may aid any such children who meet general eligibility requirements; who have resided in the State for 1 year or who were born in the State within 1 year preceding the application, and who are living in a suitable family home meeting the requirements of care and health as fixed by State laws and the regulations of the State Board of Social Welfare.[2]

Old Age Assistance. Prior to 1937 the only provision for the support of destitute aged persons was that applicable to all poor persons of the county. The social welfare law provides for cash payments to needy individuals 65 years of age or older.[3] The original act provided that any such old age assistance granted should be a first lien in favor of the State on any real property owned by the recipient at the time of becoming a client, or acquired by him thereafter. The lien was perfected by filing in the office of the register of deeds a notice by the county welfare director, and could be discharged by the recipient re-paying the amount of assistance received by him. This law was repealed by the legislature of 1939 and all existing liens discharged.[4]

Relief and Social Welfare Funds. The first assembly authorized the county commissioners to levy a tax for the maintenance of the poor, and also for the purchase of ground for a poor asylum and the erection and maintenance of buildings thereon.[5] The legislature of 1862 authorized levy of a tax on all taxable property for the support of the poor; and for the purpose of purchasing land and erection of a poor asylum, a tax that would raise $500, unless a greater sum was approved by the voters.[6]

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1. L. 1915, ch. 261, sec. 1; L. 1917, ch. 138, sec. 1; L. 1921, ch. 153, sec. 1; G.S. 1935, ch. 39, sec. 601.
2. L. 1937, ch. 327, secs. 2, 8a.
3. Ibid.
4. L. 1937, ch. 327, sec. 17; L. 1939, ch. 203, secs. 1, 2.
5. Terr. L. 1855, ch. 126, secs. 8, 12.
6. L. 1862, ch. 163, secs. 29, 35; G.S. 1868, ch. 79, secs. 29, 35; G.S. 1935, ch. 39, sec. 328. The annual levy provision was repealed by L. 1933, ch. 309, sec. 27.

A general limit on tax levies for county purposes was imposed by the legislature of 1909.[1] Until then the poor fund was regarded as a part of the general levy for expenses.[2] After the limitation law was enacted several special laws were passed from time to time permitting certain counties to levy a greater sum for support of the poor. In 1919 a general law was enacted authorizing a levy of .5 of a mill for the poor fund, in addition to all other county purposes, and requiring that the money be spent only for relief of the poor.[3] In 1931 the allowable levy in certain counties was raised to 1 mill.[4]

The legislature of 1933 passed a new levy limitation law, which still fixed 1 mill as the maximum poor levy, but authorized county commissioners, should they see that such levy would be insufficient, to apply to the State Tax Commission for permission to levy an additional sum not exceeding 1 mill for this purpose.[5] Since 1933 the legislature at each regular session has authorized county commissioners, when the existing maximum poor levy proves insufficient, to levy during the ensuing 2 years on additional sum, and also to issue bonds for poor relief in amounts ranging from 1/10 to 1/2 percent of the assessed property valuation of the county, provided the approval of the State Tax Commission is obtained for such issue. The laws require that money thus raised shall be kept in a separate fund known as the "public assistance fund" and used only for relief of the poor. Recipients may be required to do work on employment projects of the counties.[6] Since 1933 several special laws have been passed authorizing certain counties to levy taxes or issue bonds to make improvements in connection with work relief projects.

Imposing a 2 percent consumers' tax on all retail sales of tangible property, the legislature of 1937 provided that $2,400,000 per year of the amount collected should be placed in the newly created social welfare fund, beside $200,000 per year for special welfare purposes in connection with the Crippled Children's Commission in lieu of the advalorem tax. After all other appropriations provided by law had been made from it, the legislature decreed, 80 percent of the balance remaining in the retail sales tax fund should be divided among the counties, half on the basis of population and half on the basis of assessed valuation. Upon receipt of the money the county treasurers were required to divide it among the county and its political taxing subdivisions in proportion to their tangible property tax levies, exclusive of that for State purposes.[7]

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1. L. 1909, ch. 245, secs. 1-11.
2. 33 Kan. 206-210; 6 Pac. 273
3. L. 1919, ch. 160, sec. 1.
4. L. 1931, ch. 196, sec. 1; L. 1933, ch. 191, sec. 1; G.S. 1935, ch. 39, sec. 340.
5. L. 1933, ch. 309, sec. 3; G.S. 1935, ch. 79, sec. 1947.
6. L. 1933, ch. 67, secs. 1-3 (Special Session); L. 1933, ch. 193, secs. 1, 2, 4; L. 1935, ch. 192, secs. 1-3; G.S. 1935, ch. 39, secs. 3a01, 3a02, 3a04; L. 1937, ch. 244, secs. 1, 2; L. 1939, ch. 201, secs. 1, 2.
7. L. 1937, ch. 374, sec. 21.

County Social Welfare Board - Functions (Next entry 508, p. 562)

The legislature of 1939 increased the social welfare appropriation to $3,000,000 annually, and provided that the entire balance remaining in the sales tax fund after all appropriations provided for by law have been made, shall be divided among the counties. This law authorizes the county commissioners to direct the county treasurer to credit all or any portion of the county's share of such balance to the social welfare fund of the county. With the approval of the State Board of Social Welfare and after a hearing held on 20 days published notice, the commissioners of counties with more than 80,000 inhabitants, which includes Shawnee County, may allocate to the county social welfare fund 50 percent of the total of such sales tax balance money received, and distribute the remaining 50 percent among the taxing subdivisions as above provided.[1]

The social welfare fund consists of all moneys received by the State Board as grants, gifts, bequests, and State aid, including grants from the Federal Government and the appropriation from the retail sales tax fund. Distribution is made to the counties as follows: Grants from the Federal Government as provided for under the Federal Social Security Act are paid to each county in amounts equal to one-half the amounts expended during the month for old age assistance and aid to the blind, and one-third the sums expended for aid to dependent children. All other moneys the counties receive from the social welfare fund are in sums equal to 30 percent of the approved social welfare expenses of the county, less the cost of county administration, after deducting the amount of the Federal grants. The State may advance additional moneys to any county under certain conditions.[2]

The 1939 legislature also created the "emergency social welfare fund." When the money raised by a county through taxation, bond issue, receipts from the State, and all other means for social welfare purposes equal what would be raised by a poor fund levy of 2.625 mills and is insufficient to meet its estimated social welfare needs because of drought, stranded population, or other emergency, the State Board may assist it from the emergency social welfare fund in amounts not exceeding 30 percent of its social welfare expenses for the budget year, and for each month. Since January 1, 1940 the amount raised by the county must equal a 3-mill levy before the State may assist.[3] The same legislature required the State Treasurer to allocate to the emergency fund from the retail sales tax fund the sum of $1,000,000 on April 5, 1939; and thereafter the sum of $80,000 monthly, beginning January 1, 1940, until February 1941.[4]

Under the law of 1862 the overseers of the poor were required to make return to the county clerk of the amounts needed for the maintenance of the poor in their respective jurisdictions, and the money was paid

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1. L. 1939, ch. 334, sec. 1.
2. L. 1937, ch. 327, sec. 9; L. 1939, ch. 200, sec. 3.
3. L. 1939, ch. 205, secs. 1, 2.
4. Ibid., ch. 334, sec. 1.

quarterly from the county treasury upon order of the county commissioners, in the same manner other claims against the county were paid. The overseers were required to present their accounts and make an annual report of their proceedings to the county board once a year.[1]

Under the poor commissioner law of 1872 the poor commissioner's duty was "to make all purchases that may be required for the assistance of paupers not in the public poorhouse and to certify all accounts for such poor expenditures." Contracts for the care and custody of the inmates of the poorhouse were let by the county commissioners "to the lowest and most responsible bidder, at a given sum per day for each person."[2] The law of 1933 required that "the commissioner of the poor shall make all purchases that may be required for the relief and aid of the poor and indigent not in the public poorhouse and to certify to all accounts of such expenditures." The county commissioners were merely authorized to "employ or contract for the services of a person properly qualified to keep such poorhouse."[3]

The county social welfare board on or before June 1 of each year must prepare and submit to the State Board its county welfare budget in such detail as the State Board may prescribe. The State Board may approve the proposed budget as submitted, or may make such recommendations and requirements as it deems advisable. The county board must correct the budget in accordance with the directions of the State Board, whereupon the county commissioners must make such levies on the taxable property of the county as may be necessary to raise the required amount, provided such levy is not in excess of that authorized by law. Both the county board and State Board, in preparing and examining the budget, must take into consideration the estimated amount of grants the county will be entitled to receive from the State welfare fund, including Federal grants. The county board is authorized to receive gifts or grants of funds or commodities, or property of any kind usable in carrying on its work.[4]

The social welfare law created in each county a county social welfare fund "in which shall be deposited all receipts from taxes, funds derived from warrants and bond issues, sales, private gifts, grants, loans, and other revenues which the county board is authorized to receive. The fund so created shall be in such sum as shall guarantee that said county will be able to meet fully all obligations for assistance to the aged, the blind, and the dependent children who are entitled to such assistance and who are certified therefor. All disbursements shall be made from such county welfare fund upon vouchers signed by the county director and

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1. L. 1862, ch. 163, secs. 19, 22; G.S. 1868, ch. 79, secs. 19, 22; G.S. 1935, ch. 39, secs. 318, 321.
2. L. 1872, ch. 161, secs. 2, 4.
3. L. 1933, ch. 196, secs. 10, 12; G.S. 1935, ch. 39, secs. 521, 523.
4. L. 1937, ch. 327, sec. 12; L. 1939, ch. 200, sec. 4.

approved by the county board." Vouchers for payment of salaries and expenses of the county welfare organization must be approved by the county attorney, verified by the claimant, and filed with the county clerk, who draws his warrant on the treasurer for the amount.[1]

Records

The proceedings of the county social welfare board are, like its proceedings in other capacities, entered in their journals kept by the county clerk.[2]

Under its blanket powers of supervision and the specific requirement that the State Director, with the approval of the State Board, shall "establish an adequate system of financial records," practically all forms and records used by the county boards are prescribed by the State Board. The law does provide, however, that "the county shall maintain a perpetual index on a form prescribed by the State Board of all the applications for assistance through the county board and private agencies." The county board, as well as private relief agencies receiving tax moneys, "shall maintain two files of the cases; one shall be the public file, which shall contain the approval and financial data needed; and the other shall be the case record file containing the case history and confidential personal and family data which is obtained in the course of assisting the client." The confidential files are open only to officers and employees of the State and county boards and the private agencies.[3]

The first provision for uniformity of records was made by the legislature of 1933, which made the poor commissioner law applicable to all counties. It required the board of commissioners to establish and maintain "a central index in which shall be filed and kept up to date the original or a true copy of the application for poor relief, and the financial data card of each person or family who is receiving poor relief from any public poor relief agency or private agency which is regularly registered to give poor relief within the county; provided, that the applications and financial data cards of those persons or families who have become self-dependent and are no longer receiving poor relief shall be filed in a separate record, which shall be accessible only to those who have official business with such records."[4]

The 1933 law declared "that in order to provide for a uniform system of public records for the handling of poor relief in the State of Kansas, for the taking of applications for poor relief, for determining the

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1. L. 1937, ch. 327, sec. 13.
2. Terr. L. 1858, ch. 13, sec. 29; Terr. L. 1860, ch. 28, sec. 33; G.S. 1868, ch. 25, sec. 44; G.S. 1935, ch. 19, sec. 305.
3. L. 1937, ch. 327, sec. 12; L. 1939, ch. 200, sec. 4.
4. L. 1933, ch. 196, sec. 4; G.S. 1935, ch. 39, sec. 515.

weekly needs, the weekly resources, and the amounts and kinds of relief needed by the week for the relief and aid of the poor and indigent, and to provide a uniform record of the date, kind, and amount of relief given the poor and indigent, the State Board of Administration shall prescribe a standard form for application for poor relief and a standard financial data card on which shall be set forth the minimum essentials in determining the weekly needs, the weekly resourses, and the amount of relief needed by the week for the relief and aid of the poor and indigent." On the reverse side of the card was prescribed the manner in which the date, kind, and amount of relief granted should be recorded. The State Board was authorized to prescribe a form of financial data card for direct relief and a different one for work relief. Public relief agencies, which were required to register with the county commissioners, were required to use the forms prescribed by the State Board, and were required to file monthly in the office of the poor commissioner the originals or true copies of all new records made by them during the preceding month.[1]

The Shawnee County social welfare board has kept up to date an intake record of clients begun in 1933. Until 1939 a master card index of social welfare cases was maintained, since which time the index has been kept in volume form, the loose-leaf entries being transferable between volumes for active and inactive cases. An index record of relief clients who are inmates of State institutions also is maintained.

The original instruments in poor relief cases in Shawnee County date from 1933. When the social welfare system became effective in 1937 the new case papers were merely added to the old files. The various types of assistance are not kept separately, inasmuch as the papers in each case are enclosed in a folder labeled with the case number and name of the client, and the cases arranged in alphabetical order so that they are easily accessible. As cases become inactive they are transferred to the inactive file. Among the old poor commissioner records there remain in the custody of the county director beside the instruments in regular cases, the files in transient relief cases, 1933-35, budgets of relief clients, 1933-37, and the file of instruments in homestead rehabilitation cases, 1936.

The social welfare board files copies of assignment and reassignment slips and time cards of workers on county-Federal work relief projects, and copies of general assistance and surplus commodity orders issued; keeps a record of relief orders issued to clients, and retains duplicate copies of claims for labor and services authorized by the poor commissioner and county director.

The county director retains copies of his monthly reports to the State Director and county commissioners of assistance granted. The law requires that "the county board shall make the reports prescribed by the State Board on forms and records provided by the State Board."[2]

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1. L. 1933, ch. 196, secs. 3, 5; G.S. 1935, ch. 39, secs. 514, 516.
2. L. 1937, ch. 327, sec. 12; L. 1939, ch. 200, sec. 4.

County Social Welfare Board - (508-511)
Proceedings; Indexes

The poor commissioner, predecessor of the county director, sometimes retained copies of his monthly and annual reports to the county commissioners.[1]

Unless otherwise indicated in the entries, the following records are located in the county social welfare offices at 1031 Kansas Avenue, Topeka.

Proceedings

508. (JOURNAL, SOCIAL WELFARE BOARD), 1937--. In Commissioners' Journal, entry 2.
Journal of proceedings of board of county commissioners sitting as a county social welfare board, showing date of meeting, commissioners present; bills, claims, complaints, reports, and resignations received; claims allowed and disallowed; appointments made, budgets fixed, resolutions adopted, orders issued, and all other transactions.

Indexes

509. (INTAKE RECORD OF RELIEF CLIENTS), 1933--. 26 f. bs. (labeled by contained letters of alph.)
List of relief and social welfare clients, showing name, address, and age of client; number in family, date of application, amount and nature of relief granted, and whether case is active or inactibe. Arr. alph. by names of clients. No index. Hdw. on pr. fm. 3 x 5 x 6.

510. (INDEX TO SOCIAL WELFARE CASES), 1939--. 2 vols.
Index to (Social Welfare Active Public Assistance Cases), entry 514, and Inactive Cards of Relief Clients, entry 515, showing name, case number, age, address, and marital status of applicant; date of application, and nature and amount of relief granted. The loose-leaf entries are transferred between an active and an inactive volume, according to the status of the case. Arr. alph. by names of clients. Typed on pr. fm. 100 pp. 18 x 12 x 1.

511. (INDEX TO INSTITUTIONAL CASES), 1939--. 1 vol.
Index record of relief clients who are inmates of State institutions, showing case number, name, age, sex, race, color, birthplace, and marital status of applicant, and date and institution to which committed. Arr. alph. by names of clients. Typed on pr. fm. 50 pp. 18 x 12 x 1.

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1. L. 1872, ch. 161, secs. 3, 8; L. 1933, ch. 196, secs. 11, 14; G.S. 1935, ch. 39, secs. 522, 525.

512. INACTIVE MASTER (Index) CARD FILE, 1936-38. 12 f. bs. (labeled by contained letters of alph.) Discontinued.
Master index to Inactive Cards of Relief Clients, entry 515, showing case number, name, address, race, sex, and occupation of client; names and ages of dependents, conditions of health, and educational background. Arr. alph. by names of clients. Hdw. and typed on pr. fm. Aver. 6 x 4 x 12.

513. ACTIVE MASTER (Index) CARDS, 1936-38. 20 f. bs. (labeled by contained letters of alph.) Discontinued.
Master index to (Social Welfare Active Public Assistance Cases), entry 514, showing case number, name, address, age, race, and sex of client; names of ages of dependents, condition of health, and educational background. Arr. alph. by names of clients. Typed on pr. fms. Aver. 6 x 4 x 12.

Public Assistance Case Files

514. (SOCIAL WELFARE ACTIVE PUBLIC ASSISTANCE CASES), 1937--. 24 f. drs. (labeled by contained letters of alph.)
Miscellaneous original instruments filed in social welfare active public assistance cases, including:

i. Aid to the blind: Applications, reports, budget sheets, certifications of eligibility, authorizations for payments, notices of appeals, and other data filed in active cases, showing date; case number, name, address, age, race, marital status, and birthplace of applicant; name, age, and relationship of others in household; length of residence in State and county; reason for request; financial statement and authorization for financial investigation; home visitor's report on investigation, with physical, mental, and economic status of applicant; budget sheets, showing source of income and necessary expenditures; authorization to opthamologist to examine eyes; degree of blindness; notice of acceptance and amount; dates of increase or decrease of grants; appeals to State Board, notices of hearings and decisions, and signature of applicant, home visitor, and county director. For inactive cases see entry 515-i.

ii. Aid to dependent children: Applications, reports on applications, budget sheets, certifications of eligibility authorizations for payment, notices of appeals, and other data filed in active cases, showing date, case number; name, address, age, race, and date and place of birth of applicant; name, age, and relationship of others in household; length of residence in State; names, sexes, birth dates, and birthplaces of children and parents; home

visitor's report, showing family history, property owned, economic and employment status, and physical and mental condition of children; cause of dependency; budget sheets, showing source of income and necessary expenditures; notices of acceptance and amount, dates of increase or decrease in grants, notices of hearings and decisions, appeals to State Board, and signatures of applicant, home visitor, and county director. For inactive cases, see entry 515-ii.

iii. General assistance cases: Applications, reports, budget sheets, certifications of eligibility, authorizations for payment changes in certifications and authorizations, notices, appeals, commodity records, and other data filed in general assistance cases, showing date, case number; name, address, age, sex, race, and color of applicant; date and place of birth; names, ages, and relationship of others in household; length of residence in State and county; reasons for request; financial statement and authorization for financial investigation; home visitor's report, showing physical, mental, and economic status of applicant; budgets of income and necessary expenditures; notices of acceptance, and dates and amounts of increases in grants; items and amounts of commodities received; notices of hearings, decisions, and appeals, and signatures of applicant, home visitors and county director. For inactive cases see entry 515-iii.

iv. Old age assistance: Applications, reports on applications budget sheets, certifications of eligibility, authorizations for payment, notices, appeals, and other data filed in active cases of old age assistance, showing date, case number; name, address, age, race, birth date, and marital status of applicant; names, ages, and relationship of others in household; length of residence in State, reason for request; financial statement and authorization for financial investigation; home visitor's report of investigation of applicant, showing family history, property owned, and social and economic status; budget sheets, showing sources of income and necessary expenditures; notice of acceptance; amount, and dates of increases and decreases in grant; notices of hearings and decisions; appeals to State board; notices of filing lien on real property of applicant; and signatures of applicant, home visitor, and county director. For copies of notices of liens filed for record, 1938-39, see entry 173; for inactive cases, see entry 515-iv.

The instruments in each case are enclosed in a jacket, labeled with case number and name of client. Arr. alph. by names of clients. For index, see entries 510, 513. Hdw. and typed on pr. fms. 14 x 12 x 20.

515. INACTIVE CARDS OF RELIEF CLIENTS, 1933--. 60 f. drs. (labeled by contained letters of alph.)
Miscellaneous instruments filed in inactive social welfare public assistance cases, including:

i. Aid to blind, 1937--: Original instruments and data filed in cases which have been rejected or become inactive, showing the same information as entry 514-i, and also notice of rejection, suspension, or discontinuance of grant.
ii. Aid to dependent children, 1937--: Original instruments and data filed in cases which have been rejected or become inactive, showing same information as entry 514-ii, and also notice of rejection suspension, or discontinuance of grant.
iii. General assistance cases, 1937--: Instruments and data filed in cases which have become inactive, showing same information as entry 514-iii, and also notices of rejection, suspension, or discontinuance of grant.
iv. Old age assistance cases, 1937--: Instruments and data filed in cases which have been rejected or become inactive, showing same information as entry 514-iv, and also notice of rejection, suspension, or discontinuance of grant.
v. Poor relief cases, 1933-37: Applications, case workers' reports, budget sheets, financial data cards, and other original instruments and data, showing date; name, address, age, race, color, birthplace, and marital status of applicant; occupation, number in family, condition of health, family history, sources of income, amount of budget required, amount of direct relief granted, work relief record; dates, items and amounts of commodities granted; case workers' reports of visits and investigations, and remarks.

The instruments in each case are enclosed in a jacket labeled with case number and name of client. Arr. alph. by names of clients. For index, see entries 510, 513. Hdw. and typed on pr. fm. 12 x 14 x 20.

516. (TRANSIENT RELIEF CASES), 1933-35. 2 f. drs. Discontinued.
Applications for relief, case workers' investigations and reports, and other data filed in transient relief cases, showing name, address, age, race, sex, and date and place of birth of client; whether State or interstate; case number, nature and amount of relief granted, and final disposition. Arr. chron. by dates of applications. No index. Typed on pr. fms. 14 x 12 x 20.

517. CONFIDENTIAL BUDGETING (of Relief Clients), 1933-37. 21 bdls. (labeled by contained letters of alph.) Discontinued.
Confidential budgeting of relief clients by case workers, showing date, case number, name and address of client, number of dependents; amount allowed for rent, fuel, food, clothing, utilities, medical care, and cash; total amount of budget, items and quantity of Federal surplus commodities granted, explanations, remarks, and signature of case worker. Arr. alph. by names of clients. No index. Hdw. on pr. fms. 8 x 5 x 10.

518. NOTICE TO LANDLORD (of Rent Allowed Relief Clients), 1935--. 2 f. drs.
Duplicate copies of poor commissioners' and county directors' notices to landlords of allowance of rent to relief clients by county commissioners, showing information as in entry 25. Arr. chron. by dates of notices. No index. Typed. 14 x 12 x 20.

519. (KANSAS HOMESTEAD REHABILITATION FILE), 1936. 1 f. dr. Discontinued.
Applications of farmers for aid, authorizations for investigation, case workers' reports, certifications of applicants, financial data cards, and other data filed in homestead rehabilitation cases, showing date of application, name and address of applicant, number in household, condition of health, financial and physical history, source of income, recommendations, and nature and amount of relief granted. Arr. num. by certificate nos. No index. Hdw. on pr. fms. 14 x 12 x 20.

Work Relief

520. ASSIGNMENT AND IDENTIFICATION CARDS, 1934-35. 2 cb. bs. Discontinued.
Duplicate copies of assignment and identification cards issued by poor commissioner to work relief clients, showing date of issue; name, address, age, and color of worker; case and identification numbers; number of dependents; names of project and supervisor, number of assigned hours, classification, and rate of pay. Arr. chron. by dates of issue. No index. Typed on pr. fm. 14 x 12 x 18.

521. ACTIVE (and Inactive) WORK SLIPS, 1935--. 6 f. drs. (labeled by contained letters of alph.)
Copies of assignment and reassignment slips of workers on Work Projects Administration and Public Works Administration projects, showing name, address, age, and sex of worker; identification and case numbers; date of assignment or reassignment; nature and location of project; occupation, rate of pay, and signature of worker; and signatures of assignment official and project supervisor. Arr. alph. by names of workers. No index. Hdw. on pr. fms. 20 x 6 x 30.

522. TIME CARDS (of Work Relief Clients), 1934--. 8 f. drs.
Time cards of work relief clients, showing date, case number, name and address of worker, number of dependents, name of project, period worked, number of hours per day, rate of pay, total earnings, and signatures of worker and timekeeper. Arr. chron. by dates of issue. No index. Hdw. on pr. fms. 14 x 12 x 20.

523. WEEKLY TIME SHEETS, 1934-35. 2 cb. bs. Discontinued.
Weekly time sheets of county work relief projects, showing date, project number and location; name, address, identification number, case number,

occupation, and classification of worker; budget allowed, hours worked, total man hours, rate of pay, total earnings, and signature of project supervisor. Arr. chron. No index. Typed on pr. fms. 12 x 14 x 18.

524. (GARDEN SEED WORK SLIPS), 1935. 2 f. drs. Discontinued. Work slips issued to relief clients for payment of garden seed issued, showing date of issue, case number, name and address of worker, number of dependents, hours assigned, rate of pay, total earnings, and signature of poor commissioner. Arr. chron. by dates of issue. No index. Typed on pr. fms. 12 x 14 x 20.

Commodities

525. (GENERAL ASSISTANCE ORDERS), 1935--. 1 cb. b., 4 f. drs. General assistance orders issued to merchants authorizing issuance of groceries, clothing, and supplies to relief clients, showing date, case number, name and address of client, order number, quantity and description of items, unit price, total amount, and signatures of county director and client. Arr. chron. by dates of issue. No index. Hdw. on pr. fms. Cb. b. 12 x 16 x 18; f. drs. 12 x 14 x 20. 1 cb. b., 1935-36, attic, courthouse; 4 f. drs., 1936--, welfare off.

526. (FEDERAL SURPLUS COMMODITY ORDERS), 1935--. 4 f. drs. (labeled by contained letters of alph.)
Copies of Federal surplus commodity orders issued to relief clients, showing distribution agent; client's name, address, and case number; number of dependents; items and quantity of commodities, and signature of county welfare director. Arr. alph. by names of clients. No index. Typed on pr. fms. 12 x 14 x 20.

Accounts

527. (RELIEF CLIENT'S ORDER AND CONTROL LEDGER), 1935--. 3 vols. Ledger account of relief issued to clients, showing date, name of merchant, case number, name and address of client, order and claim numbers, items, quantity and price, totals, and remarks. Arr. chron. by dates issued. No index. Hdw. on pr. fms. 400 pp. 16 x 10 x 2.

528. PAYROLLS (Claims of County Employees), 1934--. 2 f. drs. Duplicate copies of claims for work and services authorized by poor commissioner or county director, showing date, claim number, name of claimant, amount claimed, nature of service rendered, and signature of claimant, attested by poor commissioner or county director. Arr. chron. by dates of claims. No index. Typed on pr. fms. 12 x 14 x 20.

529. (CIVIL WORKS ADMINISTRATION PAYROLL FOR PERSONAL SERVICES), 1935. 2 cb. bs. Discontinued.
Payrolls of Civil Works Administration for personal service, showing date, nature of project, names of disbursing officer and employee, case number, occupation, number of hours worked, rate of pay, and number and amount of warrant issued. Arr. alph. by names of subjects. No index. Typed on pr. fms. 12 x 14 x 18.

Reports

530. (COUNTY DIRECTOR'S MONTHLY REPORTS), 1937--. 1 f. dr.
County director's monthly reports to State Director and county commissioners of assistance granted, showing date, number of applications received for each type of assistance, number approved, number of cases opened and closed during month, number pending at end of month, cash payments to recipients, obligations incurred in behalf of recipients, number of cases of general assistance, and number of persons represented in families aided. Arr. chron. by dates of reports. No index. Hdw. on pr. fm. 12 x 14 x 20.
For poor commissioner's monthly reports to county commissioners, 1933-37, see entry 23.

531. (PROJECT REPORTS), 1935--. 2 f. drs.
Kansas Emergency Relief Committee and Work Projects Administration project reports, showing name, number, and location of project; name of sponsor, amount of funds allotted, amount expended, balance, inventory of equipment, and correspondence relating to each project. Arr. chron. by dates of reports. No index. Typed on pr. fms. 12 x 14 x 20.

532. (General) CORRESPONDENCE, 1933--. 6 f. drs.
Original and duplicate copies of correspondence to and from various sources pertaining to appointment and dismissal of employees, granting of relief, relief projects and project work, and other official business of office of county poor commissioner and social welfare director. Arr. alph. by names of subjects. No index. Hdw. and typed. 12 x 14 x 20.

XXIII. COUNTY ENGINEER

Structural Organization and Evolution

Selection and Term. The present office of county engineer had its origin in a legislative enactment of 1909 creating the office of county engineer of highways and bridges in each county having a population of more than 20,000 inhabitants. The county commissioners of such counties were required to appoint an engineer within 6 months after the

(Next entry 533, p. 578)

act became effective, and it was specified that they could appoint the county surveyor to the position if he was qualified by training and experience. Counties of lesser population could come under the provisions of the act by resolution of their boards of county commissioners.[1]

In accordance with this law the Shawnee County commissioners on August 1, 1909 appointed D. J. Graves as county engineer, his services to begin on September 1. Mr. Graves declined the appointment, however, and on August 20, V. R. Parkhurst was appointed to the office.[2]

The legislature of 1917 repealed this law and provided for appointment of a county engineer in all counties within 6 months, except that in counties of less than 10,000 population the appointment could be deferred until January 1, 1919. The term was fixed at 2 years, but the law was amended in 1919 to make the term for such length of time as the county commissioners deem necessary. It was specified that in counties where there was not a sufficient amount of road and bridge work to keep the county engineer busy throughout the year, two or more counties may unite to form an engineer district and employ an engineer, with the approval of the State Highway Commission. Formation of such districts may not include more than six counties and must be governed by the area, mileage of public highways, number of watercourses, population, railroad facilities, assessed valuation, and the total amount of funds being spent in such counties for roads and bridges. As the work progresses the county commissioners may increase or reduce the size of the district, with the approval of the Highway Commission, as the circumstances demand.[3]

Bond - Compensation - Assistants. No surety bond was required of the engineer by the laws of 1909, but under that of 1917 he must execute to the State a bond in the penal sum of $2,500 conditioned for faithful discharge of his duties and the protection, care, and return of all property of the county which may come into his custody.[4] Under the law of 1909 the county engineer of highways and bridges received a salary of $4 per day for time actually engaged in his duties, and in addition thereto the same fees then received by the county surveyor for each map, plat, survey, or report of survey, but not exceeding a maximum amount in each year. The maximum in counties of more than 30,000 population, which included Shawnee, was $1,200 per year.[5] The law of 1917 fixed graduated annual salaries based on population, that of the Shawnee County engineering being $2,000 per year.[6] The county commissioners are required to

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1. L. 1909, ch. 198, sec. 1.
2. Commissioners' Journal, vol. N, pp. 289, 290, see entry 2.
3. L. 1917, ch. 264, secs. 8, 10; L. 1919, ch. 245, secs. 2, 3; G.S. 1935, ch. 68, secs. 501, 503.
4. L. 1917, ch. 264, sec. 14; G.S. 1935, ch. 68, sec. 505.
5. L. 1909, ch. 198, sec. 3.
6. L. 1917, ch. 264, sec. 12; G.S. 1935, ch. 28, sec. 119.

"provide the county or district engineer with a suitable office conveniently situated, and such assistants and equipment as are necessary for the proper performance of his duties."[1]

Removal - Vacancy. The law of 1909 made no specific mention of removal of the engineer or vacancies in office. The law of 1917 authorizes the county commissioners to terminate the engineer's tenure of office for cause, and the State Highway Commission to terminate it for incompetency. The statutes imply that the county commissioners shall fill any such vacancy by appointment. The law of 1917 provided that in event of a vacancy in the office of county surveyor the county commissioners should appoint the county engineer to fill the unexpired term, but this clause was repealed in 1919.[2] A law enacted in 1917 provided that beginning on the second Monday in January 1919 the office of county surveyor should be abolished in all counties with less than 60,000 inhabitants and not having a city of the first class of 40,000 or more population and that in such counties the county engineer should perform all the duties required by law of the surveyor.[3] This law does not affect Shawnee County.

Functions

Roads and Highways. The creation of the office of county engineer was the result of the "better roads" agitation which began with the present century and increased with the growing popularity and wider use of motor vehicles, and the demand for faster transportation facilities resulting from increasing population and the broader social and commercial requirements of the people.

From the beginning of local government in Kansas the authority for laying out, altering, and vacating county roads has been vested in the board of county commissioners.[4] Since 1917, however, the State Highway Commission has had general supervision over the administration of all road and bridge laws and over the construction and maintenance of all roads, bridges, and culverts throughout the State, except township roads on which no Federal aid is granted.[5] Since 1929 exclusive authority in the construction, improvement, and maintenance of the State highway system has been vested in the State Highway Commission.[6]

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1. L. 1917, ch. 264, sec. 13; G.S. 1935, ch. 68, sec. 504.
2. L. 1917, ch. 264, sec. 8; L. 1919, ch. 245, sec. 2; G.S. 1935, ch. 68, sec. 501.
3. L. 1917, ch. 145, sec. 1; R.S. 1923, ch. 19, sec. 1403; G.S. 1935, ch. 19, sec. 1403.
4. Terr. L. 1855, ch. 139, secs. 6, 12; Terr. L. 1860, ch. 104, sec. 17; L. 1864, ch. 112, sec. 1; G.S. 1868, ch. 89, sec. 1; L. 1874, ch. 108, sec. 1; L. 1911, ch. 248, sec. 2; L. 1931, ch. 243, sec. 1; G.S. 1935, ch. 68, sec. 102.
5. L. 1917, ch. 264, sec. 6; G.S. 1935, ch. 68, sec. 404.
6. L. 1929, ch. 225, sec. 8; G.S. 1935, ch. 68, sec. 407.

County Engineer - Functions (Next entry 533, p. 578)

The law of 1909 decreed that the county engineer of highways and bridges should "have general supervision of all the highway and bridge work in the county under the authority of the said county commissioners."[1] Since 1885 the trustee, clerk, and treasurer of each municipal township have constituted the township board of highway commissioners for their respective townships, to have charge of the township roads and bridges,[2] but since 1909 all township road and bridge work must meet the approval of the county engineer.[3]

The act of 1909 required that the county engineer should "classify the roads of his county according to their relative importance, designating them as county, township, and local roads, according to their importance and amount of travel upon them; and he shall see that the roads so classified be kept and maintained in condition in proportion to importance and amount of travel."[4] The legislature of 1911 decreed that the roads in each county should be classified as State, county, and township roads, and mail routes. The State roads were to be defined by the State, and the county roads by the county commissioners, but county roads designated by the county engineer under the 1909 law were to remain as such.[5]

The legislature of 1917, which created the State Highway Commission,[6] made it the duty of the county engineer and county commissioners to designate the roads of their respective counties as county and township roads, according to their relative importance. The county engineer was required to mark on a map the roads thus designated and file it with the county commissioners. When the latter had corrected and approved the road system the engineer indicated any changes on the map and forwarded two copies to the State Highway Engineer, who examined them and returned one copy to the county engineer with his recommendations. The county commissioners were required to direct the county engineer to relocate roads or make any such changes as the State Highway Engineer should recommend. When the county road system was thus established the county engineer and commissioners could withdraw a road therefrom only with the consent of the State Engineer.[7] The law of 1925 specified that the

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1. L. 1909, ch. 198, sec. 1.
2. L. 1885, ch. 168, secs. 1, 5; G.S. 1935, ch. 68, sec. 523.
3. L. 1909, ch. 198, sec. 4; L. 1917, ch. 264, sec. 33; G.S. 1935, ch. 68, sec. 526.
4. L. 1909, ch. 198, sec. 2.
5. L. 1911, ch. 248, sec. 18.
6. L. 1917, ch. 264, sec. 4; L. 1919, ch. 245, sec. 1; ch. 284, sec. 15; L. 1920, ch. 59, sec. 1 (Special Session); L. 1921, ch. 1, sec. 9; L. 1923, ch. 7, sec. 2; L. 1925, ch. 214, sec. 1; L. 1927, ch. 255, sec. 1; L. 1929, ch. 225, sec. 1; G.S. 1935, ch. 74, sec. 2001.
7. L. 1917, ch. 264, secs. 15, 17, 19-21; G.S. 1935, ch. 68, secs. 506, 508, 510-512.

State Highway system should be designated by the State Highway Commission in conjunction with the boards of county commissioners, but since 1929 the power of designation is vested solely in the State Commission.[1]

It is the duty of the county engineer to visit and inspect the highways and bridges in his county at least once a year and instruct the township highway commissioners and road overseers as to the best methods of repair, construction, improvement, and maintenance. He must study the soil conditions and collect information regarding deposits of gravel, stone, sand, clay, and other road and bridge building materials, and study and determine the best methods of using them. It is his duty to make maps of the roads in the different townships, and when the records are missing or incomplete he must make maps and plats and file them in the offices of the county clerk and the township clerks. When passed upon and adopted by the county commissioners, such maps constitute the road records when such records have been missing, or become supplemental records when existing records are incomplete.[2]

It is the engineer's duty to prepare plans, specifications, and estimates for roads, bridges, and culverts to be built by the county; to act for the county in all matters relating to the supervision of the construction, repair, resurfacing, and maintenance of roads, bridges, or culverts or anything pertaining to rivers, streams, or watercourses for which the county pays any part of the cost; and to prepare plans, specifications, and regulations governing the construction and maintenance of township roads, bridges, and culverts and to furnish copies to the township highway commissioners and road overseers. He must keep a record of all contracts, and of all purchases of machinery or materials to be used in road construction and costing more than $200 and which have been approved by him in any township. He must answer inquiries and must hold two or more public meetings annually to consult with highway officials regarding road, bridge, and culvert improvement.[3]

The statutes provide that when the county roads have been selected "the county engineer shall, in writing, divide said roads into sections, designating each section by some appropriate number, name, or letter and clearly designate the starting point and termination of such sections; and such designation shall be reported at length in a county road book, whereupon the county engineer shall proceed to inspect such roads and survey the same where it is necessary and report to the State Highway Engineer the plan for the road, bridge, culvert, and drainage work thereon." The survey and report must be made on the basis of permanent improvement and must consist of an accurate plan and profile of the road, showing fills and outline of grades with careful attention to surface and

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1. L. 1925, ch. 214, sec. 2; L. 1927, ch. 255, sec. 6; L. 1929, ch. 225, sec. 3; L. 1933, ch. 97, sec. 1 (Special Session); L. 1935, ch. 245, sec. 1; G.S. 1935, ch. 68, sec. 406.
2. L. 1909, ch. 198, sec. 2; L. 1911, ch. 248, sec. 28; L. 1917, ch. 264, sec. 9; G.S. 1935, ch. 68, sec. 502.
3. L. 1917, ch. 264, sec. 9; G.S. 1935, ch. 68, sec. 502.

lateral drainage and subdrainage. It must show the size and location of all lines of tile, the soundings of foundations, and an estimate of the watershed relating to each bridge and culvert. The plans must be passed upon by the State Highway Engineer, who may approve or modify those for each section, after which they must be filed with the county clerk. The county commissioners then must proceed to construct the road in accordance with the plans.[1]

In constructing, repairing, or maintaining such roads the county commissioners may contract for all or any part of the work, or may buy or rent machinery and employ labor under the direction of the county engineer. On all day labor work the engineer must keep an accurate itemized account of all expenditures for labor and materials and file a sworn statement thereof with the county clerk at the end of each month, and a final statement when the work is completed. No contract for road work may be awarded in excess of the county engineer's estimate, nor may final payment be made to the contractor until the county engineer has inspected the work and certified in writing that it has been properly done and completed in accordance with the contract, plans, and specifications. All bills for county road and bridge construction and repairs designated by the engineer must be filed in itemized form and certified to by the engineer as correct before they may be allowed by the county commissioners, or warrants in payment therefor are drawn.[2]

All work on township roads, bridges, and culverts performed under the supervision of the township boards of highway commissioners must be in accordance with the plans, specifications, and general regulations prepared and furnished by the county engineer. The township board is forbidden to let any such contract in excess of $200 or purchase highway machinery costing more than $100 without the approval of the county engineer. The appointment of the township road overseer also must meet the approval of the county engineer.[3] With the approval of the county commissioners and the township boards, respectively, the county engineer determines what county and township roads shall be dragged, and must arrange annually with some person to drag the county roads. Upon his recommendation either the county or township boards may employ or contract with someone to act as patrolman, and drag and maintain any specified section of road under their control. Payments for such work on county roads must be on vouchers approved by the engineer.[4]

The township clerk must make a full itemized sworn statement to the county engineer, monthly or quarterly, of all work accomplished and money expended on township roads and bridges during the preceding period.

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1. L. 1917, ch. 264, secs. 22-24; L. 1919, ch. 245, sec. 6; G.S. 1935, ch. 68, secs. 513-515.
2. L. 1917, ch. 264, secs. 28, 29; G.S. 1935, ch. 68, secs. 521, 522.
3. L. 1917, ch. 264, secs. 33, 37; G.S. 1935, ch. 68, secs. 526, 530.
4. L. 1917, ch. 264, sec. 41; G.S. 1935, ch. 68, sec. 534.

County Engineer - Functions (Next entry 533, p. 578)

The county engineer must annually make a report to the county commissioners of the work accomplished and funds expended on all the roads and bridges in the county during the current year, which closes on the second Tuesday of October.[1] The engineer must call a 1-day meeting of all the county and township road officials in February and November of each year for discussing any and all matters pertaining to the improvement of the highways, bridges, and culverts of the county, and to devise means of systematizing and standardizing the work.[2]

In the construction of benefit district roads the county commissioners may require the county engineer to prepare a map of the district, and plans, specifications, and an estimate of the cost of the proposed improvement, and also an estimate of the kind, quantity, and cost of any machinery to be purchased for that purpose.[3]

When it is necessary to construct a ditch along a public highway of such depth that it obstructs the usual entrance from the highway to any abutting property it is the engineer's duty to cause a substantial culvert to be built and maintained across the ditch, so as to afford a good and safe crossing, the cost to be paid by the county. When anyone owning land on both sides of a public highway wishes to construct a tunnel under the highway he must first obtain from the county engineer and the officials in charge of the road their approval of the place, the kind of tunnel, and the manner of its construction. The cost of any necessary repairs to such tunnel must be borne by the owner, and if not promptly paid by him must be certified by the county engineer to the county clerk, who enters them on the tax roll against the property. The county engineer must cause to be removed from the public highways all obstructions and encumbrances such as brush, hedge, rock, and debris of any character. Between July 1 and August 15 of each year he must cause to be removed from the public roads cockleburs, Rocky Mountain sandburs, burdocks, sunflowers, Johnson grass and all other obnoxious weeds which may be injurious to the highways or the interests of the farming communities.[4]

Bridges. It is the duty of the county engineer to make a careful inspection of all bridges and culverts in the county each year, make an estimate of the cost of maintenance and repairs on each, and file a report with the county clerk for use of the county commissioners prior to July. The report must show the exact location of the structure, and the kind and estimated cost of repairs needed. In June the commissioners determine what new bridges and culverts shall be built during the ensuing year and furnish a list thereof to the county engineer, who must visit each

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1. L. 1917, ch. 264, secs. 46, 47; L. 1919, ch. 245, secs. 11, 12; G.S. 1935, ch. 68, secs. 539, 540.
2. L. 1917, ch. 264, sec. 49; G.S. 1935, ch. 68, sec. 542.
3. L. 1917, ch. 265, secs. 3, 4; L. 1919, ch. 246, secs. 3, 4; L. 1921, ch. 218, sec. 1; L. 1927, ch. 251, sec. 1; G.S. 1935, ch. 68, secs. 703, 704.
4. L. 1917, ch. 264, secs. 50-53; G.S. 1935, ch. 68, secs. 543-546.

proposed site and prepare plans, specifications, and estimates of the cost of the proposed structure, and submit them to the commissioners with his recommendations.[1] No contract for the construction or repair of bridges or culverts, the cost of which exceeds $2,000 is binding on the county unless the plans and estimates of cost have been approved by the county engineer. Structures costing more than $2,000 must have the approval of the State Highway Engineer. As in the case of road construction, the county commissioners may contract the work, or may hire day labor under the direction of the county engineer. In the latter case he must keep an accurate itemized account of all costs and file a sworn statement with the county clerk at the end of each month, and a final statement when the work is completed. If the engineer deems it necessary he may appoint, with the approval of the commissioners, a competent inspector to superintend the construction work, and remove him at any time for cause.[2]

The county commissioners are forbidden to make final payment on any bridge contract exceeding $300 until the county engineer has inspected the work and filed with the county clerk a certificate to the effect that it has been done in accordance with the contract, plans, and specifications. It is the duty of the county engineer to keep separate itemized accounts, in a book prepared for that purpose, of all expenditures for construction and repair of each bridge and culvert, and upon completion of any such work to file immediately with the State Highway Commission a duplicate statement of the cost.[3]

Dams. In any county adopting provisions of a law enacted in 1915 the county commissioners and county engineer, if they believe it can be successfully done, may construct a dam across any draw, dry watercourse, or creek across which they have found it necessary to construct a culvert or bridge. If the land owner's consent cannot be obtained the land may be condemned. In such counties it is the engineer's duty to make an accurate survey of all dams constructed in the county under this law, which will impound 20 acre-feet or more of water when full, and keep a record thereof in his office. The record must show the number of acres and a description of the land that can be irrigated. The engineer must file these facts, together with a profile and plat of the dam and land, with the county commissioners. Such dams, when they will afford irrigation to surrounding land, must be built with a flume connected with a head ditch so the water may be drawn off.[4]

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1. L. 1917, ch. 80, sec. 2; G.S. 1935, ch. 68, sec. 1102.
2. L. 1917, ch. 80, secs. 11, 16, 19; G.S. 1935, ch. 68, sec. 1111, 1116, 1119.
3. L. 1917, ch. 80, secs. 20, 21; L. 1919, ch. 98 secs. 6, 7; G.S. 1935, ch. 68, secs. 1120, 1121.
4. L. 1915, ch. 237, secs. 1, 4-7; G.S. 1935, ch. 68, secs. 901, 904-907.

A law enacted in 1911 granting a reduction in the assessed valuation of their property to persons constructing dams for impounding surface water required that the specifications be drawn by the county engineer or surveyor.[1] It was amended in 1935 to require the landowner, when a proposed dam was to be less than 10 feet high or to impound less than 15 acre-feet of water, to submit the plans to the county engineer. The engineer has power to require adequate spillway capacity, and proper materials and construction to make the dam "reasonabley stable and permanent." Plans for larger dams must be submitted to the chief engineer of the division of water resources of the State Board of Agriculture.[2]

Drainage. In counties between 90,000 and 135,000 population, which includes Shawnee, when the directors of any drainage district find that construction of further drainage facilities is unnecessary, they must adopt a resolution to that effect and transmit to the county commissioners, who thenceforth have full control and management of the district's affairs. It thereupon becomes the duty of the county engineer to serve, without extra compensation, in the capacity of engineer and superintendent for the drainage district, under direction of the county commissioners.[3] Another law of 1933 gives the county engineer full control and supervision of engineering work connected with improvements and repairs to be made to dikes or levees in drainage districts lying wholly or partially within a city of the first class and embracing property of an assessed value of $30,000,000 or more.[4]

Records

Except in a few instances the records of the county engineer are implied rather than required by law. Others are kept as a matter of convenience for his own reference. The bulk of them are records of costs and expenditures for labor and materials used on county road and bridge projects, and plans and profile maps and specifications of such projects. The forms and blanks for most of the reports and financial records are prescribed by the State Highway Commission "to secure uniformity."[5]

The engineer usually retains the field notes of surveys made by him for road, bridge, drainage, and other projects.[6] The engineer of Shawnee

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1. L. 1911, ch. 211, secs. 1-6; L. 1929, ch. 205, sec. 1; L. 1933, ch. 332, sec. 1; L. 1933, ch. 127, sec. 1 (Special Session); G.S. 1935, ch. 82a, sec. 401; L. 1939, ch. 353, sec. 1.
2. L. 1935, ch. 320, sec. 1; G.S. 1935, ch. 82a, sec. 402.
3. L. 1933, ch. 183, secs. 1-4; G.S. 1935, ch. 24, secs. 117-120.
4. L. 1933, ch. 63, secs. 1, 5 (Special Session); G.S. 1935, ch. 24, secs. 489, 493.
5. L. 1917, ch. 264, sec. 48.
6. L. 1909, ch. 198, sec. 3; L. 1911, ch. 248, sec. 29; L. 1917, ch. 264, sec. 22; G.S. 1935, ch. 68, sec. 513.

 (Next entry 533, p. 578)

County files bills and vouchers allowed by the county commissioners for labor and materials on county road, bridge, and culvert projects;[1] and also, the itemized accounts he is required to keep of expenditures on road work[2] and for bridge and culvert work[3] when the work is performed under the day-labor system. The law also requires that he keep in a book prepared for that purpose separate itemized accounts of all expenditures for the construction and maintenance of each county bridge and culvert.[4] He files the bids submitted to him for supplying oil, fuel, and parts for county equipment and keeps records of contracts and orders for equipment, materials, and supplies. He also keeps a record of the cost of operation of each piece of county equipment.

Among the engineer's records often may be found the monthly reports required by law to be made to him by the township clerks concerning work accomplished and funds expended on the township roads and bridges under their jurisdiction, and often he keeps copies of his annual reports to the county commissioners of work accomplished and funds expended on all the roads and bridges in the county during the current year.[5]

A variety of maps and blue prints usually are to be found in the engineer's office. These often include his own copies of maps of the county road system as adopted by the county commissioners and approved by the State Highway Engineer;[6] copies of maps of the roads of the county he is required to make as original or supplemental road records;[7] copies of palns, profiles, estimates, and reports of surveys of proposed county roads;[8] plans, specifications, and estimates of costs of proposed county bridges and culverts;[9] and various other maps and plans which he is required to make or uses for reference in the performance of his duties.

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1. L. 1917, ch. 264, sec. 29; G.S. 1935, ch. 68, sec. 522.
2. L. 1917, ch. 264, sec. 27; G.S. 1935, ch. 68, sec. 520.
3. L. 1917, ch. 80, sec. 16; L. 1919, ch. 98, sec. 5; G.S. 1935, ch. 68, sec. 1116.
4. L. 1917, ch. 80, sec. 21; L. 1919, ch. 98, sec. 7; G.S. 1935, ch. 68, sec. 1121.
5. L. 1917, ch. 264, secs. 46, 47; L. 1919, ch. 245, secs. 11, 12; G.S. 1935, ch. 68, secs. 539, 540.
6. L. 1917, ch. 264, secs. 17, 19, 20; G.S. 1935, ch. 68, secs. 508, 510, 511.
7. L. 1909, ch. 198, sec. 2; L. 1911, ch. 248, sec. 28; L. 1917, ch. 264, sec. 9; G.S. 1935, ch. 68, sec. 502.
8. L. 1917, ch. 264, secs. 23, 24; L. 1919, ch. 245, sec. 6; G.S. 1935, ch. 68, secs. 514, 515.
9. L. 1917, ch. 80, sec. 5; G.S. 1935, ch. 68, sec. 1105.

Surveys

533. (COUNTY ENGINEER'S FIELD NOTES), 1910--. 50 vols. (1-42, 1-7, and one vol. labeled 21-24-24B).
Field notes of surveys for road and bridge, drainage district, and flood control construction, showing date of survey, instrument readings, elevation, rod readings, and stakes. Arr. chron. by dates of surveys. No index. Hdw. on pr. fm. Aver. 100 pp. 7 x 5 x 1/2. Co. eng's. va.

Receipts and Disbursements

534. (BILLS AND CLAIMS PRESENTED AND ALLOWED), 1933--. 15 f. drs.
Vouchers, bills, and invoices presented and allowed by county commissioners for payment from county road and bridge funds, showing name and address of claimant, itemized statement of account, date, and amount allowed. Arr. chron. by dates of claims. No index. Typed on pr. fm. 10 x 4 x 14. Co. eng's. off.

535. VOUCHER REGISTER, 1931--. 2 vols.
Register of vouchers presented for payment from road and bridge funds, showing number of claim, date presented, itemized statement and amount of claim, and name of claimant. Arr. chron. by dates of vouchers. No index. Hdw. on pr. fm. Aver. 450 pp. 17 1/2 x 11 1/2 x 1 1/2. Co. eng's. va.

536. (GENERAL LEDGER), 1919--. 8 vols., 3 f. drs.
County engineer's record of receipts and expenditures, showing name of account or road, bridge, or culvert number; dates, items, and amounts of debits; dates, items, and amounts of credits, and balance. Arr. alph. by names of accounts and chron. thereunder by dates of transactions. No index. Hdw. on pr. fm., 1919-31; typed on pr. fm. 1932--. Vols. aver. 100 pp. 10 x 13 x 1/2; f. drs. 14 x 16 x 20. 8 vols., 1919-36, co. eng's. va.; 3 f. drs., 1937--, co. eng's. off.

537. (PROJECT LEDGER), 1933--. 2 vols. (B1, B2).
County engineer's ledger of road, birdge, and other project accounts, showing name or number of project, amount of contract; dates, items, and amounts of debits; dates, items, and amounts of credits, and balances. Arr. by names of accounts and chron. thereunder by dates of transactions. No index. Hdw. on pr. fm. 450 pp. 13 x 10 x 5. Co. eng's. off.

538. (PAYROLL DISTRIBUTION), 1933--. 1 vol.
Record of distribution of payroll expenditures by projects, showing name or number of project, name of worker, rate of pay, hours worked, total for each worker, and grand total for project. Arr. chron. by dates filed. No index. Hdw. on pr. fm. 250 pp. 19 x 15 x 2. Co. eng's. va.

Materials and Supplies

539. (BIDS), 1933--. 2 f. drs.
Bids submitted to county engineer for furnishing gasoline, oil, grease, parts, and equipment for county trucks, cars and machinery, showing date, name of bidder, quantity, description and grade of items to be furnished, amount of bid, and terms of payment. Arr. chron. by dates of bids. No index. Hdw. and typed. 14 x 16 x 20. Co. eng's. off.

540. CONTRACT AND ORDER REGISTER, 1931--. 1 vol.
Record of contracts and orders for material, equipment, and supplies, showing date and amount of order, with whom placed, quantity, description and price of items ordered, and terms of payment. Arr. chron. No index. Hdw. on pr. fm. 350 pp. 15 x 12 x 1 1/2. Co. eng's. va.

541. PURCHASE REQUISITIONS, 1925, 1931--. 1 cb. b., 2 vols.
Requisitions for purchase of material, equipment, or supplies, showing requisition number and date, quantity and items requisitioned, for what job required, and signature of foreman or superintendent. Arr. chron. and num. thereunder by requisition numbers. No index. Hdw. on pr. fm. Cb. b. 8 x 12 x 18; vols. aver. 500 pp. 12 x 8 x 3. 1 cb. bs., 1925, attic; 2 vols., 1931--, co. eng's. va.

542. (REGISTER OF PURCHASE ORDERS), 1931--. 5 vols.
Register of supplies purchased, showing date of purchase order, from whom purchased, for whom quantity, description and price of items, and date received. Arr. chron. by dates of orders. No index. Hdw. on pr. fm. Aver. 350 pp. 12 x 9 x 4. Co. eng's. va.

543. (RECORD OF MATERIALS PURCHASED), 1930-31. 1 vol.
Record of materials purchased for road and bridge maintenance and repair work, showing date of purchase, items, quantity, price, and whether for road or bridge work. Arr. chron. by dates of purchase. No index. Hdw. on pr. fm. 250 pp. 15 x 12 x 1. Co. eng's. va.

544. (RECEIVING TICKET), 1931--. 1 vol.
Receiving tickets for supplies delivered by county engineer, showing ticket number, date, items, quantity and description of supplies, account to which charged, and signature of recipient. Arr. num. by ticket nos. No index. Hdw. on pr. fm. 450 pp. 38 x 10 x 7. Co. eng's. va.

545. (GAS AND OIL TICKETS), 1932--. 4 cb. bs.
Tickets for gasoline, oil, and grease used in operation of county cars, trucks, and equipment, showing ticket number, date, items, quantity, and signature of driver. Arr. chron. by dates of tickets. No index. Hdw. on pr. fm. 10 x 12 x 15. Co. eng's. va.

546. SUMMARY OF STORES ISSUED, 1931--. 1 vol.
Record of supplies issued, showing date of issue, requisition number, cost, and receipt number. Arr. chron. No index. Hdw. on pr. fm. 250 pp. 12 x 6 x 1. Co. eng's. va.

547. (EQUIPMENT OPERATION RECORD), 1936--. 1 vol.
County engineer's record of operation of county equipment, showing equipment number, date and place of operation, number of hours worked, and quantity of oil and gasoline used. Arr. chron. by dates operated. No index. Hdw. on pr. fm. 100 pp. 20 x 11 x 1. Co. eng's. va.

Maps and Plats
(See also entries 139-146, 174-180)

548. ROAD MAP, SHAWNEE COUNTY, 1937. 1 map.
Political map of Shawnee County, showing section, township, and range lines and numbers, school district numbers and boundaries, location of towns and cities, county and township roads, and types of surfacing. C. A. Martin, county engineer, artist. Blueprint. Scale, 1 inch equals 1 mile. 37 x 22. Co. eng's. off.

549. (ROAD PLANS), 1924, 1927-28, 1931-32, 1934-36. 259 maps.
Plans and profiles for proposed State and county road construction and improvement, showing location and extent of proposed improvement, typical sections and cross sections, details of construction, type of surfacing, location of approaches, bridges, culverts, and approaches, with summary of quantity and quality of materials to be used. C. H. Martin and county engineer, artists. Blueprints. Scale varies, 1 inch equals 400 feet to 1 inch equals 1000 feet. Aver. 23 x 35. Co. eng's. va.

550. (BRIDGE PLANS), 1877-78, 1890, 1896, 1901, 1912, 1916, 1927-28, 1930, 1932, 1934-36. 168 maps.
Plans and profiles of bridges to be constructed in Shawnee County, showing location, type of structure, abutments, girders, specifications, and details of construction, with summary of quantity and quality of materials to be used. C. A. Martin, C. H. Wasson, Keepers & Thatcher, A. R. Young, — Musser, W. E. Cos, Midland Bridge Company, Walter J. Arnold, T. W. Tweeddale, Johnson & Flad, and R. A. Trombould, artists. Blueprint, black-and-white, and water color. Scale varies: 1/5 inch equals 1 foot to 1 inch equals 400 feet. 37 x 22 to 18 x 80. 109 maps, 1877-78, 1890, 1896, 1901, 1912, 1916, 1927-28, 1930, 1932, 1935-36, co. eng's. va.; 59 maps, 1932, 1934, co. eng's. off.

551. (CITY STREETS), 1935-36. 10 maps.
Maps of Silver Lake and Rossville, showing location and names of streets, and description and specifications for curb, gutter, and pavement. J. P. Irons and C. A. Martin, artists. Scale, 1 inch equals 100 feet to 1 inch equals 200 feet. Blueprint. Aver. 37 x 26. 2 maps, no dates, co. eng's. va.; 8 maps, 1935-36, co. eng's. off.

552. (RAILROAD MAPS), 1882-1908, 1915. 3 maps (14 sheets).
Maps of Chicago, Rock Island & Pacific; Atchison, Topeka & Santa Fe, and Topeka Southwestern Railroads, showing description and location of right of way, cities, towns, depots, crossings, and names of adjoining property

owners. A. A. Robinson, V. R. Parkhurst, and chief engineer Chicago, Rock Island & Pacific R. R., artist. Scale, 1 inch equals 400 feet. Black-and-white and blueprint. 18 x 11 to 48 x 29. Co. eng's. va.

553. (DRAINAGE DISTRICT MAPS), 1909, 1933. 3 maps (24 sheets)
Maps of drainage districts and plans for flood control, showing location and boundaries of district, topography of district and adjacent territory; location, description, and details of construction of proposed improvements, with specifications of quantity and quality of materials to be used. C. W. Suit, consulting engineer, and V. R. Parkhurst, artists. Blueprint. Scale varies, 1 inch equals 50 feet to 1 inch equals 400 feet. 16 x 14 to 37 x 20. 2 maps, 1909, co. eng's. va.; 1 map, 1933, co. eng's. off.

554. (LEVEES), 1904, 1908, 1923. 3 maps.
Profiles of levee districts, showing boundaries and topography of district. John P. Rogers, V. R. Parkhurst, and W. E. Baldry, artists. Scale, 1 inch equals 150 feet. Blueprint. 23 x 18 to 62 x 12. Co. eng's. va.

555. (KANSAS RIVER SURVEY), 1908, 1931-32, 1935-36. 7 maps (39 sheets).
Physical maps of Kansas River, showing channel, islands, sand bars, bridges, and location and description of proposed improvements. J. A. Moskovitz, W. E. Baldry, C. A. Martin, Smith Concrete Jetty Co., and county engineer, artists. Blueprint. Scale varies, 1/4 inch equals 1 foot to 1 inch equals 200 feet. 27 x 22 to 72 x 30. 4 maps, 1908, 1932, co. eng's. va.; 3 maps, 1931, 1935-36, co. eng's. off.

556. SHUNGANUNGA CREEK, 1911, 1934. 2 maps.
Physical maps of Shunganunga Creek, showing description and location of proposed improvements, with details of construction and specifications of materials to be used. Campbell & Griggs and C. A. Martin, artists. Scale, 1 inch equals 100 feet and 1 inch equals 206 feet. Blueprint. Aver. 65 x 30. Co. eng's. va.

557. (LAKE SHAWNEE PROJECT FILE), 1933, 1935-36. 4 maps of 45 sheets.
Plans, profiles, and specifications of improvements at Lake Shawnee, showing extent, boundaries, and topography of lake site; location, description, details of construction, quantity and quality of materials for bridges, culverts, spillway, dam, reservoir, roads, ovens, beaches, athletic field, and other improvements. C. A. Martin, county engineer, artist. Scale varies, 1 inch equals 1 foot to 1 inch equals 400 feet. Blueprint. 12 x 9 to 35 x 21. Co. eng's. off.

558. (FARM PONDS, KANSAS EMERGENCY RELIEF COMMITTEE), 1934. 53 maps.
Plans and specifications for farm ponds and dams constructed with Kansas Emergency Relief Committee funds under water conservation program, showing location and description of farm, name of owner, location of pond and specifications for construction. C. A. Martin, county engineer, artist. Blueprint. Scale, 1 inch equals 50 feet. 37 x 22. Co. eng's. va.

559. (KANSAS FREE FAIR GROUNDS), 1911, 1934, 1935. 11 maps of 77 sheets.
Plans and specifications for proposed improvements and buildings on Kansas Free Fair Grounds, showing location and description of improvement, details of construction, and quantity and quality of materials to be used. John F. Stanton, C. A. Martin, Thos. W. Williamson & Co., and Dodd & Finney, artists. Scale varies, 3/8 inch equals 1 foot to 1 inch equals 100 feet. Blueprint. 27 x 8 to 37 x 22. 8 maps, 1911, 1934, co. eng's. va.; 3 maps, 1934-35, co. eng's. off.

560. (COURTHOUSE PLANS), 1925. 1 map of 6 sheets.
Plans and specifications for remodeling Shawnee County courthouse, showing elevations and floor plans, details of construction, and specifications as to quantity and quality of materials to be used. Thomas Williamson, artist. Blueprint. Scale 1/8 inch equals 1 foot. 30 x 16. Co. eng's. va.

Miscellaneous

561. CORRESPONDENCE, 1931--. 3 f. drs.
Miscellaneous letters to and from the county engineer concerning claims, roads, bridges, and other official business. Arr. chron. No index. Typed. 10 x 14 x 20. Co. eng's. off.

XXIV. COUNTY SURVEYOR

Structural Organization and Evolution

Selection and Term. The office of county surveyor was created in each organized county by the Territorial assembly in 1855 and made appointive by the board of county commissioners for a term of 4 years.[1] The assembly of 1858 made the office elective by the people for a term of 2 years and there has been no subsequent change.[2] However, the legislature of 1917 decreed that beginning the second Monday in January 1919 the county engineer should perform all the duties of county surveyor and that the office of county surveyor should be abolished, except in those counties having 60,000 or more inhabitants and having a city of the

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1. Terr. L. 1855, ch. 154, sec. 1.
2. Terr. L. 1858, ch. 13, sec. 92; Terr. L. 1860, ch. 28, sec. 116; L. 1862, ch. 196, sec. 1; G.S. 1868, ch. 25, sec. 153; L. 1913, ch. 157, sec. 1; R.S. 1923, ch. 19, sec. 1401; G.S. 1935, ch. 19, sec. 1401.

(Next entry 562, p. 589)

first class of 40,000 or more inhabitants.[1] This restricted the office to Shawnee, Wyandotte, and Sedgwick Counties.[2]

Qualifications - Oath - Bond. No special qualifications were prescribed for county surveyors until 1913. Since then the statutes have provided that "no person shall be eligible to hold the office of county surveyor who is not a practical and competent surveyor. In case there is no such practical and competent surveyor in any county who will accept such office, and where such facts are certified by the county commissioners of any county, then some practical and competent man may be elected or appointed to such office from any other adjoining county. This act shall be so construed as to permit any such person to be county surveyor of one or more counties at the same time."[3] Before entering upon the duties of his office the surveyor must execute to the State and file with the county clerk a bond in the penal sum of $2,000 as guaranty of faithful performance of duty. He also must subscribe an oath of office and file it with his surety bond.[4] Anyone who may think himself injured by the neglect or misconduct of any county surveyor or any of the surveyor's deputies may bring suit on the bond executed by the surveyor and his deputies, and if judgment is obtained an execution may be sued out, as in other cases. The bond may be sued on in like manner by every person aggrieved.[5]

Compensation - Deputies. Early laws allowed the county surveyor a compensation for each day of time actually employed, in addition to fixed fees for specific duties, such as making plats, making reports of surveys, and inspecting records. A law enacted in 1913 and applicable to Shawnee County required the surveyor to keep his office open 6 days a week and provided that he should receive $4 for each day in addition to the fees prescribed by law.[6] By virtue of population Shawnee County in 1936 came under provisions of the law of 1909, which fixed the surveyor's salary in counties of more than 90,000 population at $1,800 per

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1. L. 1917, ch. 145, sec. 1; R.S. 1923, ch. 19, sec. 1403; G.S. 1935, ch. 19, sec. 1403.
2. Frank J. Ryan, compiler, Directory of State Officers, Boards and Commissions, Topeka, 1939, pp. 82, 83, 88.
3. L. 1913, ch. 157, sec. 1; G.S. 1935, ch. 19, sec. 1401.
4. Terr. L. 1855, ch. 154, sec. 2; Terr. L. 1858, ch. 13, sec. 92; Terr. L. 1860, ch. 28, sec. 116; L. 1862, ch. 196, sec. 1; G.S. 1868, ch. 25, sec. 153; L. 1913, ch. 157, sec. 1; G.S. 1935, ch. 19, sec. 1401.
5. L. 1862, ch. 196, sec. 3; G.S. 1868, ch. 25, sec. 155; G.S. 1935, ch. 19, sec. 1404.
6. Terr. L. 1855, ch. 154, sec. 17; L. 1862, ch. 99, sec. 11; L. 1867, ch. 44, sec. 3; G.S. 1868, ch. 39, sec. 8; L. 1891, ch. 89, sec. 13; L. 1903, ch. 244, sec. 1; L. 1913, ch. 197, sec. 26; G.S. 1935, ch. 28, sec. 120.

year, and discontinued the fees. Under current laws no definite compensation for deputies is fixed, the county commissioners being authorized to allow a reasonable sum, as they may deem necessary.[1]

The surveyor may appoint as many deputies as he thinks proper and is responsible for the correctness of their official acts. Each deputy must subscribe and file an oath similar to that subscribed by the surveyor.[2]

Removal - Vacancy. The law of 1862 authorized the county commissioners to remove the surveyor for inefficiency and appoint someone in his place. Anyone wishing to have a surveyor removed from office could file a petition with the county clerk setting forth the charges, at least 30 days before the sitting of the board. The commissioners heard the evidence and rendered judgment accordingly.[3] These provisions were eliminated in the revision of the statutes in 1868. However, any surveyor neglecting or refusing to perform any act which it is his duty to perform, or who "corruptly or oppresively" performs such duty, may be removed from office in the manner provided in the code of civil procedure.[4]

The law of 1860 and 1862 authorized the county commissioners, in the event of a vacancy in the office of surveyor, to appoint a successor to serve until the next ensuing election.[5] Since 1868 there has been no specific provision for filling vacancies in this office by the county board. Under a general law, they are filled by appointment by the Governor, the appointee to hold until his successor is elected and qualified.[6]

Functions

Private Surveys. Whenever the owner or occupant of any tract of land wishes to permanently establish its corners and boundaries he must notify the county surveyor and furnish him with the names and addresses of all persons, so far as known, who may be affected by such survey. The surveyor must cause notice to be served in writing on all such persons residing in the county, and by publication once a week for 3 consecutive

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1. L. 1909, ch. 145, sec. 12; L. 1911, ch. 190, sec. 12; L. 1919, ch. 206, sec. 7; G.S. 1935, ch. 28, sec. 311; L. 1937, ch. 233, secs. 7, 16.
2. Terr. L. 1855, ch. 154, sec. 13; Terr. L. 1858, ch. 13, sec. 93; Terr. L. 1860, ch. 28, sec. 117; L. 1862, ch. 196, sec. 2; G.S. 1868, ch. 25, sec. 154; G.S. 1935, ch. 19, sec. 1402.
3. L. 1862, ch. 196, secs. 18-20.
4. G.S. 1868, ch. 25, sec. 180; G.S. 1935, ch. 19, sec. 2609.
5. Terr. L. 1860, ch. 28, sec. 120; L. 1862, ch. 196, sec. 18.
6. L. 1861, ch. 28, secs. 39, 41; G.S. 1868, ch. 36, secs. 57, 59; G.S. 1935, ch. 25, secs. 312, 314.

weeks when there are non-resident landowners who may be affected. Proof of the service must be entered on record in the surveyor's office. Where all the landowners interested consent in writing, the survey may be made without notice. Acknowledgment in writing or the voluntary appearance of a person interested in the survey is equivalent to the service.[1]

On the day stated in the notice or the day thereafter the surveyor must proceed to make the survey, though for good cause he may adjourn from time to time. The plat and field notes of the survey must be filed in his office within 30 days. Upon application of any interested party he may take the evidence of any witness produced to prove any point material to the survey. Such testimony must be reduced to writing, subscribed and sworn to by the witness, and filed with the plats and field notes. Upon filing of the report of the survey any interested person may appeal therefrom within 30 days by filing notice with the county surveyor and giving bond, to be approved by the clerk of the district court, conditioned for payment of the costs should the court confirm the report. The surveyor then must certify the appeal to the district court clerk, together with a copy of the report and any affidavits pertaining to the survey. The court may uphold the report of the survey; it may order the county surveyor to correct his survey and report in conformity to the orders of the court; or, for good cause shown, it may set aside the report and appoint one or more surveyors to determine the corners and boundaries of the land in question and report them to the court for further action. The corners and boundaries established in any survey made in pursuance to an agreement, or which is not appealed from, and corners and boundaries established by decree of the court are considered as permanently established and may not thereafter be changed. Whenever a report becomes final it is the county surveyor's duty to enter it in his record of permanent surveys, and also to file with the register of deeds a certified copy of the survey made on the same size paper as his record of permanent surveys.[2]

The costs of such surveys must be apportioned by the county surveyor among the landowners according to their respective interests, and if any costs remain unpaid after his report becomes final he must certify to the county clerk a statement of the amount and a description of the land. The clerk must then levy a tax against the property, which is collected the same as other taxes by the county treasurer and paid to the surveyor. In case the land is not taxable the surveyor may refuse to make the survey until the expense is secured by a bond.[3]

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1. Terr. L. 1855, ch. 154, sec. 5; L. 1862, ch. 196, sec. 4; G.S. 1868, ch. 25, sec. 156; L. 1879, ch. 177, secs. 1, 2; L. 1891, ch. 89, sec. 7; G.S. 1935, ch. 19, sec. 1425.

2. L. 1879, ch. 177, sec. 3; L. 1891, ch. 89, secs. 9, 10; G.S. 1935, ch. 19, secs. 1425, 1426.

3. L. 1879, ch. 177, sec. 4; L. 1891, ch. 89, sec. 11; G.S. 1935, ch. 19, sec. 1427.

Public Surveys. The law requires that the county surveyor, when ordered to do so by the county commissioners, shall make out a complete description of all or any part of the real estate of his county and enter it upon the proper rolls furnished him by the county clerk for that purpose. Upon the establishment of any road it is his duty to enter the plat and field notes thereof upon the road record of his county. When so ordered by the county commissioners he must make complete plans, specifications, surveys, and estimates for all bridges, culverts, roads, ditches, or other public works to be constructed under authority of the county board; and when so ordered must superintend such work and make reports on its progress at such times as the commissioners may order. The county commissioners are authorized to employ a civil engineer or architect to work alone or in conjunction with the county surveyor in makeing such plans and estimates.[1] In practice, in Shawnee County, such work usually is performed by the county engineer.

The statutes still make it the duty of the county surveyor to survey any road which the county commissioners have received a petition to establish, alter, or vacate and deliver a plat thereof to the county clerk. If the commissioners issue an order establishing a road he must record the survey and plat in his office and notify the respective township trustees to open the road to public travel at the time and in the manner indicated by him.[2] In practice this work also usually is done by the county engineer since 1917.

Cornerstones and Monuments. It is the duty of the county surveyor or his deputy to "permanently establish the center corner of all sections in the north and west tiers of a congressional township, except those closing on a parrallel or base line, at the intersection of two right lines, joining their opposite quarter-sections' corners respectively." In establishing the center corner of a section closing on a parallel or base line the surveyor must commence at the quarter-section corner on the south boundary of the section, run a line north 40 chains parallel with the east boundary and there establish the center corner. The parallel or base line must be just 40 chains west of the northeast corner of the section, and at the point where the north line intersects it the surveyor must permanently establish the quarter-section corner on the north boundary of the section. Missing corners, when no bearing or witness trees can be found, must be established in accordance with the Government surveys. Corners established and reestablished must be of stone when possible, and when convenient to do so the surveyor must measure and mark four witness trees to every center corner and two witness trees to every quarter section, as nearly in accordance with requirements for the United States surveys as possible.[3]

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1. L. 1891, ch. 89, sec. 4; G.S. 1935, ch. 19, sec. 1420.
2. L. 1864, ch. 112, sec. 5; G.S. 1868, ch. 89, sec. 6; L. 1874, ch. 108, secs. 5, 6; L. 1903, ch. 411, sec. 2; L. 1911, ch. 248, sec. 6; G.S. 1935, ch. 68, sec. 106.
3. L. 1862, ch. 196, secs. 7, 10-12; G.S. 1868, ch. 25, secs. 159, 162-164; G.S. 1935, ch. 19, secs. 1407, 1410-1412.

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In the re-survey of lands surveyed under authority of the United States the section, quarter-section, and all other corners established by the Government surveyors must stand as the true corners. They must be reestablished on the identical spot where the original corner was located, and when this cannot be determined the county surveyor must reestablish them according to the Government field notes, adopting proportionate measurements when the present ones differ from those in the field notes. All calculations to ascertain the contents of an irregular tract of land, made by the county surveyor at the order of a court, must be by latitude and departure, and on each plat the surveyor must lay down the variations of the magnetic needle from the ture meridian.[1]

A law of 1907 requires township trustees to notify the county surveyor whenever they have knowledge of a cornerstone or monument that is in danger of being displaced, destroyed, or covered to a depth of 2 feet or more, and which has not at least two duly recorded witness monuments. It then becomes the surveyor's duty to reset the cornerstone and to set at least two witness monuments to record the proceedings, together with a substantial description of the cornerstone and witness monuments, with distances and courses, in the manner provided by the law of permanent surveys. Costs are taxed to the township. If the township trustee can fill in around the cornerstone in a manner to make it secure, without the surveyor's aid, it is his duty to do so.[2]

Witnesses. The county surveyor and his deputy are authorized to summon before them, at any convenient place in the county, any persons they have reason to believe could furnish material evidence as to the true location of any corners or boundaries involved in any survey then in progress. They are empowered to administer oaths to such witnesses and to take their testimony in writing.[3] In making surveys to be used in any court it is mandatory upon the surveyor, upon application of either party, to take under oath the testimony of any witness who may be brought to prove any corner or line, or any object or mark necessary to identify them.[4]

Chainmen and Helpers. It is the county surveyor's duty to employ disinterested persons as chainmen, each of whom must take an oath to faithfully and impartially perform their duties. The surveyor also may appoint markers, flagmen, and rodmen, and may require the compensation of such assistants to be paid in advance by the party requesting the

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1. L. 1891, ch. 89, secs. 5, 6; G.S. 1935, ch. 19, secs. 1421, 1422.
2. L. 1907, ch. 233, secs. 1-3; G.S. 1935, ch. 19, secs. 1430-1432.
3. L. 1871, ch. 75, sec. 1; L. 1891, ch. 89, sec. 3; L. 1913, ch. 158, sec. 1; G.S. 1935, ch. 19, sec. 1419.
4. L. 1862, ch. 196, sec. 5; L. 1867, ch. 44, sec. 2; G.S. 1868, ch. 25, sec. 157; G.S. 1935, ch. 25, sec. 1405.

survey.[1] Any survey made by any county surveyor is admissible as evidence in any court in the State, but is not conclusive.[2]

Variation of Magnetic Needle. The statutes still make it the duty of the county surveyor to compare the magnetic with the true meridian at least four times a year, between the first and fifteenth days of January, April, July, and October, to keep a record thereof "in a suitable book provided for that purpose," and after the final examination each year to transmit a copy of the results to the Secretary of State and another to the president of the State University.[3] In practice, however, this law has been obsolete for several years.

Copies of Government Surveys. The first assembly authorized the county commissioners to instruct the surveyor to procure official copies of the plats and field notes of the original Government surveys of the lands of his county. The law still is on the statute book in amended form so that where such copies have not already been obtained the commissioners may order the surveyor to procure them. The surveyor was required to keep them in his own office for public inspection until 1907, when a law was enacted requiring him to deposit them in the office of the register of deeds. Copies of such plats and field notes certified by the register of deeds must be received in evidence in like manner and with like effect as other records of that office.[4]

The surveyor or his deputies may call upon the sheriff to remove anyone molesting, threatening, or hindering them in the performance of their official duties. Anyone convicted on such a charge is liable to a $100 fine and also liable for all damages resulting to anyone and all expenses resulting from hindering the surveyor or his deputies.[5]

Records

The statutes require but few records to be kept by the county surveyor. Until 1907 the law required that he keep in his office the certified copies of the plats and field notes of the original Government

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1. Terr. L. 1855, ch. 154, sec. 11; L. 1862, ch. 196, sec. 17; G.S. 1868, ch. 25, sec. 167; L. 1891, ch. 89, sec. 1; L. 1917, ch. 146, sec. 1; L. 1919, ch. 156, sec. 1; G.S. 1935, ch. 19, sec. 1417.
2. L. 1862, ch. 196, sec. 15; G.S. 1868, ch. 25, sec. 166; L. 1921, ch. 154, sec. 1; G.S. 1935, ch. 19, sec. 1414.
3. L. 1862, ch. 196, sec. 6; G.S. 1868, ch. 25, sec. 158; G.S. 1935, ch. 19, sec. 1406.
4. Terr. L. 1855, ch. 154, sec. 14; L. 1862, ch. 196, secs. 23-25; G.S. 1868, ch. 25, secs. 168-170; L. 1891, ch. 89, sec. 2; L. 1907, ch. 169, sec. 1; G.S. 1935, ch. 19, sec. 1418.
5. L. 1862, ch. 196, sec. 13; G.S. 1868, ch. 25, sec. 165; G.S. 1935, ch. 19, sec. 1413.

surveys of his county.[1] The legislature of 1907 required that such copies be deposited with the register of deeds.[2]

The county surveyor also is required to keep a permanent record of the surveys made by him. The statutes prescribe that the record book "shall be so constituted as to have the left page for diagrams and the right page for notes and remarks, and no diagram shall be constructed to scale less than 1 inch to 20 chains, and each diagram shall be numbered progressively." The field notes must contain a full statement of the survey, with variations of the magnetic needle, length of lines, location, size, and description of all corners established or reestablished, and descriptions of all witness trees, with the size, and course. The surveyor also is required to keep a record containing the calculations, by latitude and departure, of all surveys made by he himself or his deputies, each calculation bearing a corresponding number to that of the plat and field notes in the record of permanent surveys.[3]

A law of 1862, still on the statute book but now obsolete, required the surveyor to record "in a suitable book provided for that purpose," the annual variations of the magnetic needle.[4]

562. FIELD NOTES U. S. SURVEY, 1880. 1 vol.
Transcripts of original field notes of United States government surveys in Shawnee County, including survey of Kansas half Breed Indian lands, showing date, name of surveyor, township and range numbers, detailed description, and certification of correctness by registrar of State land office. Arr. num. by twp. and range nos. No index. Hdw. 600 pp. 14 1/2 x 10 x 2 1/2. Surveyor's va.

563. SURVEYOR'S RECORD AND PLATS, 1911--. 3 vols.
Record of surveys made by county surveyor, showing plats of townships and sections, locations of markers, and all data pertaining to survey. Arr. chron. by dates of surveys. Alph. index by names of surveys. Hdw. 300 pp. 18 x 16 x 2. Surveyor's va.

564. VARIATION OF MAGNETIC NEEDLE, 1856--. 1 vol. Last entry 1900.
Surveyor's record of variation of magnetic needle, showing date and time of observation, location, state of weather and atmospheric conditions, compass readings, east and west elongation, and degree of variation. Arr. chron. by dates of observations. No index. Hdw. on pr. fm. 250 pp. 15 x 12 x 1/2. Surveyor's va.

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1. Terr. L. 1855, ch. 154, sec. 14; L. 1862, ch. 196, secs. 23-25; G.S. 1868, ch. 25, secs. 168-170; L. 1891, ch. 89, sec. 2.
2. L. 1907, ch. 169, sec. 1; G.S. 1935, ch. 19, sec. 1418.
3. Terr. L. 1855, ch. 154, sec. 8; L. 1862, ch. 196, sec. 7; G.S. 1868, ch. 25, sec. 159; G.S. 1935, ch. 19, sec. 1407.
4. L. 1862, ch. 196, secs. 6, 7; G.S. 1868, ch. 25, secs. 158, 159; G.S. 1935, ch. 19, secs. 1406, 1407.

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XXV. COUNTY WEED SUPERVISOR

Structural Organization and Evolution

As long ago as 1883 it was made the duty of the township road overseers, and later of the county engineer, to remove certain noxious weeds from the public highways.[1] In 1895 county commissioners were required to direct the time and manner of destroying noxious weeds on all lands, public or private, in the county.[2] In 1937 boards of county commissioners and the governing bodies of incorporated cities were authorized to employ for a stated time each year, with the approval of the secretary of the State Board of Agriculture, a county or city weed supervisor. No special qualifications are prescribed other than that he shall be a competent person." No oath or bond is required. The salary is fixed and prorated as agreed between the Secretary of the State Board of Agriculture and the county commissioners, the State Board to pay not more than one-fourth of the amount and the county not more than three-fourths.[3] A county weed supervisor was first employed by the Shawnee County Commissioners on January 17, 1938.[4]

Functions

The legislature of 1883 decreed that the road overseers of the several counties should remove or cause to be removed annually between June 15 and July 15 all cockleburs, Rocky Mountain sandburs, burdocks, sunflowers, Canada thistles, "and such other noxious weeds as may be injurious to the best interests of the farming community."[5] In 1917 this responsibility was shifted to the county engineer and the dates for performance of the work changed to the period from July 1 to August 15.[6]

The legislature of 1895 required that "every person and every corporation shall destroy on all lands which he or it may occupy," the kinds of weeds named in the law of 1883, at such times as the county commissioners should direct. It was made the duty of the commissioners to set the time and fix the manner of destruction so as to prevent the weeds bearing seeds. Every road overseer also was required to destroy such weeds on the highways and railroad rights-of-way, and on lands where the

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1. L. 1883, ch. 150, sec. 1; L. 1917, ch. 264, sec. 53; G.S. 1935, ch. 68, sec. 546.
2. L. 1895, ch. 359, secs. 1, 2; G.S. 1935, ch. 2, secs. 1301, 1302.
3. L. 1937, ch. 1, sec. 3.
4. Commissioners' Journal, vol. U, p. 435, see entry 2.
5. L. 1883, ch. 150, sec. 1.
6. L. 1917, ch. 264, sec. 53; G.S. 1935, ch. 68, sec. 546.

owner neglected or refused to destroy them. Cost of such work on railroad and private property became a lien against the property and was placed on the tax rolls. Railroad companies were required to cause such weeds on their rights-of-way to be destroyed within 10 days after receiving written notice from the owner of occupant of abutting property or from the township trustee or road overseer, and could be fined from $100 to $500 for failure to do so.[1]

The spread of field bindweed (Convolvulus Arvensis) in Kansas led the legislature of 1931 to require the State Highway Commission, boards of county commissioners, township boards and road overseers, and railroad companies to destroy all field bindweed along the highway or right-of-way in their respective jurisdictions. Landowners also were required to eradicate bindweed on their land each year in an amount equal to 2 percent of the infested area on all land owned by them in the county. If they failed to do so the county commissioners could enter on the land for that purpose. In any event the commissioners were required to eradicate at least 2 percent of the bindweed on infested lands in addition to that paid for by the owner, and pay the cost from the general fund, charging one-third against the property. Upon being petitioned by 20 percent of the resident landowners of any township the county commissioners were required to supply materials and equipment for the eradication and control of bindweed, to make and enforce rules and regulations for its distribution and use, and to supply ingredients or mixtures to the applicants therefor at cost.[2]

The legislature of 1937 repealed these laws and made it incumbent upon individuals, the State Highway Commission, boards of county commissioners, township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies, as well as those supervising State-owned lands, to eradicate and control on lands under their jurisdiction the spread of all weeds declared by legislative action to be noxious. Field bindweed was declared to be a noxious weed. The State Board of Agriculture was empowered to adopt official methods for control and eradication of noxious weeds, and to adopt and publish such rules and regulations as might be necessary for carrying the provisions of the law into effect.[3]

The law makes it the duty of the county weed supervisor to organize local associations by townships and cities, or otherwise, as he deems most advantageous, for the control and eradication of noxious weeds in the county; to cooperate with the county assessor in locating infestations of noxious weeds; to consult and advise upon all matters pertaining to the best and most practical methods for weed control and eradication, and to render every possible assistance in such work in his county.

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1. L. 1895, ch. 359, secs. 1-6; L. 1913, ch. 257, sec. 1; G.S. 1935, ch. 2, secs. 1301-1306.
2. L. 1931, ch. 5, secs. 1-3; G.S. 1935, ch. 2, secs. 1311-1313.
3. L. 1937, ch. 1, secs. 1, 2.

He must confer with individuals, the county commissioners, township and city officials, railroad officials and others, at such times as seems necessary, regarding the extent of noxious weed infestation on their lands and the methods best suited to their control and eradication.[1]

The county assessor is required to tabulate by townships and cities the amount of land and highways infested with each kind of noxious weed, and the extent and location of the infestations, and transmit the information to the State Board of Agriculture, the county commissioners, and the governing body of each township and city. On the basis of this information the governing bodies of the county, townships, and cities must levy a tax each year, not exceeding 1 mill, to pay their parts of the cost of control and eradication. The money thus raised is kept in a separate fund and disbursed on warrants verified by the local weed supervisor. The respective taxing bodies must pay the cost of control and eradication on property under their respective jurisdictions, and the owners must pay such costs on private property.[2]

When any person, association, or corporation owning or supervising land infested with noxious weeds fails to comply with the law as to their control and eradication in any year the county supervisor must notify them in writing by March 1 of the following year that they must comply with the law during the current year. If they still neglect or refuse the county supervisor may enter upon the lands for that purpose as often as he deems necessary, and if the costs are not paid by the owners within a specified time they are placed on the tax roll. Any person dissatisfied with the charge made for material or rent of equipment used in control or eradication of noxious weeds on their property may file a protest with the county commissioners, and if dissatisfied with the decision of the commissioners, may appeal to the district court. County commissioners and the governing bodies of cities, cooperating with the Secretary of the State Board of Agriculture, must purchase or provide for spraying equipment and the necessary chemicals for the control and eradication of noxious weeds on lands and highways other than those under State control. They must sell chemical materials to landowners in their jurisdictions at one-half the cost thereof, and make such charges for use of machines or other equipment and operators as they deem sufficient to cover actual cost of operation.[3]

Records

The statutes require that the county commissioners shall keep a record of purchases of materials and equipment to be used in noxious weed control and eradication; a complete itemized record of sales of

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1. L. 1937, ch. 1, secs. 3, 4.
2. Ibid., secs. 5, 6.
3. Ibid., secs. 8, 9.

materials and equipment; and a record of the use of county-owned equipment, showing the number of hours used and the price per hour received.[1]

However, for his own convenience and in compliance with the rules and regulations of the State Board of Agriculture the Shawnee County weed supervisor keeps several other records.

The following records all are located in the county weed supervisor's office in the county farm bureau suite on the third floor of the Federal Building, Fifth and Kansas Avenues:

565. (SUPERVISOR'S FIELD RECORD), 1938--. 2 vols.
County weed supervisor's record of bindweed control activities in Shawnee County, showing name and address of land owner or tenant, legal description of land, areas of infestation marked or quarter-section maps, use to which land is devoted, method of cultivation before and after treatment, quantity and cost of sodium chlorate used, dates applied, percentage of bindweed killed, and degree of proficiency in work. Arr. irregularly by twps. and thereunder by names of owners or tenants. Each twp. division indexed alph. by names of owners and tenants. Hdw. and typed on pr. fms. Aver. 150 pp. 10 x 7 1/2 x 1 1/4.

566. (SUPERVISOR'S MONTHLY REPORTS), 1938--. 1938-39 in (List of Farms Mapped), entry 569; 1940-- in (Correspondence), entry 582.
Carbon copies of county weed supervisor's monthly reports to State Weed Supervisor, showing date of report; account of each day's activities showing townships worked in, nature of work, miles traveled; number of office calls, telephone calls, and farm visits; number of meetings held and attendance; and signature of supervisor and certification before county clerk.
For annual reports see entry 582-i.

567. (RECORD OF BINDWEED, HOARY CRESS, AND JOHNSON GRASS INFESTATION), 1938--. 1 f. dr.
Record of bindweed infestation in rural Shawnee County, showing name and address of land owner or tenant; legal description of land, number and size of infested areas, method of control, quantity of chemicals used, dates and by whom applied, method of cultivation, percentage of bindweed killed in first and succeeding years, and degree of profiency in work. Data on hoary grass and Johnson grass infestation on a few farms in county, showing legal description of farm, name and address of owner, and extent of infestation. Also contains: (Record of) Salt (Applied on Roads), entry 576. Arr. irregularly by twps. and Topeka suburbs and alph. thereunder by names of owners or tenants; also alph. by names of railroads and irregularly thereunder by routes of travel. No index. Typed on pr. fms. 6 1/4 x 4 1/4 x 15.

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1. L. 1937, ch. 1, sec. 9.

568. (Working Agreements and) BINDWEED MAPS, 1938--. 1 f. dr.
Working agreements for eradication of bindweed and maps of farm lands. Agreements show legal description of land, name and address of owner or operator, schedules for cultivation and chemical treatment, prices to be charged for materials and labor, signatures of land owner or agent and county supervisor, and dates signed and approved. Maps show legal description of land, whether infested with bindweed, extent of infestation, areas indicated with drawing for each quarter section, signature of owner or operator, and date filed with supervisor. Arr. alph. by names of twps. and alph. thereunder by names of owners or agents. No index. Hdw. on pr. fms. 16 x 10 x 26.

569. (LIST OF FARMS MAPPED), 1938-39. 1 shelf.
List of farms for which maps have been filed with county weed supervisor, showing name and address of owner, location of farm, and date map received. Also contains: (Supervisor's Monthly Reports), entry 566; (Legal Notices to Property Owners), 1939, entry 573; (Correspondence), 1938, entry 582. No index. Typed. 10 x 18 x 14.

570. (TOWNSHIP WORK BOOKS), 1938--. 11 vols. (labeled by names of twps.)
Record of bindweed control work done by supervisor's assistants in the various townships, showing legal description of land, name and address of owner or tenant, diagrams of infested areas on quarter-section maps, method of treatment, results obtained, and degree of profiency in work. Arr. by routes of travel. Indexed alph. by names of owners and tenants. Hdw. on pr. fms. Aver. 100 pp. 7 1/4 x 4 1/4 x 1.

571. (TOPEKA INSPECTOR'S BOOK), 1940--. 4 vols.
Record of bindweed infestation in city of Topeka, showing name and address of owner or tenant, legal description of lot, diagrmas of infested areas, method of control, when and by whom applied, method of cultivation, and percentage of bindweed killed. Arr. by routes of travel and thereunder by names of owners and tenants. For index, see entry 572. Hdw. on pr. fms. Aver. 202 pp. 9 x 7 1/2 x 1 1/2.

572. (RECORD OF BINDWEED INFESTATION IN TOPEKA AND INDEX TO TOPEKA INSPECTOR'S BOOK), 1938--. 1 f. dr.
Card record of bindweed infestation in Topeka, showing information as in entry 571, and also volume and page reference to corresponding records therein. Arr. alph. by names of owners and tenants. Typed on pr. fms. 6 1/4 x 4 1/4 x 15.

573. (LEGAL NOTICES TO PROPERTY OWNERS), 1939--. 1939 in (List of Farms Mapped), entry 569; 1940-- in (Correspondence), entry 582.
Copies of notices to property owners to eradicate all bindweed on their land in accordance with State law, showing date of notice, name and address of property owner, text, and signature of supervisor.

574. (RURAL CHEMICAL RECORD), 1939--. 12 vols. (five unlabeled; one labeled Railroads; six labeled by names of twps.)
Record of sodium chlorate applied on farms and railroad rights-of-way in county outside city of Topeka, showing legal description of land, name and address of owner or tenant, areas of infestation marked on quarter-section maps; date, time, and method of treatment; weather and soil conditions, quantity of sodium chlorate used, and signature of owner or agent. Arr. irregularly by twps. and railroads, and alph. thereunder by names of owners and agents. No index. Hdw. on pr. fms. Aver. 30 pp. 4 x 8 1/2 x 1/4.

575. (TOPEKA CHEMICAL RECORD), 1940--. 2 vols.
Record of sodium chlorate applied in city of Topeka, showing location of property, name and address of owner or agent, condition of soil, date and method of treatment, pounds of chemical used, and diagrams of infested areas. Arr. by routes of travel and thereunder by names of owners or agents. No index. Hdw. on pr. fms. Aver. 200 pp. 8 1/2 x 5 x 1.

576. (Record of) SALT (Applied on Roads), 1940--. 1 vol. 1940 also in (Record of Bindweed, Hoary Cress, and Johnson Grass Infestation), entry 567.
Record of salt applied on bindweed patches along public highways by county workers, showing location and area of infestation; date, time, and method of treatment; weather and soil conditions, quantity of salt used, and results obtained. No index. Hdw. on pr. fm. 21 pp. 9 x 5 x 1/4.

577. (RECORD OF SALT SOLD), 1940. 1 vol.
Record of salt sold to farmers, showing date of sale, name of purchaser, and number of pounds purchased. Arr. chron. by purchase dates. No index. Hdw. on pr. fm. 252 pp. 8 1/2 x 5 1/2 x 1/2.

578. (RECORD OF CHEMICALS AND CULTIVATION TOOLS SOLD), 1938--. 2 vols.
Record of sodium chlorate, salt, and cultivation tools sold by county weed supervisor, showing date, name of purchaser, nature and quantity of articles purchased, price, and amount paid. Arr. alph. by names of purchasers, 1938; arr. chron. by dates of sales, 1939--. Indexed alph. by names of purchasers, 1938; no index, 1939--. Hdw. on pr. fms. 138 pp. aver. 12 x 8 x 1/2.

579. (RECEIPTS FOR SODIUM CHLORATE), 1938--. 3 vols.
Duplicate copies of receipts for sodium chlorate delivered to property owners by county weed supervisor, showing date of delivery, name of purchaser, quantity and price, legal description of land to be treated, special memoranda, and signatures of recipient and person making delivery. Arr. chron. by dates of delivery. No index. Hdw. on pr. fms. 50 pp. 2 1/4 x 7 x 1/4.

580. (Supervisor's) PERPETUAL DIARY AND DAILY REMINDER, 1938--. 3 vols.
County supervisor's diary, showing calendar for the year and daily entries pertaining to official business and activities of the office. Arr. chron. No index. Hdw. on pr. fms. Aver. 100 pp. 6 3/4 x 4 1/4 x 1/2.

581. (NEWSPAPER CLIPPINGS), 1938--. 1 vol.
Scrap book of articles clipped from newspapers relative to bindweed eradication in Shawnee County and elsewhere. No index. Pr. 50 pp. 12 1/2 x 11 1/2 x 1/2.

582. (CORRESPONDENCE, REPORTS, AND MISCELLANEOUS RECORDS), 1938--. 1 f. dr. 1938 also in (List of Farms Mapped), entry 569.
Original and carbon copies of correspondence between county weed supervisor and various agencies and individuals pertaining to bindweed control and eradication and other official business of the office. Also

i. Annual reports (copies) of county weed supervisor to State Weed Supervisor, showing summary of activities of supervisor and his assistants during the year. For monthly reports see entry 566.
ii. Applications of land owners for chemical treatment of land infested with bindweed, showing legal description of land, text of agreement, and signature and address of owner or his agent.
iii. Miscellaneous bills, receipts, notices, invoices, and other papers pertaining to the official business of the county weed supervisor.
iv. Receipts from county treasurer for money remitted by county weed supervisor, showing receipt number, date, amount of remittance, and treasurer's signature. Attached to each receipt is copy of statement showing sources of collection.
v. Statements (copies) rendered to purchasers of sodium chlorate, 1939--, showing date of statement, name and address of purchaser, quantity and price, amount due, and legal description of land to which applied.

Also contains: (Supervisor's Monthly Reports), 1940--, entry 566; (Legal Notices to Property Owners), 1940--, entry 573. Arr. alph. by names of correspondents. No index. Hdw. and typed. 16 x 10 x 26.

583. (MAP OF SHAWNEE COUNTY), 1934. 1 map.
Political and land tenure map of Shawnee County, showing boundary lines, names of adjoining counties; location and names of cities, towns, rivers, streams, highways, and railroads; churches, school houses, and cemeteries; boundaries and names of townships; township and range lines and section numbers; names of landowners and number of acres in each tract. Columbian Abstract Company, Topeka, Kansas, publishers. Scale, 1 1/4 inches equal 1 mile. Blueprint. 39 1/2 x 34.

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