

- IN MEMORIAM -

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IN MEMORIAM

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HISTORY OF THE BAR OF ELLIS COUNTY

"It is not uncommon to hear the expression, 'the law is a jealous mistress.' It is true that this profession, like all others, demands of those who would succeed in it an earnest and entire devotion."¹ This sentiment may be aptly applied to the frontier attorneys, and particularly to those in Ellis County. Shortly after the county was organized on October 28, 1867, the legislature placed it in the Eighth Judicial District.² The presiding judge was James Humphrey of Manhattan, who had been appointed on March 4, 1867, and served until April 29, 1870.³ During his tenure on the bench, at least two Hays attorneys were admitted to the bar in Ellis County: M. W. Soule and A. D. Gilkeson.⁴

The bar in Ellis County is the oldest in Western Kansas and in "proportion to population, wealth, . . . Ellis County has probably had more hard fought legal battles than any other county in the state."⁵ Over six thousand cases were heard in the county prior to 1913, a number far superior to other counties in the Judicial District.⁶ Of the local bar, it was said:

The great end and aim of courts is to protect justice and to secure for everyone his boon and rights speedily, as cheaply and with as much certainty as possible. In the general striving for this ideal, the Bar of Ellis County is as faithful, earnest, zealous, industrious and capable as the bar of any county anywhere, and the judge of the District Court has always found them readily and cheerfully responsive to the best admiration of and for the profession.⁷

Despite the number of "bad men" who so frequently assembled in

¹ George Sharwood, Memoir of William Blackstone, 1860.

² Ellis County Courthouses, News-Republican, December 27, 1913.

³ Jacob C. Ruppenthal, News-Republican, December 27, 1913.

⁴ Ellis County Courthouses.

⁵ Ruppenthal.

⁶ Ibid.

⁷ Ibid.

frontier towns, Hays had a surprising number of cultured, well-educated people. Many of these were admitted to the Bar. To be admitted to the legal profession in the 1870's was a far cry from today's Bar examination. A young man interested in pursuing the law generally read under an experienced attorney, worked in a government office, or worked with the courts in a clerical capacity. Very few of the earliest Ellis County attorneys attended college to study law. After the young man had acquired what he considered a passable knowledge of the law, he asked three or four local people, who might or might not be lawyers, to test him in his chosen field. This was no formal, dignified meeting; rather it was a roundtable discussion. The prospective lawyer came laden with a quart of good whiskey and a box of cigars. One wonders if the quality of liquor served had anything to do with who passed the bar.

Of a rather large number who were admitted to the bar, only a few practiced in District Court. Most of the attorneys contented themselves with practicing in the Justice of the Peace Courts and with simply giving advice. The title "Judge" had a rather loose connotation, for it was liberally applied to Justices of the Peace, lawyers and respected citizens.

In 1870, Judge Humphrey was replaced by William H. Canfield of Junction City who served two years. In 1872, the Fourteenth Judicial District was organized and included Ellis County. The only judge of this district was John H. Prescott of Salina who served until 1881, when the Seventeenth District was created. D. C. Nellis of Hays served as judge from March 15, 1881 to January 9, 1882, when he resigned. The Twenty-Third Judicial District of which Ellis County is still a part, was organized in 1886.

In the settling of Ellis County, the bar and bench have made notable contributions. Aside from their varied legal work, these

lawyers actively worked for community growth. They helped found churches, build schools, organize political parties and contribute to cultural events. The Bar of Ellis County has a heritage of which it can justly be proud.

The first lawyer admitted to the Bar of Ellis County was M. W. Soule. This writer has been unable to learn anything about Soule. There was an M. W. Soule in Lawrence at the time of Quantrill's raid, but there is no verification that this is the same man. He was not practicing in Hays in 1877. He served briefly as Justice of the Peace, October 29, 1868 to June 12, 1869. He was also Chairman of the first town trustees, appointed on February 6, 1868. ⁸

⁸ Ellis County Courthouses, pages unnumbered.

There were a number of lawyers in Hays in the nineteenth century, but many of them remained in Ellis County only a short period of time.

M. W. Soule was reportedly the first lawyer admitted to the local bar. W. D. Lane or W. L. Lane was a partner of A. D. Gilkeson for a short time. Their association was dissolved in May, 1877.

Fred Danford and L. F. Eggers were partners in the late seventies, but apparently most of their work was in Rush County.

Simon Motz, George Philip and N. Robbins were merchants to whom the title "lawyer" applied. They were respected members of the community who apparently represented clients in local courts.

Two fairly well-known attorneys in the 1890's were W. L. Aaron and A. J. Bryan. Judging from appearance in court dockets, both men represented a substantial number of clients. However, this writer has been unable to find biographical data on them.

Allan D. Gilkeson
(1840-1928)

Possibly the most important of the early lawyers, and certainly the most enigmatic, was Allan D. Gilkeson. Gilkeson was a thin, wiry man whose physical appearance earned him the nickname "Spider".¹ He came to Hays probably in 1867 as a surveyor for the Kansas Pacific Railroad.² Housing was virtually non-existent when he arrived, so Gilkeson was forced to spend his first night in Hays sleeping on a table in a boxcar. That night a storm came up, lightning split the table on which he was sleeping, and Gilkeson fell to the floor unharmed. This strange event would later be told as representative of Gilkeson.

Gilkeson was born in Bristol, Pennsylvania, a suburb of Philadelphia, in 1840. His family was well-to-do, having interests in shipping or ship-building.³ He was educated in the Philadelphia schools and read the law under a firm headed by B. F. Gilkeson.⁴ In those days, a Philadelphia lawyer was a symbol of the best in the American Bar. A young man started out as an apprentice and, at first, paid some tuition until he was of value to the firm. He received instruction from a partner, read the assigned texts, usually Blackstone's Commentaries, and gave recitations. When he gained a basic understanding of the law, he accompanied the partner to court, where his duties resembled those of an errand boy. When the young man was admitted to the bar, he had not only a good legal education but also some practical experience as well.⁵

1

Ed Madden to Mary Rowland. June 23, 1967.

2

The railroad did not reach Hays until 1867. Andreas, History of Kansas, 1921.

3

C. M. Monroe to Thomas C. Boone, May 13, 1967.

4

Gilkeson Papers, Hays Public Library.

5

Monroe to Boone.

It is probable that Gilkeson was in the Civil War,⁶ although official records do not show him on the rosters. However, he was in Bristol in 1864-65.⁷ According to one of the many Gilkeson legends, Gilkeson returned home from the war, found his father dead, and his inheritance quandered by his brother.⁸ With a great deal of ill-will toward his family, Gilkeson moved west. According to another legend, Gilkeson moved west also because of his brother. Allegedly the boys were attending a school with a winding staircase. When the boys climbed to the fourth floor, they began wrestling and the brother fell to the ground floor. Gilkeson, thinking he had killed his brother, vanished. Years later, so the story goes, Gilkeson was having a drink in Tommy Drum's saloon when he felt a tap on his shoulder. He turned and stood face to face with the brother he thought was dead.⁹ Probably closer to the truth was the fact that Gilkeson was suspected of having tuberculosis and came west for his health.¹⁰

⁶ He was the right age to have served. However, he steadfastly refused to join the G.A.R. That could imply he did fight but didn't like the organization, or that he was not in the Union Army.

⁷ Gilkeson Papers are written in 1864-65, dated Bristol.

⁸ Monroe to Boone.

⁹ Madden to Rowland. This story, while interesting, is probably untrue. Gilkeson would have been at least 25 or 26 years old, and a little past the school boy fighting age. Further, I find no evidence that he was given to physical pranks.

¹⁰ Hays Daily News, Sept. 24, 1928.

Nevertheless, Gilkeson did leave Pennsylvania and migrated west, stopping for a while in Leavenworth before settling in Hays. Upon arriving in Hays in 1867, he worked for the railroad only a short time before entering the legal profession. For a while, he and Wild Bill Hickock roomed together in quarters behind the railroad depot. One night shortly after the arrival of a new railroad clerk, Gilkeson and Hickok had retired early, only to be awakened shortly by loud banging on their door. Hickok demanded to know who was there. The answer was, "Never mind. Just come out. I'm going to kill you." Hickok tried to reason with the man but to no avail. The hammering on the door continued, accompanied by violent curses and threats. Finally Hickok opened the door to face an armed man. The man drew his pistol, but Hickok beat him to the draw. Before Gilkeson could escape the commotion, he stood staring down at a dead man. All the time, the depot agent stood petrified watching the fight. He collected his wits to send a telegram: "Send replacement. Hays City is too rough for me." Gilkeson's reaction is unknown, but apparently, he did not think Hays too rough for him, for he remained there the rest of his life.¹¹

Gilkeson's foray into politics occurred in 1869 when he and Wild Bill ran unsuccessfully against M.E. Joyce for Justice of the Peace. Judge Joyce later distinguished himself as the judge to have to have the Kansas Legislature apply legality to his actions.¹² In 1870, Gilkeson was appointed

¹¹ 11 Madden to Rowland.

¹² Ellis County Courthouses.

County Attorney, a post he held for one year. Although the county was three years old, he was the fifth legal officer, probably because there were no funds with which to pay governmental officials. When an office became an economic burden, the official simply resigned.

In the early 1870's Gilkeson formed a partnership with W.L.Lane. How long this firm existed is not known to this writer, but it was dissolved in late May, 1877, when Lane apparently left town.¹³ From 1877 until his death, Gilkeson preferred to practice alone. He had several offices. At one time, he was located on the corner of Eleventh and Main; another time, he was situated on the corner of Twelfth and Main, where it was said that the original dirt was on the floor when he moved in and when he moved out.¹⁴ In 1876, he had an office next door to a millinery shop operated by Mrs. Annie Chadwick MacIntosh.¹⁵

In 1877, Gilkeson was elected State Representative on the Democratic ticket. While in Topeka, he made quite a name for himself and his reputation was not always flattering. The following article appeared in the Sentinel:

¹³ Sentinel, February 2, 1877. A man named W.D. Lane served as Superintendent of Public Instruction in 1875. Ellis County Courthouse.

¹⁴ George Grass to Rowland.

¹⁵ A diagram of the location may be seen in the Hays Public Library, Scrapbook N-Z, 12.

One of our citizens received a letter from a lady friend this morning, in which was written in letters bold and bright the following sentence: 'I understand that your friend Gilkeson, is among the wise ones here. I have not seen him; but I am told he wears spectacles and acts like a lunatic.' We have no fault with the spectacles, though they are worn for effect and are entirely unnecessary; but we can find no excuse for his idiocy. Surely he had sense enough to keep his hash receptacle closed, and as he is such a slick, pretty man, we are unable to account for their finding him out so soon. He either acted natural to an unnatural degree or somebody heard him talk.¹⁶

One explanation for this rather derogatory commentary is the editor, W. P. Montgomery. Montgomery and Gilkeson were political enemies; the Republicans were the dominant party and the election of Gilkeson had loosened their control on the county.

In the legislature, Gilkeson took an active part in drafting legislation.¹⁷ He introduced a bill on divorce and on protection of cattle, true to the wishes of his constituents.¹⁸ The crusade against liquor was a project of Gilkeson's and he, as a teetotaler, actively joined the Prohibition movement. Although elected to represent the interests of Ellis County, Gilkeson felt he was elected to use his own judgment; when issues arose of which he personally disapproved, he did not hesitate to vote his convictions although criticism was certain to result.¹⁹

¹⁶ Sentinel, January 19, 1877.

¹⁷ Ibid., January 26, 1877.

¹⁸ Ibid., March 9, 1877.

¹⁹ Ibid., March 23, 1877.

An interesting anecdote is told about Gilkeson and Prohibition:

In the early days of the prohibition law in Kansas, they encountered a great deal of difficulty in securing convictions. The trouble was the juries would sit in the box and smirk while they tried to convince them that their favorite saloon keeper was guilty of something. At one time, the Attorney General came to Gilkeson and asked him if he would present a few prosecutions as a special prosecutor. Judge Gilkeson said he would do so on two conditions: he stated first that he did not want any long-haired men or short-haired women sticking their nose in any of his prosecutions and if any one of them did, he would promptly dismiss the case. The second condition was that, whenever he tendered his resignation, it would be accepted by return mail. On this condition, he took over the prosecutions in a term of court, went through the docket and tried all the prosecutions, placed squarely to the jury their duty as citizens, convicted the whole bunch, and sent in his resignation.

Shortly after the spring session of the legislature was over, Gilkeson married Mrs. Annie MacIntosh. Mrs. Gilkeson had come to Hays as a young bride some time prior to 1872.²¹ At the time, she had at least two children, both of whom died young. From 1872-76, she had at least one more child and lost her husband. Mrs. Gilkeson was a tall, stately, well-dressed woman, at least a head taller than her husband. Her interest in the community was confined chiefly to the Trinity Lutheran Church where she was a lifelong member.²² Although she was very active in religious circles, Mrs. Gilkeson never interested her husband in church activities. However, for one Christmas Cantata, she managed to get her husband to play Santa Claus.²³

²⁰ Monroe to Boone.

²¹ Annie Gilkeson, Early Housekeeping in Hays. Hand-written Manuscript. Hays Public Library.

²² A Brief History of the Trinity Lutheran Church, 1879-1929.

²³ Reprint, Hays Daily News, December 25, 1933.

There is no telling what feminine wiles she had to use to manuever this. The incident is particularly amusing since Gilkeson delighted in playing Scrooge at Christmas.²⁴

Gilkeson was devoted to his family. His fondness for his step daughter, Elsie, was reciprocated. His marital experience, however cozy, provided the Hays City with many favorite anecdotes. One of the most commonly circulated concerned Mrs. Gilkeson's distrust of the medical profession. When she fell and broke her hip, she refused the services of a local doctor. As a result she was confined to her bed and wheel chair for some time. Once when she was upstairs in bed, she called down to her husband to bring her a glass of water. Obliging his wife, Gilkeson got a treasured antique pitcher of water and started up the stairs. When he tripped on the carpet and fell, Mrs. G. called down, "A.D., you didn't break my pitcher, did you?" Irritated at her concern for possessions instead of husbands, he called back, "No, but by God, I will." With that, he threw the pitcher against the wall and broke it into hundreds of pieces.²⁵

Anecdotes like the one above were widely told in Hays, probably to Gilkeson's delight. He cherished the idea of being the town's character and did nothing to stop the "legends" concerning his past. He seldom mentioned the wilder days of Hays' history. He was extremely reticent about his own life, and visited only with a few intimates. Not a club-man, Gilkeson belonged to only two organizations: the Masonic Lodge, which he helped found, and the Hays City Lyceum, which was incorporated in 1874 for the support of

²⁴ Holmquist to Rowland.

²⁵ Grass to Rowland; Madden to Rowland; Oshant to Rowland; Holmquist to Rowland; Wiest to Rowland.

educational and literary undertakings. For relaxation, A.D. enjoyed his large garden, where he planted only buffalo grass. Another of his hobbies was cabinet making: he was the original do-it-yourselfer and he spent many hours working with his hands.

The all consuming interest of Gilkeson was the law and whatever was connected with his practice, meaning in part, the Democratic party. He was County Chairman for a while and made exerted efforts to include the German-Russian immigrants into the Democratic fold.²⁶ He was always available for political speeches and obviously filled a number of such engagements.²⁷ Gilkeson's ability as an attorney is most readily seen in the size of his practice. In the January, 1895 session of District Court, ninety-four separate cases were filed and Gilkeson was attorney in forty-two of those cases.²⁸ This was several times more than any other attorney. From the size of his practice and his lengthy career, one might assume Gilkeson was a wealthy man; however, he never made money from his law practice.

He liked most of all to defend some poor, moneyless client, an underdog, and win his case in court . . . Undoubtedly, the judge failed to collect thousands of dollars owed him by delinquent clients, many of whom probably could have reimbursed him for his efforts in their behalf.

²⁶ Sentinel, October 12, 1877.

²⁷ Ibid., July-November, 1877.

²⁸ Bar Docket, January Term, 1895, Twenty Third Judicial District.

²⁹ Hays Daily News, September 24, 1828. Speaker was a friend of Gilkeson's who made the above statements upon hearing of the judges' death.

Gilkeson was known for his knowledge of the law, a fact which undoubtedly attracted many clients:

I do know that by reason of his education and training he was an excellent lawyer and he was also excellent in knowing how to prepare and present a case . . . Many lawyers go into court with a list of witnesses; they call them to the stand as they happen to see them sitting in the courtroom and they ask them whatever they can think of at the time. The result is generally a lot of extraneous evidence and a lack of logical order. The old judge was never guilty of that. He always had a case prepared so it was presented logically and in order and in a fashion that kept the court and jury interested . . . Need not add that he always had legal authority for his contentions.³⁰

Coupled with his knowledge of the law, Gilkeson possessed a great deal of human understanding. Once he was trying a case in Trego County in which several unmarried brothers were seeking to protect some land. At the summation of his case, he encouraged the jury to let the brothers retain the land for their heirs. The opposing attorney noted that Gilkeson's statement was misleading, for the brothers were single, to which Gilkeson replied, "Well, that certainly doesn't keep them from having children."³¹

If one phrase could characterize Gilkeson, it would be live and let live. To illustrate this point, one day Gilkeson was sitting on a bench in front of a livery stable with his feet propped up on the hitching post in front when a passer-by knocked his feet down. Gilkeson cocked his head up at the man and very pleasantly remarked, "If I had a gun on me, I'd kill you."³² In the same vein, another day a man came

³⁰ Monroe to Boone.

³¹ Driscoll to Brungardt and Rowland.

³² Wiles to Rowland.

into his office and made several statements which were quite out of line, and Gilkeson proceeded to set the man straight. When the man left, a fellow lawyer said, "Judge, you say the most awful things to people and I sometimes wonder why somebody doesn't get violent with you. Aren't you afraid of that? Aren't you afraid of anything?"

Gilkeson said, in substance, "Yes, I have always been afraid of something. I have always been afraid I would think some fellow was an S.O.B. and he wouldn't know it."³³

Despite his gruff exterior, Gilkeson was quite a romantic. When he was a bachelor, he was quite a ladies man, and the Bachelors' Ball was an occasion for him to woo the ladies. In his law journal kept as a student, there are numerous poems scattered among notes from Blackstone. Shakespeare, Wordsworth, and Byron appeared to be his favorites. A number of short verses appear which reflect his romanticism: the themes of love, sorrow, death and friendship appear with regularity. Other poems Gilkeson inserted (or hid) in his journal are clever:

Fee simple and a simple fee
And all the fees entail
Are nothing when compar'd to thee,
Thou best of fees--fe male

On March 1, 1895, A.D. Gilkeson was appointed judge of the Kansas Court of Appeals for the Northern Division.³⁴ This court was organized for the purpose of bringing the appeals of the state up to date. The Supreme Court having gotten badly behind, the Court of Appeals could speed up some of the work for the higher court. When this was accomplished,

³³ Monroe to Boone.

³⁴ Kirke Mecham, ed. Annals of Kansas 1886-1925 (Topeka; State Historical Society, 2 vols.) I, 190.

the appellate court was disbanded in 1901. Gilkeson was

very proud of the set of ten volumes of the Courts of Appeals and maintained that all the law of Kansas was contained in the ... volumes. Upon one occasion, one of his opposing lawyers attacked Gil's pleadings and cited to the Court Volume 5 of the Courts of Appeals and contended that Gil's pleadings were faulty. Thereon, Gil said, "Is that in Volume 5 of the Courts of Appeals? If it is, I will dismiss my case because that law in Volume 5 is a damn good law."³⁵

Gilkeson was defeated in 1897 for another term on the court by a Republican, William B. Ham. In Russell County, Gilkeson ran a poor third, receiving only 107 votes out of 1668 votes cast.³⁶ In 1898, he ran against incumbent Judge of the Twenty-Third Judicial District, Lee Monroe, the man who had helped secure for Gilkeson the appellate judgeship. Gilkeson was defeated in his bid for the bench, and this was apparently his last attempt to secure public office.

Following his defeat in 1898, Gilkeson retired to private practice. Always a dapper figure, Gilkeson could be seen walking around town with his head down, hands clapped behind his back, wearing his usual derby hat, swallow tail coat, spats, and a flower in his lapel.³⁷ As he became older, time had less meaning for him and one day, the Judge reprimanded him for being late to court. Gilkeson replied, "Well, Judge, it's better to be late in court than early in hell." Hell was apparently one of his favorite topics, for when a friend remarked that all Western Kansas lacked was moisture and good society, Gilkeson answered, "That's all hell lacks."³⁸

³⁵ Driscoll to Brungardt, May 1, 1967.

³⁶ Official County Returns, 1897.

³⁷ Driscoll to Rowland.

³⁸ Mrs. Harry Crissman to Rowland.

JUDGE C. M. MONROE, RET.
328 VIA DEL NORTE
LA JOLLA, CALIFORNIA 92037

May 13, 1967

Thomas C. Boone, Attorney at Law
705 Fort Street
Hays, Kansas

RE: A. D. Gilkeson

Dear Mr. Boone:

I will give you the best information I can although I regret very much it is not detailed and some of it may not be absolutely accurate, for the reason that Judge Gilkeson was very reserved; he did not like to talk about himself and he resented, sometimes quite profanely, personal inquiries. In view of my relation with him I generally did a pretty good job of keeping my mouth shut.

Judge Gilkeson was born in 1840. His family lived, as I understand it, in Philadelphia. They were well-to-do. I don't know the exact business of the family, but it seems to me that it had something to do either with shipping or shipbuilding. The Judge studied law in Philadelphia back in the days of the old saying that the Philadelphia lawyer meant something. This was because they had worked out a system in the Philadelphia Bar whereby a student was apprenticed to a firm. He paid at first some sort of a tuition until he was able to be of some value to the office. He was tutored by one of the firm, assigned courses of reading, and from time to time gave recitations. Eventually he undertook to accompany some member of the firm to court. He ran errands and he took the notes which, in those days, were taken in longhand. When he got through and was admitted to the Bar he had not only a good legal education but knew something about the trial of actions.

I don't know the name of the firm. I have the vague impression that the man under whom the Judge worked was Benjamin Brewster but this may not be correct.

I know that he was in the Civil War. He never told me however what he did in the war and your suggestion that he was in the Battle of the Monitor and Merrimac is the first I ever heard of it. I don't know to the contrary.

When the war was over, he came back to Philadelphia; his father had died. The estate had been placed with an

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older brother in trust. The older brother had been unfortunate in handling the trust and there was nothing left. Apparently the Judge simply packed up and went west and I got the impression that the relationship with the brother was quite strained.

I do not know anything about Mr. Lane. I do know that the Judge mentioned having been associated for a short time with an older lawyer, but that is the extent of my information. He stayed in Hays the rest of his life and practiced law. He was, in my estimation, a rather outstanding lawyer.

My parents were very good friends of the Gilkesons. Judge Gilkeson had married a Mrs. McIntosh who had a daughter Elsie who was, of course, a grown woman when I lived in Hays. My father was born in 1857; I was born in Wakeeney in 1890. Father was elected Judge of the Twenty-third District in 1894 and the family moved to Hays. Father served two terms which ended in 1902. The family moved to Topeka in 1901 and Father established a law office there as soon as his second term as Judge expired.

In the first volume of the Kansas Appellate Reports is set forth the Special Act under which that court was organized. I understand that Father had considerable to do with securing the appointment of Judge Gilkeson as presiding judge of that court. That court was organized in 1895 and expired in 1901. Father, in his practice, used to try a number of lawsuits in western Kansas. I was admitted to the Bar in 1912. I had not been back to Hays until after that time.

Judge Gilkeson wrote a letter to my father stating that he was finding it very difficult to try court cases which is understandable as he was then in his seventies. He suggested an arrangement whereby I come out to the terms of court at Hays, go over his cases with him, and assist him in the trials. As you can well imagine, I was quite proud of being invited to assist a lawyer of the stature of Judge Gilkeson. Of course in later years I became a little bit suspicious that the arrangement was the result of a plot between my father and Judge Gilkeson to teach a punk kid how to try a lawsuit. I like to think, however, that before the arrangement ended I was of real

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assistance to him and I can assure you that practically everything I learned about the trial of lawsuits I learned from Judge Gilkeson. That arrangement continued until I moved to California in 1922.

The old judge did an outstanding job in the Court of Appeals. The court was organized for the purpose of bringing the Appeals in the State of Kansas up to date. The court had got badly behind. That result was accomplished and the Court of Appeals went out of existence in due course.

As to pictures. I have a vague recollection that at one time we had a photograph of Gilkeson. It seems to me that my mother told me that it was a copy of the only picture that anybody could ever get him to sit for and it runs in my mind that it was taken at the time he was appointed on the Court of Appeals. In this connection I note that D. A. Valentine was the clerk of one of the departments of that court; later, as I well remember he was Clerk of the Supreme Court. Of course he has long since gone to his reward but I have the notion that something must have been done with the records of that court and it seems to me that the present Clerk of the Supreme Court might be able to give you some information. The Court of Appeals was in two sections and each section sat, as I remember it, in several different places. They must have sat in the Court Houses of those county seats. I am not sure but I think one of the places was Russell. A while back George Holland of Russell was working with the local Bar to get pictures of various judges for their Court House and at that time I sent him an enlargement of a picture of my father which I understand hangs in the courtroom and it just might be that that community also got pictures of the Court of Appeals. I don't know.

Of course the ten years that I worked with Judge Gilkeson was while he was an elderly man. He was 82 when I left Kansas. However, I do know that by reason of his education and training he was an excellent lawyer and he was also excellent in knowing how to prepare and present a case. As you know, many lawyers go into court with a list of witnesses; they call them to the stand as they happen to see them sitting in the courtroom and they ask them whatever they can think of at the time. The result is generally a

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a lot of extraneous evidence and a lack of logical order. The old judge never was guilty of that. He always had a case prepared so it was presented logically and in order and in a fashion that kept the court and the jury interested. I need not add that he always had legal authority for his contentions.

His manner in court was exemplary. His conversation outside of court was not only completely informal but sometimes quite profane. He was highly respected and I think very well liked. I doubt if he ever failed to help any one who came to him in trouble, but he didn't want any one to know it.

In the early days of the prohibition law in Kansas they encountered a great deal of difficulty in securing convictions. The trouble was the juries would sit in the box and smirk while they tried to convince them that their favorite saloon keeper was guilty of something. At one time the Attorney General came to Gilkeson and asked him if he would present a few prosecutions as a special prosecutor. Judge Gilkeson said he would do so on two conditions: he stated first that he didn't want any long haired men or short haired women sticking their nose in any of his prosecutions and if any one of them did he would promptly dismiss the case. The second condition was that whenever he tendered his resignation it would be accepted by return mail. On this condition he took over the prosecutions in a term of court, went through the docket and tried all the prosecutions, placed squarely to the jury their duty as citizens, convicted the whole bunch, and sent in his resignation.

There are many things I could tell you about him by way of anecdotes, but I am sure you would not want them in the biography. For instance: At one time there was stationed in Fort Hays a regiment of negro cavalry. These men used to come in to the saloons in town and at times were quite disorderly. At one time some of them were thrown out. Shortly thereafter a group of them got together, got their arms and came in town to "teach the town a lesson." Apparently, in some fashion the word got to the town and the town was prepared for them and a number of the negroes were killed. As a result the regiment was removed from that Fort and no negroes were ever stationed there again. As a further result, for many years it was the unwritten law in Hays that no negro could stay there overnight no matter who he was.

JUDGE C. M. MONROE, RET.
328 VIA DEL NORTE
LA JOLLA, CALIFORNIA 92037

Thomas C. Boone

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I am told, but I can't prove it, that the old judge was one of the group that was called before the local Justice of the Peace and fined Five Dollars each for discharging firearms within the city limits. I am afraid you can't use that.

In 1927 I was visiting my family in Topeka and my sister Cynthia and I rode out to Hays to see the old judge. We were able to see him but very briefly. He had failed tremendously; he was then 87. I learned that he quit taking court cases when I left Kansas. His eyesight was quite bad. By that time, of course, Mrs. Gilkeson was deceased. We knew that we would never see him again - and I never heard from him again. On a subsequent trip to Kansas I was told that he had died some time before. I have a notion that what happened was that some of his friends gathered him up and sent him to the Old Soldiers Home in Leavenworth, but actually I have no information on this. When I got the information that he was dead, I was told it had been some time before and I think actually he died very shortly after I last saw him.

Just a little anecdote for an entertainment: One time I was in Judge Gil's office and some fellow came in and made some statement that was quite out of line, and the old judge really gave him a cussing out. When the fellow had left, I said to him in substance, "Judge, you say some of the most awful things to people and I sometimes wonder why somebody doesn't get violent with you. Aren't you afraid of that - aren't you afraid of anything?" And he said in substance, "Yes, I have always been afraid of something. I have always been afraid I would think some fellow was a s.o.b. and he wouldn't know it."

I am embarrassed I don't know more facts, but the truth of the matter is that you just did not ask him personal questions. I have heard too many people try it!

Very truly yours,


C. M. Monroe

J. C. Leahy
(1841-1890)

J. C. Leahy was the liquor fighting County Attorney of the Eighties. Born 1841, this Ohioan fought in the Civil War entering on August 22, 1862, as a Private in Co. D, 123 Ohio Infantry. He was released as a First Sergeant on June 28, 1865.¹

It is doubtful he came to Hays before 1877,² but by 1882, he was in Hays because he ran against David Rathbone for County Attorney. The campaign was obviously a bitter one, and a fierce feud raged between the two men. This issue was liquor.³ The liquor questions had become a volatile one in 1874 when many temperance societies were organized,⁴ and Kansas was supposed to be operating under a form of Prohibition, but Hays City is a testimony to the dubious efficiency of that law.⁵ Leahy beat Rathbone, and once in office, assumed the tenuous position of fighting whiskey, but refusing to prosecute salooners.⁶ However, public pressure forced him to reconsider his position, and he did make an attempt to enforce prohibition law.⁷

Leahy was very active in the G. A. R. until his death on August 1, 1890. He was survived by his wife, Elizabeth H. Leahy (1882-1937) and two daughters, Bess and Helen.

¹ G.A.R. Records, Hays Public Library.

² There is no record of his being here in the newspapers, and all of the early lawyers advertised their services on the front page

³ Star-Sentinel, June 7, 1883.

⁴ For further information on the Prohibition movement of Kansas, see Kansas and Kansans, Wm. E. Connelly, (5 vols, Chicago: Lewis Publishing Co., 1919), II, 788-828.

⁵ History of Kansas: (Chicago: A.T. Andreas, 1883), 1289-93.

⁶ Star-Sentinel, May 31, 1883.

⁷ Star-Sentinel, June 7, 1883.

W. P. Montgomery
(1822-1895)

One Hays attorney had an unusual achievement: he survived Quantrill's Raid. William Penn Montgomery was living with his family in Lawrence in 1863 when the marauders, led by renegade Ohioan William Clarke Quantrill who terrorized parts of Kansas and Missouri, appeared at his house and ordered him out. Montgomery, who stood well over six feet, was standing in the front yard, actually fearing for his life and listening to instructions about turning over valuables to the raiders when his very petite and very pregnant wife, Sarah, ran and stood in front of him. Looking up at the ruffians, she said, "If you shoot him, you'll have to shoot me first." Stunned, the raiders withdrew, and Montgomery's life was spared although two hundred men were not so fortunate. ¹

Another Montgomery was intimately involved with the raid. David was the eleven-year-old son of W. P. and he was a big boy eager to be grown up. When Lawrence started posting guards to look out for Quantrill, David insisted he was old enough to do his share. His wish was fulfilled; one night David was given a gun and told to walk a certain post. Appearing more brave than he actually felt, David started his guard duty. All went well for a while, until he heard a noise in the bushes. "Halt!" he said. And the noise continued, coming closer all the time. Again David shouted, "Halt!" but to no avail. On the third "halt" he cocked his gun. By now David could see two big eyes peering at him, and they were coming closer. His fourth and probably feeble "Halt!" went ignored and the very frightened boy pulled the trigger. Waiting a few minutes to summon up his courage, David went into the bushes to see what ruffian he had killed. Imagine his chagrin when he saw his tormentor: an old milk cow. ²

¹ The story of Montgomery's role in the raid was told by his grandchildred, Mrs. Harry Crissman and Mr. Joe Montgomery to Rowland. Concerning Quantrill, see Wm. E. Connelly, Kansas and Kansans, (5 vols. Chicago: Lewis Publishing Co., 1919), II, 740-46.

² Joe Montgomery to Rowland.

William Penn Montgomery had been born in Westfield, New York on July 10, 1822. He was married to Sarah Hall on September 2, 1851, in Westfield. Shortly after his marriage, the Montgomerys started on their way west and Montgomery taught school to earn their livings. Their oldest son, David, was born in Wisconsin in 1852, and the other children were born in different towns in the Middle West, including Ella who was born on August 24, 1863, in Lawrence.³

Montgomery must have come to Hays in 1876 because his newspaper, the Sentinel, was in full operation by January of 1877.⁴ Apparently, W. P. had some job with the government, probably the land office when he originally drove his horse and buggy to Hays.

Aside from his newspaper which his son, Franklin Cass, helped manage, W. P. enjoyed a lucrative practice of the law. His speciality was land cases. This itself was a profitable business, because of the many conflicting homestead claims. Montgomery had the reputation for winning his cases: but he saw to that, for he never took a case unless he thought he could win.⁵ In handling claims, Montgomery had to correspond frequently with the capitol, and his friends used to jibe him about his poor penmanship. Montgomery's standard reply was, "They know in Washington what I mean."⁶

Although Montgomery was a good lawyer with many clients, his primary interest lay in journalism.⁷ His paper was published from

³ Montgomery Family Bible. Possession of Joe Montgomery.

⁴ Sentinel, January 19, 1877.

⁵ Crissman to Rowland.

⁶ Ibid.

⁷ Bar Docket, January Term, 1895.

1877-1882 when it was sold to J. H. Downing, of the Ellis County Star.⁸ The consolidation of the papers was called the Star-Sentinel. Montgomery's paper was partisan in politics, as were the others. His staunchy Republican paper was the anathema of A. D. Gilkeson, for the Sentinel was used to criticize the actions of the state legislator in 1877. Shortly after Gilkeson was sent to Topeka, Montgomery wrote, "Why does the commonwealth persist in spelling the name of our representative GILKESON? Now, if it had changed his name to 'Bilkeson' we should have said, quite appropriate."⁹

Montgomery's newspaper was not a successfully moneymaking enterprise, and his legal fees went to pump money into the paper. Two fires destroyed most of the material assets of the paper, and the Sentinel never recovered financially from the second.¹⁰ When the newspaper was sold, Franklin Cass Montgomery went to Seattle where he edited papers there.

Montgomery was a very ethical man with his moral principals. As a devout Presbyterian, he took any off color or sarcastic remark as a personal effront. Once in court, when a man made a questionable statement, Montgomery jumped over the rail in front of the lawyer's table and chased the man out of the courthouse.¹¹

Although Montgomery had grown up on a farm and had worked in timber mills, he showed no inclination to pursue the agrarian life himself. This did not keep him from serving as secretary of the Western Farmers' Association.¹²

Montgomery died on October 29, 1895, and was survived by his wife who lived until 1906. He had fathered five children: W. P. Jr., Ella, who married Fred Harris; F.C.; Mary, who married Hill P. Wilson; and David.

⁸ History of Kansas, (Chicago: A. T. Andreas, 1883), 1293.

⁹ Sentinel, January 19, 1877.

¹⁰ Montgomery to Rowland.

¹¹ Ibid.

¹² Sentinel, July 6, 1877.

M. M. Fuller
(1843-1911)

As mentioned earlier, many esteemed citizens of early Hays and Ellis were dispensers of advice and so earned the title "lawyer". Many of these men, such as Miles Mulroy and J. H. Downing, were also journalists. Marrell Minor Fuller of Ellis falls into this category. But unlike many of the so-named lawyers, Fuller was admitted to practice in District courts instead of Justice of the Peace courts, handling such varied cases as divorces and assaults.

Fuller was born in Pitcher County, New York, on January 10, 1843. He served in the Union Army, Co. C., 76th N. Y. Infantry from September 1861-1864. He was married to Frances A. Ware in McGrawville, New York on January 31, 1872. The couple moved to Ellis on April, 1873 and settled on a one hundred sixty acre soldier's homestead.

Six years after moving to Ellis, he was elected County Commissioner from what was then the first district.¹ He held this position for nine years. While in office, he owned and edited the Ellis Headlight. He sold the paper to accept an appointment as postmaster, in which capacity he served six years. Fuller served as County Representative from 1899-1901 and as town trustee of Ellis for a number of years before ill health forced him to retire.

Fuller was active in the Independent Order of Odd Fellows and the G. A. R. A man who loathed ostentatiousness, he wrote shortly before his death, "I would rather be wrapped in an old army blanket and covered with the Stars and Stripes than to be buried in a hundred dollar casket."

He died in Ellis on January 6, 1911.

¹ Ellis County Courthouses.

David Rathbone
(1833-1916)

David Rathbone was born in Lawrenceville, Tioga County, Pennsylvania on July 3, 1833. His education was limited to the public schools of his native state and to a special course in mathematics. Upon completion of this course under Professor W. H. Brewer of Blossburg, Pennsylvania, Rathbone engaged in civil engineering for about one year. He studied law under his father, was admitted to the bar, practiced in Pennsylvania, Missouri and Kansas, and appeared in United States Courts for a period of eight years. He was admitted to practice in the United States Supreme Court on February 3, 1890.

Rathbone came to Kansas in 1877 and began practicing law in Ellis County. In less than two years, he had established a lucrative practice. In 1881, he was elected County Attorney.¹ He ran again in 1883 but was defeated by J. C. Leahy. As a politician he was uncompromising in the line of duty.

David Rathbone ran for judge three times on the ticket of the Farmer's Alliance and was defeated each time.²

Rathbone was very much a scholar and possessed one of the best law books in the area. Carl M. Holmquist and Art J. Wiles were privileged to use these books.³

Rathbone was a small, slender man who took a great deal of pride in his personal appearance.⁴ His major luxury was a pair of matched horses and buggy and a hired man who did nothing but care for these possessions.⁵

An impressive orator, Rathbone was invited to speak to many political groups and church meetings.⁶

He was married to Sarah A. Rathbone (1823-1916) and their

¹ Ellis County Courthouses.

² Mail and Breeze, (Topeka), July 2, 1902.

³ Holmquist to Rowland.

⁴ Holmquist to Rowland.

⁵ Wiles to Rowland.

⁶ Souvenir Program, 50th Anniversary, 1st Baptist Church, 1885-1935. Star-Sentinel, Aug. 12, 1885.

daughter, Lonsetta (1863-1920) was married to Henry W. Oshant, a leading citizen of early Hays.

David Rathbone retired from practice in 1913⁷ and died in 1916.

⁷ News-Republican, Dec. 27, 1913.

D. C. Nellis

(1849-1918)

One of the more illustrious pioneer lawyers in Ellis County was Dewitt Clinton Nellis. Nellis, the descendant of an old German Palatine family,¹ was born on Tuesday, January 2, 1849, in Montgomery County, New York.² He was schooled in Oswiegatchie, where he graduated from high school at the age of fifteen. Thereupon, he attended the Canajoharie Academy and Fairfield Collegiate Institute for seven terms. Nellis taught school at Ford's Bush, N.Y. for three years and read law for six months in Canajoharie before leaving New York. on July 31, 1871, to join his older brother, Daniel, in Kansas.

He arrived in Topeka on August 12, 1871, and on the same day, he met Miss Emma Virginia "Jennie" McAfee, whom he later married. His first job in Kansas lasted three days: Nellis worked for Alfred Gray, Director of the Kansas State Fair Association, for the fair of '71.

Nellis lived in Topeka nearly two years, during which time he studied law under Martin, Burns and Case. To support himself he taught school in the rural Topeka area, before being admitted to the Bar on February 21, 1873. While in the capital

1

The Nellis family left the Palatinate, located in Southwest Germany, in the early 1700's because the peculiar location of their home in regard to the numerous European wars. Hoping to escape invasion during the War of Spanish Succession, 1701-13, the Nellises entreated Queen Anne of England to grant them land in the New World. In 1710, the family sailed to New York, upon arriving in that colony, they located in several places before settling in Montgomery County, where part of the family still resides. Nellis McAfee Family Album. Also see A Brief Historical Sketch of the Trinity Lutheran Church, 1879-1929. Rev. A. M. Hahn, p. 5

2

He was the Son of Mary Magdelene Wert Nellis (1821-1886) and James Nellis (1816-1888).

private practice. In 1884, he was a candidate for Attorney-General at the Republican convention, but was defeated. This was his last attempt at public office.

Nellis was one of Hays' most enthusiastic supporters. Having been raised in a devout Lutheran family, he continued the active participation in religious circles. On January 3, 1875, he organized the Union Sabbath School,⁸ which was Congregational. By 1875, the Congregationalists left Hays to the Presbyterians, and Nellis was instrumental in organizing the Presbyterian Church Society and raising funds for the church building. On November 10, 1878, he helped found the Trinity Lutheran Church, and along with I. M. Yost and H. D. Shaffer, he financed building the church.⁹ For a while, before the church was built, the congregation met in Nellis' office.

Nellis was a jurist of the first degree and a brilliant student, having written many significant essays in his lifetime. His interest in education was marked by the emphasis he placed on the education of his children.

Community affairs did not escape the notice of Judge Nellis. He shared his wife's love of music, and demonstrated this by singing at socials and serving as President of the Hays City Brass Band.¹⁰ Nellis also participated in community ball games.¹¹ He was a charter member and one of the first officers of the Odd Fellows Lodge.¹² He was also a Mason.

Politics apparently held a great deal of his interest. Nellis served as County Chairman of the Republican party rivalling the position held by Democrat A. D. Gilkeson.¹³ Nellis spoke often

⁸ Trinity Lutheran Church, 6.

⁹ Ibid., 7.

¹⁰ Sentinel, February 2, 1877. January 2, 1878.

¹¹ Sentinel, May 4, 1877.

¹² Star-Sentinel, July 12, 1883. History of Kansas, 1292.

¹³ Sentinel, October 19, 1877.

for the party at political events. His speeches were not always limited to political topics: shortly after the birth of his first daughter in 1877, Nellis set himself up as an authority on the rearing of female children and was only too happy to share his experience with anyone.¹⁴

Nellis was obviously a devoted husband and father. One material example of this was his buying his wife a piano which cost six hundred and fifty dollars in a day when people were still struggling to get over the depression, drought and grasshoppers.¹⁵ And on a County Attorney's salary at that!

When Nellis left Hays on June 10, 1885, he left a fairly prosperous man.¹⁶ His law practice was a lucrative one and his financial interests were varied. He had in his possession at least one farm and possibly stock in the bank. Nevertheless, it is a valid assumption that Nellis was at least a moderately wealthy man.

When the Nellis family moved to Topeka, Hays lost one of its more prominent members. Both Mr. and Mrs. Nellis were widely respected and admired and their role in the history of Hays cannot be ignored.

Upon moving to Topeka, Nellis resumed the practice of law until deafness forced him to retire in 1887. He then assumed interest in the Kansas Farmer Company, where he was Secretary-Treasurer until 1906. Thereafter, he devoted the rest of his life to his law and farming interests. He served as editor of the Kansas Lutheran before his death in 1918.¹⁷ A fitting eulogy relates that he was characterized by "kindliness in manner and patience in affliction."¹⁸

¹⁴ Sentinel, May 4, 1877.

¹⁵ Sentinel, September 14, 1877.

¹⁶ Three months after he left town, Nellis sold his home in Hays to James Murdock. The home, on Wilson Ave. was a large, two story white frame structure.

¹⁷ After Mrs. Nellis' death, the home in Topeka called "Palatine Hills" was bought by presidential nominee Alf Landon, 1937

¹⁸ Topeka State Journal, July 11, 1918.

Jacob Simminger
(1882-1918)
By Tom Toepfer

"For him the sun of life had not reached the noon line."¹

Jacob H. Simminger, Ellis County attorney from 1911 to 1915, died of pneumonia, a complication resulting from Spanish Influenza on October 12, 1918.²

In his lifespan, the prominent Hays attorney established a reputation of being very friendly, easy-going and goodnatured. Close friends had a deep love for his congeniality and his very direct and outgoing personality. Others who were not as close to him and had known him as only a business and social acquaintance, considered Simminger in the highest regard.³

"Jake", as his friends and associates called him, was born in Random Lake, Wisconsin, May 10, 1882. At the age of two, he and his family moved to Hays where he spent the remainder of his boyhood.⁴ After finishing his grade and college preparatory school years in Hays, Simminger attended the State Normal School at Emporia, graduating in 1904.⁵

Simminger married the former Mary Ann Bird on June 14, 1903, and moved to Rawlins County, Kansas where he taught school for three terms.⁶

In 1906 or 1907, Simminger and his family traveled to St. Louis where he attended St. Louis University of Law School. He received his Bachelor of Laws degree in 1909 and returned to Hays, establishing a law office above what is now Wiesner's Grocery on Eighth and Main Streets.⁷

¹ Ellis County News, October 17, 1918.

² Ibid.

³ Mrs. A. A. Herman to Tom Toepfer, May 7, 1968.

⁴ News Republican, December 27, 1913.

⁵ Ibid.

⁶ Ellis County News, op. cit.

⁷ Mr. Clarence V. Clark to Tom Toepfer, February 25, 1968.

As a member of the bar, Simminger was a successful attorney. In nine years he had built a "fine, independant practice"⁸ and was considered an excellent barrister.⁹ In the process of accomplishment of his goals, the amiable Simminger made many new and close friends. Some considered him to be a very ordinary sort of person, yet a majority thought him unique and very outstanding -- in and out of his law office.¹⁰

A devout Roman Catholic, Simminger belonged to the Knights of Columbus. He was known to be a very jolly man, especially when he was toastmaster at the many Knights of Columbus functions.¹¹

Simminger, like many other young men at the time, was caught in the intense wave of patriotism which had developed during World War I. He was an active member of the Hays State Guards, Company "B", and had been planning at the time of his death, to enter some line of war service to his country.¹²

At the time of his death, Simminger had five children, three boys and two girls. His lovely wife, Mary, who was a native of the Bird City area, was a pleasant, easy-going person and won the admiration of her friends.¹³

"Jake" was very close to his wife's family, especially her brother, John S. Bird, editor of the Ellis County News. Bird wrote a moving obituary of Simminger several days after his death:

⁸ Ellis County News, op. cit.

⁹ Mr. A. F. Bieker to Tom Toepfer, May 2, 1968.

¹⁰ Ibid.

¹¹ Herman to Tom Toepfer.

¹² Ellis County News, op. cit.

¹³ Holmquist to Mary Rowland.

Thus far the life of our brother has been in constant preparation. . . getting ready to do bigger and better things, and laying a foundation for a larger and more extensive life structure. For him, the sun of life had not reached the noon line. It was yet morning with the business of the day but well begun. All lay before with a bright promise of accomplishment. Whether with the falling of the shadows last Saturday evening he stepped from the scene of earthly courts to a larger bar of justice where his trained faculties might have large exercise we cannot say. Whether he was transferred from active everyday duties of war service here to the business of adjudicating in matters eternal in the Great Beyond, we cannot know; but of these things we are certain: He was at peace with his fellow man and reconciled with his God through the last rites of the Catholic Church of which he was a consistent and exemplary member. . .¹⁴

Jacob H. Simminger died in a flu epidemic which also claimed the lives of eighty others in Ellis County.¹⁵ After his death, Simminger's wife and children moved from Hays, where she lived at 13th and Elm Streets, to her family's home in Bird City.¹⁶

¹⁴ Ellis County News, op. cit.

¹⁵ Ibid.

¹⁶ Herman to Tom Toepfer.

Harry Pestana

(1842-1925)

"Everybody knew Harry Pestana!"¹ This simple statement is probably one of the most accurate concerning this noted Hays attorney. Born in Luzerne County, Pennsylvania, on December 1, 1842, Pestana lived in and around Forty Fort until December 21, 1861 when he joined the Union Army.² He served as a private in Battery B, 2nd Pa. Heavy Artillery, 112th Pa. Volunteers. He remained in the army until December 21, 1864 when he was discharged as a sergeant.³ After the war, he moved to St. Louis where he lived two years before moving to Leavenworth where he read the law. In 1876, he moved to Russell where he remained until 1903. Twice elected, he served in the State Legislature from 1901-1905⁴ from Russell County. In 1906, he moved to Hays where he remained until his death in March, 1925, of influenza. When he died, the G. A. R. had charge of his funeral, and his death left only eleven Civil War veterans in the local chapter.

Pestana was married to Frances C. Herrick of Russell and they had three children: Daniel G. Pestana; Mildred, who married H. B. Neiswanger; and Helen who married Charles M. Storm.

A slow, easy going man, Pestana handled few big cases, but was considered a remarkable able attorney. He had once served as Assistant General of this state. Pestana's chief asset was his voice, and he was considered the silver-tongued orator of Hays.

¹ Wiles to Rowland.

² Hays Daily News, March 10, 1925.

³ Ledger, G. A. R. Hays Public Library.

⁴ Annals of Kansas, 1886-1924, Vol. I, 353, 389.

Jacob M. Wiesner
(1890-1927)
By Tom Toepfer

Unable to decide whether he liked law or building houses better, Jacob M. Wiesner became noted throughout the Hays area as a colorful, jolly man who could be seen standing on the corners of Main Street telling friends of his building projects, restricted diet and tidbits of humorous information.¹

Wienser was born on a farm in western Ellis County on April 20, 1890. His early grade school years were spent in a country school. When he was eleven or twelve years old, Jacob and his family moved to Ellis where he finished his grade and high school years. However, there were doubts as to whether he graduated from high school.²

After attending high school, Wiesner was -- more or less -- on his own. He worked on a farm to support himself for several years before he decided to enter Fort Hays Normal School.³ He graduated from the Normal in 1910 and went on to St. Louis University seeking a degree in law.⁴ However, at the same time, Wiesner also obtained a degree in science and commerce, an area in which he was extremely interested.⁵

While in school at St. Louis, "Jake", as his friends called him, lived in an attic above a Jesuit abbey. His room was cold and lacked warm water. Room and board were provided him by the priests at the abbey in return for cleaning and library duties after school hours. Had it not been for an old Irish priest who let him have the room, he would have never made it through school.⁶

¹ Mrs. Frank Motz to Tom Toepfer, May 14, 1968.

² Mrs. A. A. Herman to Tom Toepfer, May 7, 1968.

³ Ibid.

⁴ Hays Daily News, November 11, 1927.

⁵ Ibid.

⁶ Herman to Tom Toepfer.

Upon graduation from the university, Wiesner moved to Topeka, where he lived for a very short time. He was called to active duty in World War I, but never went overseas. It was thought that, while in the army, he picked up a chronic stomach or heart ailment which plagued him for the remainder of his life.⁷

In 1919, "Jake" was discharged from the army and married Kathryn Little from Bunker Hill whom he had met while attending a dance there. He loved to dance, as did his wife. His family noted that he was the only one of the Wiesners who could dance.⁸ He and his lovely wife, Kathryn, moved to Hays and had two daughters, Mary Alice and Anna Francis. Wiesner was not very outspoken; this could possibly explain why no one had known of his marriage until he brought Kathryn to Hays with him.⁹

Wiesner located his law office in Hays above what is now Wiesner's Grocery on Eighth and Main Streets and immediately ran for County Attorney. He won and served in that position from 1919-1923.¹⁰ Law did not interest him as much as business speculating or house building did. He, therefore, never did establish a strong practice.¹¹

Building a housing complex, Mission Mount -- which is located between Elm and Hall Streets north of 17th, was Wiesner's pet project. He obtained the needed materials for the construction of the houses from war surplus at Fort Riley.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Mrs. J. H. Middlekauff, et al, Ellis County Courthouses and Officers, 1867-1942.

¹¹ Motz to Toepfer.

The houses were basically built of stone, old beer bottles and a multitude of other scraps. However, the houses are still standing forty years later and are in fairly good condition.¹²

One of Wiesner's reasons for building the houses was that he loved the freshness of the out of doors. He would awaken at five o'clock every morning to go to the construction site and supervise work. He also thought hard work was an essential facet of his life and never complained about it.¹³

Wiesner's personality distinguished him from the "ordinary Joe" of that day. He was consistently jolly and good-humored. Friends would remember him as being the type of individual who would always have a little humorous anecdote to tell. Some chuckled with anticipation of what "Jake" would have to say when they saw him coming.¹⁴

A peculiarity which was very much a part of his life was eating habits. He was very meticulous about the food he ate and usually preferred vegetables over any types of protein.¹⁵ This may have been due to a heart ailment which restricted the consumption of many types of food.¹⁶

Contrasting, or more appropriately, equating his jolliness, was his rather realistic outlook on life. He was basically a good man, alienating few. He believed in the principle of hard work, a little play and a good diet. Reading consumed a considerable part of his time. Most people considered him to be a brilliant man.¹⁷

¹² Mr. C. V. Clark to Tom Toepfer, February 25, 1968.

¹³ Herman to Tom Toepfer.

¹⁴ Motz to Tom Toepfer.

¹⁵ Ibid.

¹⁶ Herman to Tom Toepfer.

¹⁷ Ibid.

Wiesner was a Roman Catholic and a Fourth Degree Knight in the Knights of Columbus.¹⁸

After he was County Attorney, his heart ailment continually grew worse. Unable to get any relief or help from the medical facilities in Hays, Wiesner traveled to Omaha, Nebraska, where he stayed at a hospital a friend suggested. He died several days after being admitted to the hospital, August 9, 1927.¹⁹

¹⁸ Ibid.

¹⁹ Ibid.

Allan D. Gilkeson
(1840-1928)

Possibly the most important of the early lawyers, and certainly the most enigmatic, was Allan D. Gilkeson. Gilkeson was a thin, wiry man whose physical appearance earned him the nickname "Spider".¹ He came to Hays probably in 1867 as a surveyor for the Kansas Pacific Railroad.² Housing was virtually non-existent when he arrived, so Gilkeson was forced to spend his first night in Hays sleeping on a table in a boxcar. That night a storm came up, lightning split the table on which he was sleeping, and Gilkeson fell to the floor unharmed. This strange event would later be told as representative of Gilkeson.

Gilkeson was born in Bristol, Pennsylvania, a suburb of Philadelphia, in 1840. His family was well-to-do, having interests in shipping or ship-building.³ He was educated in the Philadelphia schools and read the law under a firm headed by B. F. Gilkeson.⁴ In those days, a Philadelphia lawyer was a symbol of the best in the American Bar. A young man started out as an apprentice and, at first, paid some tuition until he was of value to the firm. He received instruction from a partner, read the assigned texts, usually Blackstone's Commentaries, and gave recitations. When he gained a basic understanding of the law, he accompanied the partner to court, where his duties resembled those of an errand boy. When the young man was admitted to the bar, he had not only a good legal education but also some practical experience as well.⁵

1

Ed Madden to Mary Rowland. June 23, 1967.

2 The railroad did not reach Hays until 1867. Andreas, History of Kansas, 1921.

3

C. M. Monroe to Thomas C. Boone, May 13, 1967.

4

Gilkeson Papers, Hays Public Library.

5

Monroe to Boone.

It is probable that Gilkeson was in the Civil War,⁶ although official records do not show him on the rosters. However, he was in Bristol in 1864-65.⁷ According to one of the many Gilkeson legends, Gilkeson returned home from the war, found his father dead, and his inheritance quandered by his brother.⁸ With a great deal of ill-will toward his family, Gilkeson moved west. According to another legend, Gilkeson moved west also because of his brother. Allegedly the boys were attending a school with a winding staircase. When the boys climbed to the fourth floor, they began wrestling and the brother fell to the ground floor. Gilkeson, thinking he had killed his brother, vanished. Years later, so the story goes, Gilkeson was having a drink in Tommy Drum's saloon when he felt a tap on his shoulder. He turned and stood face to face with the brother he thought was dead.⁹ Probably closer to the truth was the fact that Gilkeson was suspected of having tuberculosis and came west for his health.¹⁰

⁶ He was the right age to have served. However, he steadfastly refused to join the G.A.R. That could imply he did fight but didn't like the organization, or that he was not in the Union Army.

⁷ Gilkeson Papers are written in 1864-65, dated Bristol.

⁸ Monroe to Boone.

⁹ Madden to Rowland. This story, while interesting, is probably untrue. Gilkeson would have been at least 25 or 26 years old, and a little past the school boy fighting age. Further, I find no evidence that he was given to physical pranks.

¹⁰ Hays Daily News, Sept. 24, 1928.

Nevertheless, Gilkeson did leave Pennsylvania and migrated west, stopping for a while in Leavenworth before settling in Hays. Upon arriving in Hays in 1867, he worked for the railroad only a short time before entering the legal profession. For a while, he and Wild Bill Hickock roomed together in quarters behind the railroad depot. One night shortly after the arrival of a new railroad clerk, Gilkeson and Hickok had retired early, only to be awakened shortly by loud banging on their door. Hickok demanded to know who was there. The answer was, "Never mind. Just come out. I'm going to kill you." Hickok tried to reason with the man but to no avail. The hammering on the door continued, accompanied by violent curses and threats. Finally Hickok opened the door to face an armed man. The man drew his pistol, but Hickok beat him to the draw. Before Gilkeson could escape the commotion, he stood staring down at a dead man. All the time, the depot agent stood petrified watching the fight. He collected his wits to send a telegram: "Send replacement. Hays City is too rough for me." Gilkeson's reaction is unknown, but apparently, he did not think Hays too rough for him, for he remained there the rest of his life.¹¹

Gilkeson's foray into politics occurred in 1869 when he and Wild Bill ran unsuccessfully against M.E. Joyce for Justice of the Peace. Judge Joyce later distinguished himself as the judge to have to have the Kansas Legislature apply legality to his actions.¹² In 1870, Gilkeson was appointed

¹¹ 11 Madden to Rowland.

¹² Ellis County Courthouses.

County Attorney, a post he held for one year. Although the county was three years old, he was the fifth legal officer, probably because there were no funds with which to pay governmental officials. When an office became an economic burden, the official simply resigned.

In the early 1870's Gilkeson formed a partnership with W.L.Lane. How long this firm existed is not known to this writer, but it was dissolved in late May, 1877, when Lane apparently left town.¹³ From 1877 until his death, Gilkeson preferred to practice alone. He had several offices. At one time, he was located on the corner of Eleventh and Main; another time, he was situated on the corner of Twelfth and Main, where it was said that the original dirt was on the floor when he moved in and when he moved out.¹⁴ In 1876, he had an office next door to a millinery shop operated by Mrs. Annie Chadwick MacIntosh.¹⁵

In 1877, Gilkeson was elected State Representative on the Democratic ticket. While in Topeka, he made quite a name for himself and his reputation was not always flattering. The following article appeared in the Sentinel:

¹³ Sentinel, February 2, 1877. A man named W.D. Lane served as Superintendent of Public Instruction in 1875. Ellis County Courthouse.

¹⁴ George Grass to Rowland.

¹⁵ A diagram of the location may be seen in the Hays Public Library, Scrapbook N-Z, 12.

One of our citizens received a letter from a lady friend this morning, in which was written in letters bold and bright the following sentence: 'I understand that your friend Gilkeson, is among the wise ones here. I have not seen him; but I am told he wears spectacles and acts like a lunatic.' We have no fault with the spectacles, though they are worn for effect and are entirely unnecessary; but we can find no excuse for his idiocy. Surely he had sense enough to keep his hash receptable closed, and as he is such a slick, pretty man, we are unable to account for their finding him out so soon. He either acted natural to an unnatural degree or somebody heard him talk.¹⁶

One explanation for this rather derogatory commentary is the editor, W. P. Montgomery. Montgomery and Gilkeson were political enemies; the Republicans were the dominant party and the election of Gilkeson had loosened their control on the county.

In the legislature, Gilkeson took an active part in drafting legislation.¹⁷ He introduced a bill on divorce and on protection of cattle, true to the wishes of his constituents.¹⁸ The crusade against liquor was a project of Gilkeson's and he, as a teetotaler, actively joined the Prohibition movement. Although elected to represent the interests of Ellis County, Gilkeson felt he was elected to use his own judgment; when issues arose of which he personally disapproved, he did not hesitate to vote his convictions although criticism was certain to result.¹⁹

¹⁶ Sentinel, January 19, 1877.

¹⁷ Ibid., January 26, 1877.

¹⁸ Ibid., March 9, 1877.

¹⁹ Ibid., March 23, 1877.

An interesting anecdote is told about Gilkeson and Prohibition:

In the early days of the prohibition law in Kansas, they encountered a great deal of difficulty in securing convictions. The trouble was the juries would sit in the box and smirk while they tried to convince them that their favorite saloon keeper was guilty of something. At one time, the Attorney General came to Gilkeson and asked him if he would present a few prosecutions as a special prosecutor. Judge Gilkeson said he would do so on two conditions: he stated first that he did not want any long-haired men or short-haired women sticking their nose in any of his prosecutions and if any one of them did, he would promptly dismiss the case. The second condition was that, whenever he tendered his resignation, it would be accepted by return mail. On this condition, he took over the prosecutions in a term of court, went through the docket and tried all the prosecutions, placed squarely to the jury their duty as citizens, convicted the whole bunch, and sent in his resignation.²⁰

Shortly after the spring session of the legislature was over, Gilkeson married Mrs. Annie MacIntosh. Mrs. Gilkeson had come to Hays as a young bride some time prior to 1872.²¹ At the time, she had at least two children, both of whom died young. From 1872-76, she had at least one more child and lost her husband. Mrs. Gilkeson was a tall, stately, well-dressed woman, at least a head taller than her husband. Her interest in the community was confined chiefly to the Trinity Lutheran Church where she was a lifelong member.²² Although she was very active in religious circles, Mrs. Gilkeson never interested her husband in church activities. However, for one Christmas Cantata, she managed to get her husband to play Santa Claus.²³

²⁰ Monroe to Boone.

²¹ Annie Gilkeson, Early Housekeeping in Hays. Hand-written Manuscript. Hays Public Library.

²² A Brief History of the Trinity Lutheran Church, 1879-1929.

²³ Reprint, Hays Daily News, December 25, 1933.

There is no telling what feminine wiles she had to use to manuever this. The incident is particularly amusing since Gilkeson delighted in playing Scrooge at Christmas.²⁴

Gilkeson was devoted to his family. His fondness for his step daughter, Elsie, was reciprocated. His marital experience, however cozy, provided the Hays City with many favorite anecdotes. One of the most commonly circulated concerned Mrs. Gilkeson's distrust of the medical profession. When she fell and broke her hip, she refused the services of a local doctor. As a result she was confined to her bed and wheel chair for some time. Once when she was upstairs in bed, she called down to her husband to bring her a glass of water. Obliging his wife, Gilkeson got a treasured antique pitcher of water and started up the stairs. When he tripped on the carpet and fell, Mrs. G. called down, "A.D., you didn't break my pitcher, did you?" Irritated at her concern for possessions instead of husbands, he called back, "No, but by God, I will." With that, he threw the pitcher against the wall and broke it into hundreds of pieces.²⁵

Anecdotes like the one above were widely told in Hays, probably to Gilkeson's delight. He cherished the idea of being the town's character and did nothing to stop the "legends" concerning his past. He seldom mentioned the wilder days of Hays' history. He was extremely reticent about his own life, and visited only with a few intimates. Not a club-man, Gilkeson belonged to only two organizations: the Masonic Lodge, which he helped found, and the Hays City Lyceum, which was incorporated in 1874 for the support of

²⁴ Holmquist to Rowland.

²⁵ Grass to Rowland; Madden to Rowland; Oshant to Rowland; Holmquist to Rowland; Wiest to Rowland.

educational and literary undertakings. For relaxation, A.D. enjoyed his large garden, where he planted only buffalo grass. Another of his hobbies was cabinet making: he was the original do-it-yourselfer and he spent many hours working with his hands.

The all consuming interest of Gilkeson was the law and whatever was connected with his practice, meaning in part, the Democratic party. He was County Chairman for a while and made exerted efforts to include the German-Russian immigrants into the Democratic fold.²⁶ He was always available for political speeches and obviously filled a number of such engagements.²⁷ Gilkeson's ability as an attorney is most readily seen in the size of his practice. In the January, 1895 session of District Court, ninety-four separate cases were filed and Gilkeson was attorney in forty-two of those cases.²⁸ This was several times more than any other attorney. From the size of his practice and his lengthy career, one might assume Gilkeson was a wealthy man; however, he never made money from his law practice.

He liked most of all to defend some poor, moneyless client, an underdog, and win his case in court . . . Undoubtedly, the judge failed to collect thousands of dollars owed him by delinquent clients, many of whom probably could have reimbursed him for his efforts in their behalf.²⁹

²⁶ Sentinel, October 12, 1877.

²⁷ Ibid., July-November, 1877.

²⁸ Bar Docket, January Term, 1895, Twenty Third Judicial District.

²⁹ Hays Daily News, September 24, 1828. Speaker was a friend of Gilkeson's who made the above statements upon hearing of the judges' death.

Gilkeson was known for his knowledge of the law, a fact which undoubtedly attracted many clients:

I do know that by reason of his education and training he was an excellent lawyer and he was also excellent in knowing how to prepare and present a case . . . Many lawyers go into court with a list of witnesses; they call them to the stand as they happen to see them sitting in the courtroom and they ask them whatever they can think of at the time. The result is generally a lot of extraneous evidence and a lack of logical order. The old judge was never guilty of that. He always had a case prepared so it was presented logically and in order and in a fashion that kept the court and jury interested . . . Need not add that he always had legal authority for his contentions.³⁰

Coupled with his knowledge of the law, Gilkeson possessed a great deal of human understanding. Once he was trying a case in Trego County in which several unmarried brothers were seeking to protect some land. At the summation of his case, he encouraged the jury to let the brothers retain the land for their heirs. The opposing attorney noted that Gilkeson's statement was misleading, for the brothers were single, to which Gilkeson replied, "Well, that certainly doesn't keep them from having children."³¹

If one phrase could characterize Gilkeson, it would be live and let live. To illustrate this point, one day Gilkeson was sitting on a bench in front of a livery stable with his feet propped up on the hitching post in front when a passer-by knocked his feet down. Gilkeson cocked his head up at the man and very pleasantly remarked, "If I had a gun on me, I'd kill you."³² In the same vein, another day a man came

³⁰ Monroe to Boone.

³¹ Driscoll to Brungardt and Rowland.

³² Wiles to Rowland.

into his office and made several statements which were quite out of line, and Gilkeson proceeded to set the man straight. When the man left, a fellow lawyer said, "Judge, you say the most awful things to people and I sometimes wonder why somebody doesn't get violent with you. Aren't you afraid of that? Aren't you afraid of anything?" Gilkeson said, in substance, "Yes, I have always been afraid of something. I have always been afraid I would think some fellow was an S.O.B. and he wouldn't know it."³³

Despite his gruff exterior, Gilkeson was quite a romantic. When he was a bachelor, he was quite a ladies man, and the Bachelors' Ball was an occasion for him to woo the ladies. In his law journal kept as a student, there are numerous poems scattered among notes from Blackstone. Shakespeare, Wordsworth, and Byron appeared to be his favorites. A number of short verses appear which reflect his romanticism: the themes of love, sorrow, death and friendship appear with regularity. Other poems Gilkeson inserted (or hid) in his journal are clever:

Fee simple and a simple fee
And all the fees entail
Are nothing when compar'd to thee,
Thou best of fees--fe male

On March 1, 1895, A.D. Gilkeson was appointed judge of the Kansas Court of Appeals for the Northern Division.³⁴ This court was organized for the purpose of bringing the appeals of the state up to date. The Supreme Court having gotten badly behind, the Court of Appeals could speed up some of the work for the higher court. When this was accomplished,

³³ Monroe to Boone.

³⁴ Kirke Mecham, ed. Annals of Kansas 1886-1925 (Topeka; State Historical Society, 2 vols.) I, 190.

the appellate court was disbanded in 1901. Gilkeson was

very proud of the set of ten volumes of the Courts of Appeals and maintained that all the law of Kansas was contained in the ... volumes. Upon one occasion, one of his opposing lawyers attacked Gil's pleadings and cited to the Court Volume 5 of the Courts of Appeals and contended that Gil's pleadings were faulty. Thereon, Gil said, "Is that in Volume 5 of the Courts of Appeals? If it is, I will dismiss my case because that law in Volume 5 is a damn good law."³⁵

Gilkeson was defeated in 1897 for another term on the court by a Republican, William B. Ham. In Russell County, Gilkeson ran a poor third, receiving only 107 votes out of 1668 votes cast.³⁶ In 1898, he ran against incumbent Judge of the Twenty-Third Judicial District, Lee Monroe, the man who had helped secure for Gilkeson the appellate judgeship. Gilkeson was defeated in his bid for the bench, and this was apparently his last attempt to secure public office.

Following his defeat in 1898, Gilkeson retired to private practice. Always a dapper figure, Gilkeson could be seen walking around town with his head down, hands clapped behind his back, wearing his usual derby hat, swallow tail coat, spats, and a flower in his lapel.³⁷ As he became older, time had less meaning for him and one day, the Judge reprimanded him for being late to court. Gilkeson replied, "Well, Judge, it's better to be late in court than early in hell." Hell was apparently one of his favorite topics, for when a friend remarked that all Western Kansas lacked was moisture and good society, Gilkeson answered, "That's all hell lacks."³⁸

³⁵ Driscoll to Brungardt, May 1, 1967.

³⁶ Official County Returns, 1897.

³⁷ Driscoll to Rowland.

³⁸ Mrs. Harry Crissman to Rowland.

Ed Rea
(1872-1931)

Ed Rea was born February 21, 1872 in Graham, Missouri, and received his grammar school education there. He studied at the Maryville, Missouri Normal School, graduating in 1887. In that year, he became a court reporter. For a while, he lived in Oberlin and WaKeeney working in the Land Office.¹ At the same time, he worked as court stenographer under Judges S. J. Osborn and Lee Monroe.² In 1898, he moved to Hays, and began the practice of law.³

Elected County Attorney in 1905,⁴ Rea served two terms in public office. In 1907, he resumed his law practice. In 1920, the firm of Rea and Flood was formed and continued successfully until the death of Mr. Rea.⁵

Rea was a fine criminal lawyer, and people would come for miles around to hear him argue a case. He was especially successful in cross-examination.⁶

Ed Rea was active in the Methodist Church and the Rotary Club.⁷ He was considered by his intimates as being the personification of friendship.⁸ As a man, Rea was a trusted friend, a wise counselor, and held the highest esteem of fellow citizens.⁹ A fitting eulogy was written by Frank Motz: Rea was... "an apostle of goodwill and love of his fellow man."¹⁰

Rea died in May, 1931, of pulmonary embolism caused by a motor accident in April of that year. He was survived by his wife, Lillie, and two daughters: Margaret (Oshant) and Hazel (Favell).

¹ Hays Daily News, May 15, 1931.

² Ellis County Courthouses.

³ Atlas, 1905.

⁴ Ellis County Courthouses.

⁵ Hays Daily News, May 15, 1931.

⁶ Driscoll to Brungardt & Rowland.

⁷ Hays Daily News, May 18, 1931.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

Miles Mulroy

(-1931)

Miles Mulroy was a newman, hotel owner, postmaster, and lawyer. Mulroy was a member of a large family. His brother, Tim, was County Attorney in Rush County; Richard was interested in real estate and restaurants. There were also two sisters, Mamie and Alice.¹

The first mention of Miles Mulroy in the public eye was when he ran successfully in 1895 for County Attorney, a position he held one term.² In 1907, he opened the Mulroy Hotel which was in operation until 1943.³ This hotel was located on the corner of 12th and Main. Mulroy served as postmaster until he bought the Ellis County News, a weekly newspaper.⁴

Mulroy had little formal education, and no formal legal training; he read the law, a practice quite common in the nineteenth century.⁵

For Miles Mulroy, the law was a sideline. He never practiced in District Court and his legal career consisted mainly of giving advice. From 1911-1915 and 1919-1921, Mulroy was State Representative.⁶

Mulroy was a Roman Catholic, a member of the Knights of Columbus and a Democrat.⁷

He died in 1926.⁸

¹ James Start to Rowland.

² Ellis County Courthouses.

³ Wiest Start to Rowland.

⁴ Start to Rowland.

⁵ Oshant to Rowland.

⁶ Ellis County Courthouses.

⁷ Republican, October 22, 1898.

⁸ Start to Rowland.

J. H. Downing
(1842-1932)

J. H. Downing was a journalist who practiced law on the side. Born in Scott County, Illinois in 1842, Downing lived there until 1860 when he moved to Council Bluffs, Iowa, where he lived until he joined Co. E., 137th Reg., Ill. Vol. Inf. on May 7, 1864.¹ He fought in the battle of Memphis, was made a sergeant, and got out of the Army on Sept. 24, 1864. From this five month tenure in the Army, Downing had a legitimate claim to join the Grand Army of the Republic, an organization in which he was most interested.² After leaving the Civil War, Downing worked as a clerk until 1868 when he joined the staff of the Council Bluff Nonpareil. He moved to Leavenworth in 1868 and worked with the Bulletin and as a roving correspondent for the Commercial until 1876 when he moved to Hays where he bought the Ellis County Star. On January 1, 1882, he bought the Sentinel from the Montgomery family and consolidated the two papers, forming the Star-Sentinel.³ Downing was very active in the Golden Belt Editorial Association, serving three years as Secretary.⁴

Downing's service to the community as a lawyer was rather limited. However, he did serve as U. S. Land Office Attorney and as U. S. Commissioner,⁵ It is the assumption of this writer that his practice was limited to the dispensing of advice and practice in the Justice of the Peace Courts.

He was married in November, 1879, to Miss Ella L. West of Council Bluffs. They had one son who died in childhood. Downing died in 1932.

¹ History of Kansas, (Chicago: A. T. Andreas, 1883), 1293.

² G. A. R. Ledger, Hays Public Library.

³ History of Kansas, 1293.

⁴ Annals of Kansas, 1541-1885. D. W. Wilder, ed. (Topeka: Dwight Tachter, Kansas Publishing House, 1886), 867, 950, 974, 1025.

⁵ Star-Sentinel, May 17, 1883.

J. H. Reeder and C. W. Reeder
(1850-1913) (1857-1934)

James Harlan Reeder was born in Parke County, Indiana, on June 20, 1850, and died in Kansas City on March 6, 1913. This young nephew of James Harlan, Abraham Lincoln's Secretary of Interior, was graduated from Depauw University, then Asbury College, in Greencastle, Indiana in 1878, where he achieved an enviable academic record.¹

His legal education had begun in 1876 when he began reading law, and while in college, Reeder's liberal arts curricula was strengthened by a law course. Upon graduation, he was admitted to the Indiana Bar from Putnam Co., Indiana. Thereupon, he moved to Hays City and was admitted to the Kansas Bar in the same year, when he entered partnership with the distinguished Dewitt C. Nellis.

Reeder had a long and successful career in public office, beginning in 1880 when he was elected County Clerk.² In 1889, he was elected to represent Ellis County in the state legislature.³ It was during this campaign that James Reeder earned the nickname, "Kid Glove" Reeder. His opponent was Isaac M. Yost, the farmer's friend. When a town-country conflict arose, Yost dubbed his opponent "Kid Glove".⁴ Reelected in 1891, Reeder was one of the legislators who supported the Populist-backed William A. Reffer to succeed John J. Ingalls in the United States Senate.

In 1891, Reeder was appointed Clerk of the Court of Private Claims,⁵ a special court created by Congress to settle disputed

¹ Registrar, Depauw University, to Rowland, June 1, 1967.

² Middlekauf, et al., Ellis County Courthouses and Officers, 1867-1942. Appendix.

³ Annals of Kansas, I, 89.

⁴ Annals of Kansas. I, 133.

⁵ Alumna Record, Depauw University, 1910, p. 111.

titles of Spanish land grants of New Mexico, Colorado, Arizona, Utah and Wyoming. He served in this capacity for the duration of court.

His reputation was substantial as an orator to warrant his invitation to address the 1896 Republican national convention which nominated William McKinley. In 1902, this outstanding lawyer became Judge of the Twenty-Third Judicial District, a position which he maintained four years, when he was defeated by Jacob Ruppenthal of Russell,⁶ Following his tenure on the bench, Reeder moved to Denver before settling in Kansas City, where he served as assistant general solititor for the St. Louis-Kansas City Electric Railway Company.⁷

Always active in community affairs of Hays, James Reeder served as one of the first trustees of the Methodist Church in 1887.⁸ He also was one of the charter members of the Masons. Along with his younger brother, Charles, James Reeder achieved the reputation of a scholar and linguist. The law library of Reeder and Reeder was considered one of the finest in western Kansas, and the elder Reeder was fluent in Spanish, French and German, as well as possessing a reading knowledge of Greek and Latin.

The partnership of Reeder and Reeder was certainly one of the better known in the state, and the brothers achieved the enviable record of winning many litigations.⁹ Their partnership was credited with an almost monopoly on the legal business for a while.¹⁰

⁶ Annals of Kansas, I. 388, 432.

⁷ Alumna Record, 111.

⁸ Hays Daily News, March 14, 1918.

⁹ Republican, December 22, 1900.

¹⁰ Interview with Mrs. Eda Weist, June 20, 1967. The Bar Docket of the District Court, January Term, 1895, indicates the Reeder firm represented a substantial number of clients.

When James moved from Hays, the responsibility of maintaining the Reeder reputation fell to Charles and he performed this service admirably until the thirties.

James Reeder was devoted to his family. His first wife was Nettie (1852-1888). Following her death, he married Althea O'Fallon Graham¹¹ and had one stepson, Ralph Graham.¹² His mother, Margery Harlan Reeder, who made her home in Hays a number of years, was among the beloved early citizens of this town.¹³

The Reeder brothers did not look alike. James was short and stocky, whereas, Charles was quite tall and thin. Seemingly their only common trait was a talent for the law. Charles Reeder came to Ellis County with his older brother on July 22, 1878, and proceeded to follow his brother's footsteps. Charles had been born in 1857 at Rockville, Indiana and wanted to be a lawyer. To secure his desire, he read the law under his brother, and was soon admitted to the Bar. Charles was more interested in the commercial branch of law, and he served for a number of years as attorney for the Union Pacific Railroad.¹⁴ Aside from his law practice, Charles was also interested in real estate, and he was apparently quite successful in this

¹¹ Mrs. Reeder, who was originally from Missouri, was a talented musician, and taught piano lessons in Hays. She had previously taught in a college in Platte City, Mo. A devoted Methodist, Mrs. Reeder also was active in the Eastern Star and the Saturday Afternoon Club. She died in 1934 at the Masonic Home in Wichita.

¹² Ralph Graham was the "idol" of the young ladies in Hays. His excellent horsemanship, elegant carriage, and graceful manners made him a sought after young man. He was graduated from Hays High School in 1898 and went to become a Court Reporter, achieving some prominence in his field. In 1920, he was elected President of the Kansas Court Reporter's Association.

¹³ Mrs. Margery Reeder was active in the Methodist Church of Hays when she lived here 1878-97. She was also the mother of Miss Ann Reeder, who made her home in Hays, and Dr. Joseph C. Reeder and Silas Reeder, both of Parke County, Indiana. Mrs. Reeder died in 1898 at the age of eighty. The Republican, April 30, 1898.

¹⁴ News Republican, December 27, 1917,

endeavor. C. W. Reeder obtained a great deal of land by homesteading in 1878 in the southeast part of Hays and one of his projects was the development of this area of town. The proximity of his land to the Fort Hays Kansas State College increase his interest in the college, and Reeder personally supervised some of the landscaping, laying of sidewalks, and other beautification projects.

Like his brother, Charles was interested in community affairs. He served as a member of the Board of Education, participated freely in the Masons, and actively supported the Lutheran Church. He had a good bass voice and for many years, sang in the choir. Along with his wife, the former Elizabeth West, (1858-1948) of Fairfield, Iowa, whom he married in 1887, Reeder was most interested in the development of the Trinity Church. Mrs. Reeder organized the Ladies Aid Society of the Church,¹⁵ and the Dorcas Society, a religious society for young matrons.

The Reeder home was located on the 400 block of West Eighth Street. A very large, imposing house located in the center of an immaculately cared-for lawn, it was considered one of the showplaces of town. Charles and his wife were immensely proud of their home, and he insisted on doing all the lawn work himself.

When Charles Reeder died on July 19, 1934, he was survived by his wife¹⁶ and two children: Dr. Charles W. Reeder, now a retired navy medical doctor residing in LaJolla, California, and Miss Nelle Reeder of New York.

¹⁵ A History of the Trinity Lutheran Church, 1877-1927,

¹⁶ Mrs. Reeder was also an active member of the Hays community. Besides her work with the Lutheran Church, she devoted much time to the Eastern Star. Her family and home were her primary interests, and she entertained young people frequently.

B. W. Brooke
(1888-1935)

Boone Winthrop Brooke was born March 10, 1888 in Greenville, Iowa. He was educated in the public schools and Drake University where he graduated in 1908. Upon completion of college work, Brooke worked with his father in the Brooke Land and Loan Company until 1922.

The only law Brooke studied was from the International Correspondence Courses and from Jay Jenson's law books in Oakley, Kansas. Brooke went to Topeka and studied intensively with Dean Allen for two weeks. Then Judge McDermott asked a Board of the Bar for permission for Brooke to take the Bar examination. The Board agreed, Brooke passed the examination and was admitted to the Bar in January, 1924. From 1927-1930, he served as County Attorney for Logan County, Kansas.

In 1930, Mr. and Mrs. Brooke moved to Hays where they lived three years. Mr. Brooke was closely associated with the firm of Jagey and Black of Wichita and assisted them in trial preparation for important cases. One such case was the 1931 embezzlement case against a former county treasurer. Brooke's partner in Hays was Delmas Haney.

The last years of his life were spent trying to regain his health. He died in 1935, and was survived by his wife, Esther and one son. Mrs. Brooke died in 1969.

One of his friends said:

"Wint had a great interest in learning and applying the law, and particularly the law relating to real estate. He was a prodigious reader and had a great desire to learn."

"Wint was dedicated to the law. He had those three necessary qualities of industry, intelligence and integrity; his philosophy was wholesome and he was a credit to his profession. He died shortly after he was well started in life and the Bar suffered a genuine loss."

1

Mrs. B. W. Brooke to Rowland.

2

Robert L. Webb.

J. T. Nolan
(1864-1946)

James T. Nolan was one of the most colorful lawyers in Ellis County. Born in Rush County, he and his family moved to Ellis where his mother ran a restaurant.¹ Nolan was admitted to the bar in 1893,² and built up a substantial practice before being elected County Attorney in 1899,³ defeating Miles Mulroy.

Nolan was a tall, slender man who sported a moustache and a cane. He resembled a Southern colonel as he swung his cane whenever he went out.⁴

He was married to Rose Stout and had one son, James, Jr.⁵ The senior Nolans were separated apparently some time prior to 1900, and Mrs. Nolan supported herself and her son by sewing for the public. James, Jr. became an actor with the North Show Company and later owned a carnival.⁶

Nolan was a perennial candidate, but forty-three years separated his two terms in office. Nolan was elected County Attorney in 1944, and died in office in January, 1946.⁷ He was replaced by F. F. Wasinger.

¹ Oshant and Holmquist to Rowland.

² Republican, October 22, 1898.

³ Ellis County Courthouses.

⁴ Oshant to Rowland.

⁵ Holmquist to Rowland.

⁶ Holmquist to Rowland.

⁷ Wasinger to Rowland.

Kathryn O'Loughlin McCarthy

(1894-1952)

By Tom Toepfer

Her life devoted to public service, Kathryn O'Loughlin McCarthy distinguished herself as being one of the most outstanding women in the history of Ellis County.

Kathryn was born twelve miles northeast of Hays on April 24, 1894, on a ranch which her father, John, had homesteaded.¹ In 1904, Kathryn's father moved his family to Hays, where Kathryn lived for a greater part of her life.²

Graduating from high school on May 16, 1913, Kathryn entered the Fort Hays Normal School the following September.³ While in college, she entered and excelled in many activities. She was editor-in-chief of the school annual; president of the Kansas Inter-Normal Forensics League; a delegate for three consecutive years to inter-state oratorical contests; a debater; a member of the school orchestra and a member of the Leader staff, the school's newspaper.⁴

College registrar A. F. Bieker said that Kathryn "has received more honors than any other girl in the history of the institution and at least as many as any boy."⁵

Upon graduation from the Normal in 1917, Kathryn avowed she would attend the University of Chicago Law School. Apparently one of her instructors at the Normal, P. Casper Harvey, prompted Kathryn to make this decision. For upon graduation, Mr. Harvey suggested that she "study law and go to the United States Senate" instead of marrying and "raising wheat and babies" as Kathryn had said earlier she would do.

¹ Hays Daily News, January 16, 1952.

² Mrs. Joe O'Loughlin to Tom Toepfer, April 16, 1968.

³ Ellis County News, June 14, 1917.

⁴ Ibid.

⁵ Ibid.

Aided by a scholarship and her parents' approval, Kathryn went to Chicago and entered the law school in the fall of 1917.⁶

While at the University, Kathryn was elected secretary of her freshman class.⁷ During her senior year, she was chosen national president of Kappa Beta Phi, an honor law sorority for women. Kathryn graduated in 1920 with a doctor of jurisprudence degree.⁸

After finishing school in Chicago, Kathryn went to Topeka and, with her father's help, obtained a job as a clerk with the Kansas House of Representatives Judiciary Committee.⁹

When the legislature adjourned later that year, Kathryn became associated with the law firm of Erken, Myers and Janisch. She left that position and became an attorney for a national association of mutual fire and casualty insurance companies in Chicago.¹⁰

At this point, Kathryn became extremely interested in public service and social work. For less than half her previous salary, she accepted a position with the Legal Aid Bureau of the United Charities in Chicago.¹¹ Thus she embarked on a career of "helping the helpless"¹² to which she devoted the remainder of her life.

After working for a time with the Charities Bureau, she became an attorney for the Cook County, Illinois, Board of Public Welfare.¹³ This program was one of the many forerunners of the welfare programs initiated by Franklin D. Roosevelt less than ten years later.

⁶ P. Casper Harvey to Mr. A. F. Bieker, May 24, 1968.

⁷ Ellis County News, November 8, 1917.

⁸ Hays Daily News, January 16, 1952.

⁹ Hays Daily News, November 9, 1932.

¹⁰ Hays Daily News, January 16, 1952.

¹¹ Ibid.

¹² Mr. Norman W. Jeter to Toepfer, April 23, 1968.

¹³ Hays Daily News, January 16, 1952.

Desiring to get into politics, Kathryn returned to Hays in 1930, after being in Chicago nearly ten years, and made preparations for her campaign to be Ellis County representative to the Kansas legislature on the Democratic ticket.¹⁴

Kathryn won in the 1930 election and was a representative in the Kansas House until 1932, when she announced she would run for the Sixth Kansas Congressional District seat in the United States House of Representatives.¹⁵

Her opponent in the election was the incumbent Judge Charles I. Sparks, a Republican.¹⁶ Kathryn had defeated eight other Democratic nominees in the primary election -- all men.¹⁷

Kathryn was a vigorous campaigner. She traveled over 30,000 miles in a 1932 Chevy in an effort to canvass the entire district of twenty-six counties. Often she and her driver, Merle O'Loughlin, a cousin, would campaign in seven or eight towns a day with little or no rest between stops.¹⁸

Upon arrival at the various towns on the campaign trail, Kathryn would walk the streets, shaking hands with anybody and everybody while Merle set up the microphone and loud speakers on a type of soapbox arrangement. The whirlwind campaign and the fact that she was a woman always attracted plenty of crowds.¹⁹

Kathryn found five major obstacles in the road to her election: First, there were eight other "good Democrats" running against her in the primary. Second, "there was a Pike's Peak of prejudice against me since I was a woman." Third, she was unknown in the greater part of her district which was 270 miles east and west along the northwestern boarderline of Kansas and extending southward to Salina. Fourth, her district had

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Mrs. Joe O'Loughlin to Toepfer.

¹⁷ Hays Daily News, November 9, 1932.

¹⁸ Merle O'Loughlin to Toepfer, June 3, 1968.

¹⁹ Ibid.

25,000 Republican votes to overcome. And, fifth, Sparks was well-liked and running for his third term in office.²⁰

Overcoming these barriers, Kathryn soundly defeated Sparks by over 12,000 votes and thus became the first woman ever to be elected from Kansas to the United States House of Representatives.²¹ At that time, her district was the second largest in the Nation.

On November 9, 1932, at the age of thirty-eight, Kathryn wrote to the Hays Daily News, a letter of appreciation:

"With a lead of approximately 12,000 in the district at this time, it appears that I am elected with an overwhelmingly large majority. I am indeed grateful for the splendid support given to me throughout the Sixth Congressional District. I also appreciate the lead of about 2,000 given me in my home county... I am not unmindful and am indeed appreciative of the splendid support given me by the Republican voters of this district who have a majority of 30,000. As a Congressman from this district, I will represent all of my constituents without favor or discrimination regardless of party affiliation."²²

Reflecting after the election on the many rumors and charges levied at her by the Sparks campaigners in order to alienate prospective O'Loughlin voters, Kathryn told of a story that was being circulated about a love affair with Kansas Governor Harry Woodring. Opponents had seen Kathryn and the Governor together frequently and said that the pair were engaged to be married. The rumor was furthered when several of the legislators in the Kansas House had persuaded her to introduce a bill for the repair of the governor's mansion. When the bill was read on the floor, one of the Congressman in mock earnestness, jumped up and said that he assumed the reason Miss

²⁰ Kansas City Star, A. B. McDonald, November 13, 1932.

²¹ Hays Daily News, November 9, 1932:

²² Ibid.

O'Loughlin wanted the mansion to be fixed was that she expected to occupy it as its mistress. Kathryn turned the tide of the joke, however, when she retorted, "I did expect to occupy the governor's mansion someday, not as a wife of a governor, but as the governor of Kansas."²³

According to Kathryn, another area in which Sparks played upon greatly during the campaign, was her religious affiliation. She was a Roman Catholic and seemingly her opponents "tried to create prejudice against me on that account."²⁴

Contrary to the Democratic Party trends of that day, Kathryn supported the dry cause. After she had received a letter from a well-wisher who stated that he was glad that another Democrat was being sent to Congress to vote against prohibition, Kathryn said emphatically, "I am dry, have always been and always will be. I am opposed to alcohol as a beverage in any form."²⁵

Kathryn had met and grew very friendly with Dan McCarthy, who was one of avid followers during her campaign. McCarthy practiced law in Mankato and was County Attorney in Jewell County.²⁶ Shortly before she took office in the House, Kathryn married McCarthy -- February 4, 1933.²⁷

The strong-willed, very determined and outspoken woman from Kansas sat in the United States House for two years until she was defeated for re-election in 1934 by Frank Carlson, now United States Senator from Kansas.²⁸

²³ Kansas City Star, op. cit.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Mrs. Joe O'Loughlin to Toepfer.

²⁷ Hays Daily News, January 16, 1952.

²⁸ Mr. Henry Herrman to Toepfer, April 23, 1968.

Her husband and she then opened a law office in Hays. Dan specialized in oil litigation which he preferred and Kathryn devoted her time to probate court and tax work.²⁹

A standing joke most of the male attorneys in Hays amused themselves with was that if Kathryn "wanted to practice law, she had better practice like the men do."³⁰ Observing Kathryn's strong will and dogged determination, some of the men apparently thought her to be the type of individual who would capitalize on the fact that she was a woman. Of course, this was not true, but the joke did relieve some of the tensions involved in litigating with a woman lawyer -- which was not very common in those days.³¹

As an attorney, Kathryn became known for her untiring assistance to the poor and disadvantaged residents of the Hays area. She would spend many long hours into the night working on the problems her less fortunate clients would bring her.³² She never turned her back on anyone that needed help. Her approach to law was not in making money or for any other type of personal gain, but was basically humanistic. In short, her legal profession was a means of helping others.³³

Kathryn had an outstanding personality. She was a firm individual who, when setting her mind to something, would never give up. She was a formidable person to take opposition against and "if you had a different line than she, you had an extremely hard time."³⁴

²⁹ Hays Daily News, January 16, 1952.

³⁰ Herrman to Toepfer.

³¹ Ibid.

³² Mr. Bernard J. Brungardt to Toepfer, April 18, 1968.

³³ Jeter to Toepfer.

³⁴ Herrman to Toepfer.

Yet, this stalwart, staunch and seemingly inflexible woman attorney had a heart of gold. She went out of her way literally thousands of times to help other people -- whether it be with sound advice or financial aid.

Kathryn's chief interest was people and consequently, devoted much time to young people and their organizations. She sent dozens through high school or college and allowed many of these to live at her home while they were in school.³⁵ She actively supported the Fort Hays Newman Club, a Catholic organization, and sponsored several student trips which took them throughout the United States.³⁶

In her later years, Kathryn was an integral part of many social functions and organizations. She was chairman of the Cultural Committee of the Western Kansas Development Association; county chairman of UNESCO; vice-president of the State American Association of University Women; and State legislative chairman of the Business and Professional Women's Club.³⁷

An avid traveling enthusiast, Kathryn and her husband toured Europe in 1948. Two years later, the couple had planned to go to Europe again during the Catholic Holy Year of Jubilee. However, Dan died several months before their departure and Kathryn had to go alone.³⁸

Kathryn became ill with cancer in 1951 and spent the last two months of her life in St. Anthony Hospital, where she died on January 15, 1952. She was fifty-seven years old.³⁹

³⁵ Mrs. Joe O'Loughlin to Toepfer.

³⁶ Mrs. A. L. Toepfer to Toepfer, February 28, 1968.

³⁷ Hays Daily News, January 16, 1952.

³⁸ Ibid.

³⁹ Ibid.

Many adjectives could be used to describe Kathryn O'Loughlin McCarthy -- extremely kind, deeply religious, intelligent, well-read, generous, determined, humanistic -- but one phrase describes her most accurately: She was "real lady."⁴⁰

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Jeter to Toepfer.

Carl Holmquist
(1873-1958)

Born of Swedish parents on November 9, 1873, Carl M. Holmquist was one of the better educated attorneys in the early days of Hays. He attended the Salina Normal College, received a Bachelor of Arts degree from Bethany College and graduated from the University of Kansas Law School.

He taught school in Saline County before entering the legal profession in Salina in 1902, when he was admitted to the bar. In 1906, he moved to Hays where he practiced until his death on November 10, 1958.

Holmquist, who was city attorney for Victoria a number of years, was considered somewhat an authority on municipal law. His practice was interrupted by World War I, and when he returned, he married Miss Evalena Brown.¹

A benefactor of many young lawyers, Holmquist was intensely interested in the education of law students. Shortly before his death, he gave over one thousand volumes to the library at Fort Hays Kansas State College.² Holmquist was a friend of many of the older lawyers: many of his law books came from the library of David Rathbone,³ and a close friend was A. D. Gilkeson. Toward the end of the judge's life, Holmquist assisted the older man in some litigations. Upon completion of a case, Holmquist asked Gilkeson how much to charge, and the older man growled back, "Go to hell."⁴

Gilkeson was equally fond of Mrs. Holmquist, and he delighted in teasing the young matron. Every time he would meet her, he inquired, "What devilment have you been up to now?"⁵

¹ Mrs. Holmquist was unusually well-educated, having received her A. B. from Fort Hays in 1911. Prior to her marriage, she taught school.

² Hays Daily News, July 14, 1957.

³ Oshant to Rowland.

⁴ Holmquist to Rowland.

⁵ Holmquist to Rowland.

Mr. Holmquist was a peaceable man -- slow and easy going. However, on occasion, he could be provoked to utter a mildly phrased expletive. The following anecdote indicates this.

You (Holmquist) had filed a demur to the plaintiff's petition, and submitted the demur to Ruppenthal who was at the time Judge -- you handed him the statute and called his attention to a certain provision thereof; turned away from the judge's desk, looked at me (Driscoll), and said, "Well, I'm damn glad to know the statute doesn't mean what it states or says."⁶

Holmquist was a scholar and linguist.⁷ His kindly countenance, good manners, and keen mind won him many friends: the Ellis County Bar was greatly diminished by his death.

⁶ Driscoll to Holmquist, July 21, 1957.

⁷ News Republican, December 27, 1913.

EDWARD C. FLOOD

On the 27th day of February, 1961, the people of Hays were saddened to learn of the death of Edward C. Flood, one of its beloved citizens. This grief was shared by those who became acquainted with him throughout his many years of useful service through his profession. That the leaders of the Bar recognized the loss in his passing is attested by the many expressions of sympathy and condolence made to his family.

Edward C. Flood was born at Gurnee, Illinois on May 29, 1882. He was graduated from Waukegan, Illinois High School in 1901. After working a short time as a surveyor, he came to Ellis, Kansas, wherein he was employed at the Ellis State Bank as a bookkeeper and assistant cashier. He resigned in 1904 to enter Washburn and in 1907 was graduated from its law school.

He returned to Ellis where he practiced law until his election as Ellis County Attorney in 1914, an office he held for four years. He was city attorney for Ellis and Hays at various times during his career.

On June 14, 1910, he was married to Kathryn Stanfield of Belleville, Kansas, who survives him. This was a happy and helpful association that lasted for over fifty years. To them were born a son Clayton S. Flood of Hays and a daughter, Mrs. Blaine Grimes of Delaware, Ohio.

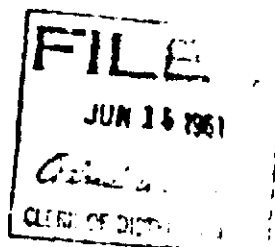
At his high school graduation oration, Mr. Flood proclaimed a fairly accurate preview of his life when he said, "Our names may never be written on the books of fame, but whatever we do, let us do it well." Any question that he may have had concerning his fame was resolved by his skill as a lawyer. Commencing in the very early years of his practice, he wrote articles for publication in Kansas, and out of state law journals as well. With an avid interest in history, particularly American History, and as a student of the writings of Abraham Lincoln, he became particularly well grounded in the constitution of our country and its function. He was always willing and made numerous addresses on the "Constitution of the United States." While the fame that he spoke about was never sought by him, his name has been so entered as evidenced by his

activities in the courtroom and in the various bar associations. He was one of the early presidents of the Northwest Kansas Bar Association, and in 1943 and 1944, after having served for many years on the Executive Council, was elected President of the Kansas Bar Association, an office that he occupied with his usual diligence and distinction. Not many lawyers of our times enjoy the practice of the law for the rewards of a personal satisfaction from his profession aside from the monetary achievement. Mr. Flood was one of these, a true professional in all of the aspects of the law. In the early thirties he drafted several sections of what was eventually to become the Probate Code and collaborated extensively with the Hon. Samuel E. Bartlett in revision of the code. Time was meaningless to this fine lawyer as he strived for an answer, and whether the remuneration for his work might be large or small, the same diligent effort was expended. For many years he and the late Ed Rea practiced extensively throughout the northwest part of the state. Following the death of Mr. Rea, he formed a partnership with his son, Clayton S. Flood of Hays in the practice of the law, which existed to the time of his death. He enjoyed this association greatly and watched his son develop in his own right as one of the distinguished lawyers of our state. He was likewise greatly pleased that his grandson, Steven Flood, decided to follow the family tradition and enter Washburn Law School, his own Alma Mater.

His advice was eagerly sought by fellow lawyers and no matter what the problem, he was never too busy to assist. With an amazing memory, he could usually draw from his reserve of knowledge and cite a case on the subject. As jealous a mistress as is the law, he participated freely and actively in the affairs of his community and state. He was a member of various Masonic Orders. He served as a member of the Republican Central Committee and as Chairman thereof. He was president of the Board of Education of the City of Hays and served as a Board Member for eight years. He was president of the Hays Chamber of Commerce and a member of its Board of Directors. He helped found the Hays Building and Loan Association and was president or member of its board from its inception.

in 1919 to the time of his death.

All of his life he had an intense interest in literature and poetry and with his retentive memory was able to recite at will his favorite passages of Shakespeare, Burns, Shelly, Tennyson, and others. These interests served him well in his knowledge of our language as demonstrated by his clear, concise and persuasive writing or argument. Everyone liked and respected him as a lawyer and as a man. Few with his wisdom are left among us. The words of the poet might well describe him, and his devotion to the law. "In the morning of time he came, his head was high, his heart full, the law summoned him and he loved it."



Delmas Haney

(1908-1968)

Delmas L. Haney died unexpectedly at his home in Hays on the morning of March 17, 1968. He was fifty-nine years of age. His sudden death was a shock to his many friends and the entire community was saddened to learn of the loss of one of its most esteemed and respected citizens.

He was born on September 9, 1908 at Lenape, Leavenworth County, Kansas, attended the public schools at Topeka, and was graduated from Washburn Law School in 1930. He came to Hays that same year and began the practice of law. Except for a period of approximately four years when in military service during World War II, he continued in the practice of law at Hays until his death.

He practiced alone except for a short period in the early 1930's when he was associated with Wint Brooke, now deceased, and for a period from 1945-1954 when he was in partnership with Benedict P. Cruise, now Judge of the Twenty-Third Judicial District. In 1950, F. F. Wasinger joined the firm and later Simon Roth, Jr. was associated with them. The firm of Haney, Cruise and Wasinger was dissolved in 1954 following the announcement of Judge Cruise that he would seek election as District Judge.

On April 18, 1953, he was married to Loretta Schumacher of Ellis, Kansas, who survived him. Also surviving are two sisters, Mrs. Russell Horsfield, Seattle, Washington; and Mrs. Harry P. Watson, Chicago, Illinois; and two brothers, Dwight, Topeka, Kansas; and Harold, Albert Lea, Minnesota. His parents, Mr. and Mrs. Jesse Haney, of Topeka, preceded him in death.

He was City Attorney of Hays from May, 1938 until he enlisted in the United States Army on March 5, 1942. He served

in the Transportation Corps and was separated with the rank of Captain on June 16, 1946. On October 27, 1950, he received an appointment as Major, Coast Artillery Corps, National Guard of the State of Kansas, and on retirement on December 15, 1960, he received the Guardsman Award for Patriotic Service. He again served as City Attorney of Hays from 1949 through 1954.

Delmas Haney was a very able and successful lawyer and he held the reputation as one of the distinguished lawyers in the state. His personal and professional integrity was the highest. Although he did not specialize in his practice, he became an expert in Oil and Gas Law and his practice in this field was quite extensive. Other lawyers frequently consulted him on oil and gas matters and he was most generous in giving help and advice to them. He was a "lawyer's lawyer" and was always a gentleman.

Throughout his adult life as a resident of the City of Hays, Delmas Haney was most generous in the giving of his time, ability and money to community projects. He was an enthusiastic booster and extremely optimistic relative to the growth and development of his home town. There are a number of successful business establishments in Hays today in which he participated in their organization through his efforts and investment of money. At the time of his death, he was involved with his close friend and business associate, P. F. Felten, in developing a new enclosed Mall Shopping Center which is to be one of the most modern shopping centers of this type in the country today.

He was a member of St. Michael's Episcopal Church, American Legion, Elks Lodge, and the American, Kansas, Northwest Kansas Ellis County Bar Associations. He had been admitted to practice before the United States Supreme Court. He was one of the organizers and past president of the Smoky Hill Country Club of Hays. As a Republican he was active in his party's politics and

had been Chairman of the Ellis County Republican Central Committee. At the time of his death and for some years prior thereto, he was a member of the Ellis County Selective Service Board and a member of the Board of Directors and attorney for the Farmers State Bank of Hays.

Delmas Haney was one of the few remaining "rugged individualists." He was possessed of a keen wit and sense of humor and he thoroughly enjoyed socializing with his many friends. He enjoyed outdoor sports and in his younger years, he did considerable hunting. Golf was his favorite sport and he had played a round of golf the afternoon before his death. He disliked violence of any kind and was deeply compassionate. He was kind and generous and there are many persons who will remember his kindness in giving him financial help without thought or demand of repayment.

The legal profession has lost one of its finest members.

IN THE DISTRICT COURT OF ELLIS COUNTY, KANSAS

ARTHUR J. WILES

Arthur J. Wiles, a member of the Bar of Ellis County, Kansas, died on the 3rd day of November, 1970. At the age of 92, he was the oldest living member of the Ellis County Bar Association, and had been in the continuous practice of the law for 50 years before his retirement several years ago.

The history of the Wiles family is that of the pioneer. His forebearers came from the British Isles to this country before the Revolutionary War. Following the war they moved to Ohio and in the year 1837, even before it became a territory, they moved to what is now the State of Iowa. There at Brighton, Iowa, in the year 1878, Arthur J. Wiles was born to I. S. and Sarah Wiles. He came to Kansas in 1886 with his family, traveling the distance by covered wagon. His Father settled on the Saline River northwest of Hays. He established a store at his home on the Saline River, was an assessor, and also convinced the Postal Department that he should have a post office in his home. He was appointed Postmaster and maps of Kansas at the turn of the Century indicated a post office at Wiles, Kansas. Arthur apparently inherited his Father's interest in Government, and after attending the public schools of Ellis County, and Fort Hays Normal School, he taught for nine years in Ellis and Rush Counties.

In 1903 he married Josephine Aich of Hays, who predeceased him in death, and the same year moved to Gove County, where he lived on a homestead. Later he sold the homestead and lived in Gove City, where he served as Clerk of the District Court. He became interested in law and lawyers, and in 1910 came to Hays and commenced the study of law in the office of the late E. A. Rea.

In 1914 he was admitted to the practice of law and continued with his profession until his retirement several years ago. He was appointed City Attorney of Hays in 1920 and served in

that office until 1932. He was elected County Attorney in 1932 and served as Ellis County Attorney for six years.

Arthur had a sentimental attachment to the things of his ancestry and acquired, in later life, the homestead of his Father on the Saline River, which he owned at the time of his death. He was an avid hunter and fisherman and liked to recount the days when he fished the springfed bass ponds in Gove County with an old cane pole and a short length of line. He was an expert at the art of skittering.

Art, as he was known to his friends, was strong-willed and tenacious. He represented his clients with all of his skill and was most difficult to convince of any wrong-doing on the part of those he represented. He never liked to represent a man in a divorce action and had a feeling that the woman was always right. He had compassion for the poor and represented many who could not afford to pay him. On one occasion, a jury verdict in the Ellis County District Court was tempered by the discussion among the jurymen that the verdict did not need to be so high because one of their members knew that Art would never charge a fee for his services. Art loved the practice of law and years after he had retired from active practice, would stop by and visit with the members of the Ellis County Bar just as long as they would take or had the time to talk with him. He was proud of the fact that he was the oldest practicing lawyer in Hays who had studied law in a law office and thus admitted to the Bar. He was a student of Egyptian history and loved to discuss the design of the pyramids.

With his death, the Bar has lost its last self-educated lawyer. There will be no more like Art Wiles. The era of the pioneer individualistic lawyer is ending.

Submitted by
NORMAN W. JETER

IN THE DISTRICT COURT OF ELLIS COUNTY, KANSAS

In the Matter of
ARTHUR J. WILES.

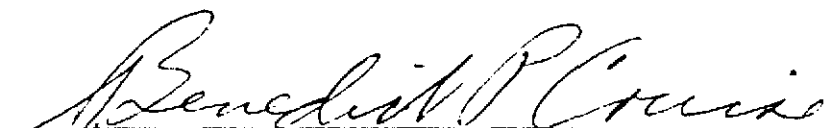
No. 15375

JOURNAL ENTRY

Now on this 12th day of June, 1972, the above captioned matter comes on for consideration by the Court on the motion of Norman W. Jeter, made on behalf of the Ellis County, Kansas Bar Association, that the Memorial presented at the Northwest Kansas Bar Association meeting at Stockton, Kansas, on the 26th day of June, 1972, of Arthur J. Wiles be docketed and made a part of the permanent records of this Court.

Upon consideration thereof, the Court finds said motion to be proper and appropriate.

IT IS THEREFORE BY THE COURT CONSIDERED ORDERED, ADJUDGED and DECREED that said Memorial be and the same is hereby ordered docketed, recorded and made a part of the permanent records of this Court.


District Judge

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E. J. Malone
(1899-1970)

Ernest J. Malone was born on March 16, 1899 at Herndon, Kansas. He attended grade school in Herndon and high school at St. Joseph's Military Academy in Hays. Upon graduation, he entered the United States Air Force and served in France during World War I.

When the war was over, Malone completed college at Catholic University of America in Washington. He then studied at Washburn University School of Law where he graduated in 1923. He was subsequently admitted to the bar.

Malone was elected County Attorney in 1926 and maintained this position for three terms. His most famous case was State vs. Furstmeier, (128 Kansas 317), the 1927 murder of Jack O'Loughlin. Another interesting case was the 1931 embezzlement trial against the county treasurer.

His other experience in politics was as State Legislator succeeding Alfred H. Harkness. Malone was elected in 1940 for the 1941-1942 sessions. He then entered the United States Army and served as trial judge advocate in a number of camps. He did considerable trial work while in the army, and probably the most involved case was United States of America vs. Ritchie a Camp Phillips, Kansas trial for murder. Malone was the prosecutor and he won the case.

Malone died in 1970. His son, E. L. Malone is an attorney in Wichita, Kansas.

Bernard J. Brungardt
(1903-1970)

After an illness of only six weeks, Bernard J. Brungardt died at the University of Kansas Medical Center, Kansas City, Kansas. The death of Bernard J. Brungardt was a shock to his many friends and associates across the State of Kansas, and all were saddened to learn of the loss of one of their most esteemed and respected citizens.

He was born in Victoria, Kansas, on October 17, 1903, the son of Andrew P. Brungardt and Elizabeth Weigel Brungardt, one of eight children, seven sons and one daughter. He received his elementary and secondary education in the Victoria Parochial School system, and later graduated from the old Hays Catholic College of Hays, Kansas, which later was to become known as St. Joseph's Military Academy and which is now known as Thomas More Prep of Hays, Kansas. In 1924, he graduated from Hays Teacher's College, now known as Fort Hays Kansas State College, Hays, Kansas, receiving a Bachelor's Degree in Education. After graduation, he married Clara P. Hartman of Loretta, Kansas.

He immediately began teaching with his first assignment being at Atwood High School, Atwood, Kansas. He taught there just one year and after a short tenure in Kansas City as a grocery store manager, he returned to Schoenchen, Kansas, to teach in the Schoenchen High School. He served as principal of Schoenchen High School from 1929 to 1933. It was immediately after his graduation from college and while he was teaching that he first evidenced a strong interest in the law. He wanted to enter law school but was prevented from doing so due to the depression of the "dirty thirties". He served as Welfare Director of Ellis County for two years in the early thirties and later was fortunate in acquiring a position with the National Youth Administration in Topeka, Kansas. While in Topeka and while

he was required to fulfill the duties of his office, he nevertheless took courses at Washburn University of Law School and did his school work during the nighttime. In 1942, he was transferred to Kansas City, Missouri, to the regional office of the National Youth Administration where he remained until 1944 when he joined the War Stabilization Board. During all this time, he continued to earn credits toward his law degree and on June 3, 1945, he received his LLB from Kansas City University School of Law and thereafter admitted to the Missouri Bar Association. His first assignment after receiving his law degree was with the Kansas City Public Service Commission, and it was at this time that he was admitted to the Kansas Bar Association.

Ben was a man of many and varied interests. He was first of all a devoted husband and father and a dedicated family man. In addition to his love for the law, he was intensely interested in the works of the Knights of Columbus, an organization in which he distinguished himself by serving in the State's highest offices. It was through this organization that he chose to serve his God and his church with complete devotion. His first experience with the Knights of Columbus organization was when he resided in the Kansas City area and was called upon by officers of the organization to form a new council in St. Agnes Parish of Kansas City. On Sunday, December 1, 1946, the John Roe Council of St. Agnes Parish in Kansas City was instituted with a membership of 180 members and with Ben Brungardt as its first Grand Knight. Since that time he has served in many state and local offices of the Knights of Columbus and was always ready to serve this organization in any capacity upon a moment's call. He later became a member of the Fourth Degree Knights of Columbus and in 1963, in recognition for the many services he rendered to his church, he was made a Knight of St. Gregory.

In 1950, he accepted the position of City Manager of Hays, Kansas, which position he held until 1955 when he resigned to devote his full time to the practice of the law. He held the position of City Attorney for the City of Hays, Kansas, from the time of his resignation as City Manager until 1960. He also served as City Attorney for Victoria, Kansas, from 1966 to the date of his death. In addition to fulfilling his duties as City Manager, he took great pride in the beautification of the City of Hays and conducted weekly radio programs in which he discussed plants and plant life and was considered by many people in this area as an expert in the care of plants, especially flowers of all varieties and suggested ways and means of caring for and beautifying plant life in the city.

He gave of his time freely to serve on committees, boards and organizations devoted toward the betterment of his fellow man. While it would be impossible to enumerate all the causes he served for society and his fellow man, he contributed a great deal of his time serving on the school board for the City of Hays and Unified District No. 489. He also gave much of his time to serve the needs of the clergy and school districts of St. Joseph's Church and St. Joseph's Military Academy in Hays, Kansas. He was an active member of the Lay Advisory Board of St. Anthony Hospital and was one of the leaders in the drive to build a new St. Anthony Hospital in Hays, Kansas.

The passing of Ben Brungardt leaves a gap in our community which will indeed be difficult if not impossible to fill. He was always ready, willing and able to help and serve when and where needed and his advice was always sought and greatly appreciated.

He was an able and capable attorney and held the reputation among the members of his profession of being one of the distinguishe

lawyers of the state. His personal and professional integrity was without question and his involvement in any manner was always above reproach.

He was a member of the Ellis County Bar Association, the Northwest Kansas Bar Association, and the Kansas Bar Association. When he could get away from his office, one of his greater joys was to visit a small tract of land he purchased in Missouri where he and his wife could spend their time studying the many plants and wild flowers that grew in abundance. It was his hope someday to retire to this retreat; a desire unfulfilled due to his untimely death.

Ben Brungardt, above and beyond his many accomplishments as an attorney, city manager and officer of the Knights of Columbus, was a friend and counselor of the needy and the poor. It cannot be said of him that he ever turned a needy person away nor did he ever fail to give counsel and assistance to anyone for the lack of an adequate fee.

The legal profession has lost one of its finest members and the City of Hays has lost one of its finest citizens.

CLIFTON A. SPENCER

It seems only fitting that on the first day of Court in the Twenty third District of Kansas following the death of the Hon. Clifton Allen Spencer, who served this District as Judge from 1937 until retirement in 1955, that the proceedings of the Court be interrupted to ask to be spread upon the Journal of this Court a memorial to him.

Clifton Allen Spencer was borne on a farm southwest of Oakley March 25th 1883. He was a lifelong resident of Logan County except for two years spent in the early 1920's in Chicago in the practice of law.

On January 12th 1971 Judge Spencer was summoned to make his appearance before the Supreme Court of the Universe, there to plead his cause for a seat on the last Court of Justice.

Judge Spencer was graduated from the University of Kansas Law School in 1907. Since Judge Spencer was a strong believer in the Christian way of Life, and believed that one should display by act and deed for the public to observe, we think it proper to set forth the oath which Judge Spencer with fifty two others took on June 20th, 1907, to wit:

"You do solemnly swear that you will support and and bear true allegiance to the Constitution of the United States and the Constitution of the State of Kansas; that you will neither delay nor deny any man his right through malice, for lucre or from any unworthy desire; that you will not knowingly foster or promote or give your assent to any fraudulent, groundless or unuust suit; that you will neighter do nor consent to the doing of, any falsehood in Court; and that you will discharge your duties as an attorney and counsellor ~~at-law~~ of the supreme Court and all inferior courts of the State of Kansas with both fidelity both to the Court and to yourcause. and to the best of your knowledge and belief. So help you God."

Judge Spencer in his conduct both as a Lawyer and Judge followed diligently the Code of ethics applicable to his conduct as an attorney and as a Judge, and any question of doubt was always resolved against doing the contemplated act; any question was solved with regard to strict interpretation of the Codes. None have ever questionned Judge Spencer's integrity and honesty and dedication to the cause for which he labored.

On August 24, 1944 Judge Spencer was appointed to membership of the Judicial Council of Kansas by the then Chief Justice, John S. Dawson, another pioneer of Western Kansas. Judge Spencer served the council from 1944 until 1951 diiligently and strove to carry out the purposes set forth in K. S. A. 20-2203. Judge Spencer was truly dedicated to obtaining justice and equity in the Courts and to expidite the administration of Justice promptly and fairly. He was everready to hold a Court when

requested by any Attorney within the 23rd District of Kansas.

Only another illustration of his conscientious attempt to do by act and deed what he had taken an oath to do.

Judge Spencer outside of his profession and service in a judicial office, was ever dedicated to promote the ultimate benefit of his community, to promote the worthwhile phases of education, moral and material things in his community but always within the bounds of his belief in the Christian faith and the daily application of the oaths he had taken and the Codes of conduct laid down, not only for lawyers and Judges but in Holy Writ and in the fraternity of which he was a member.

Now he has been summoned to that Last Court created for all living, there to appear before the Supreme Judge of All, and the surviving members of this bar doubt not that the last verse of Hugh R. Porter's poem, "If I were a Judge" will apply, viz

"If I were a Judge, I'd remember, too
That when life is over, my labors through
I, too, must stand at the Judgment Seat,
and the God of Justice be forced to meet
And I'd want to feel on that great day
That none of us know, is so far away,
That the Lord of heaven could say to me:
Your work was done in sincerity;
That you've made mistakes, yet I know you've tried
To be always and ever on Justice side,
And because of that, all else is forgiven,
And we welcome you to the Court of Heaven!"

FILED W. J. MILLNER
CLERK OF DISTRICT COURT
FEB 1 1971
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No doubt can remain as one reviews the life of Judge Spencer in the practice of law and his conduct on the Bench can only bring the Final Judgment, Enter Thou, Judge Spencer into the Kingdom of Heaven. your appeal to this All Seeing Court of Law and Justice is granted; you have left behind a record of justice, and equity that shall stand forever as a memorial to the aims of every lawyer who takes the oath you did. Your wise and timely counsel will be sadly missed by the members of the Bar of the Twenty third Judicial District and by the Bar of Wallace County in particular.

State of Kansas, Wallace County, ss.

I, the undersigned, hereby certify that the above and foregoing is a true and complete copy of the original instrument on file and of record in the District Court of Wallace County, Kansas, in App Book 11 Page 50
Witness this 30th day of January, 1971.
W. J. Millner
Clerk of District Court

CASE NO. 23-23-100-100
FILED Jan 30 1971
AT 12:50 O'CLOCK P.M.
W. J. Millner
CLERK OF DISTRICT COURT
WALLACE COUNTY, KANSAS
RECORDED 23-23-100-100
PAGE 50

— IN MEMORIAM —

HENRY F. HERRMAN

January 15, 1890 - November 18, 1978

Henry F. Herrman, a long-time attorney of Hays, Kansas, died November 18, 1978, at St. Anthony's Hospital of Hays, at the age of 88. He was born at Liebenthal, Kansas, January 15, 1890, the son of Peter and Katherine (Burgardt) Herrman. He was married to Margaret I. Schaefer on June 24, 1924, at Hays.

Survivors include his wife, and two sons, Gregory and Henry E., of Hays, both of whom are attorneys. A daughter, Mary Frances DeWitt, predeceased him about two years previously. Nineteen grandchildren, including four children of the deceased daughter, and a sister, Mrs. Rosemary Borgman of Hays, also survived.

Mr. Herrman was a 1912 graduate of Fort Hays State College, now Fort Hays State University. He attended Loyola University, Chicago, and graduated from St. Louis University in 1915, and was admitted to the Bar that year. He was County Attorney of Rush County from 1917 to 1919, and from 1921 to 1923. He served in the army in World War I. He later moved to Hays, and after serving as Assistant City Attorney for several years, he was appointed City Attorney for Hays, and served in that capacity for eleven years, from 1936 to 1947. He also served as a representative in the Kansas Legislature from 1943 to 1947.

Henry served as attorney for the Board of Education of the City of Hays for a period of time; and at the time of his death was a member of the Board of Directors of the Heritage Savings Association, and one of its attorneys, which positions he held for a number of years.

He was a member of St. Joseph's Catholic Church, the Knights of Columbus and the Casper J. Middlekauff Post of the American Legion, of Hays.

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IN MEMORIAM
HENRY F. HERRMAN
JANUARY 15, 1890-NOVEMBER 18, 1978
Page Two

Henry Herrman was a very able and well-known attorney throughout Western Kansas, and he practiced until 1977, and thereafter continued to do some title examinations. He had a large practice, and particularly an extensive probate practice, and never had a secretary. In 1958 his son, Gregory, a graduate of St. Louis University, joined him and they established the firm of Herrman & Herrman, and thereafter Greg had a secretary -- but not Henry, who continued to type his own pleadings and burn the midnight oil. His son, Henry E., a graduate of the KU Law School, was associated with the John Boyer firm in Wichita, and later was attorney for an oil company in Tulsa, Oklahoma, and then for Panhandle Eastern Oil Company at Liberal, Kansas, until he became physically disabled, and had to retire from the practice of law approximately 10 years ago.

Mr. Herrman had and enjoyed two principal hobbies throughout his lifetime, one was fishing, which he enjoyed immensely, but without profit, and the other was stamp and coin collecting, which he pursued diligently and with great profit. A recent sale of the Henry F. Herrman coins was held July 20-21, 1979, at Dallas, Texas. Several of his coins were sold privately in St. Louis and in Washington, D.C., and a sale of his foreign coins will be held at Munich, Germany, later this year. His collection, one of the best in the United States for the condition of the coins, numbered some 10,000 coins, for which he paid approximately \$25,000.00; and several of the coins were expected to bring record prices and a total of several hundred thousand dollars.

The Ellis County Bar Association and his many lawyer friends throughout the state will surely miss Henry F. Herrman. He was truly a lawyer's lawyer. His word to a fellow lawyer was as good as gold.

Herrman Dies At Age 88

The "oldtime family doctor" faded from the picture sometime ago, and the "oldtime family lawyer" nearly disappeared here with the death Saturday of Henry F. Herrman, 88.



HENRY F. HERRMAN

An attorney since 1915, Herrman was known as a "man you can trust." His integrity will remain his monument. Those who knew him can testify that he was thoughtful and kind towards others, and can well believe that his reward is great.

Herrman died at St. Anthony Hospital. Funeral services were Wednesday at St. Joseph's Church, and burial was at St. Joseph's Cemetery. Brock's Funeral Home was in charge of arrangements.

Herrman was born at Liebenthal Jan. 15, 1890, the son of Peter and Katherine (Burgardt) Herrman. He was married to Margaret I. Schaefer on June 24, 1924, at Hays.

A 1912 graduate of Ft. Hays State College, he attended Loyola University Law School and received his law degree from St. Louis University in 1915. He was Rush County Attorney from 1917 to 1919 and from 1921 to 1923. He had served in the U.S. Army in World War One. He later moved to Hays and was assistant city attorney here for three years, before serving as city attorney here for eleven years, 1936-47. He served in the Kansas Legislature, 1943-47.

He was a member of St. Joseph's Catholic Church, the American Legion and the Knights of Columbus.

Survivors include his wife of the home; two sons, Gregory and Henry E., both of Hays; a sister, Mrs. Rosemary Borgman of Hays; and 19 grandchildren.

Fredolin F. Wasinger
(aka Fritz Wasinger and F. F. Wasinger)

(1911-1980)

F. F. Wasinger held a long and abiding love of Ellis County and Hays, where his roots were deeply planted, and where he spent his lifetime, with the exception of the absences necessitated by his service in the United States Army and his attendance at Washburn University. As a matter of fact, it would not take much provocation for Fritz to brag about his home community.

He was born March 5, 1911 at Ellis, Kansas. Fritz died on June 27, 1980, at St. Anthony Hospital after an illness of approximately two and one-half years, a place where, during its construction, he had a small part in the many legal aspects of its construction. He was a member of a large family and left surviving him, besides his wife, Alma, and son Frank Kirk Wasinger of Hays, Kansas and daughter, Marilyn Smith, of St. John, Kansas, the following surviving sisters and brothers: Francis (Whitey) A. Wasinger, Bernard J. Wasinger and Gregory A. Wasinger, Christine Knoblauch, Marcella Mattson, Henrietta Betthausen, Norma Lee Allen, Twilla Sweeney, and Rita Roth. He was predeceased in death by one brother, Linus Wasinger and his parents, Frank S. Wasinger and Mary Wasinger.

He also had a very deep interest in the military. As a matter of fact, after a short period at Ft. Hays University, he enlisted in the Army, from which he was discharged November, 19, 1936, after which, he enrolled in Washburn University, graduating from Law School in 1940. He, at that time, returned to Hays to start his law practice. However, this was interrupted by the outbreak of World War II, and he and Delmas Haney enlisted as privates on March 5, 1942, and served his Army career primarily in the Medical Corp being stationed at Borden General Hospital at Chickasha, Oklahoma, and left the service as a captain in 1946.

On January 24, 1942, Fritz married Alma L. Miller of Topeka, Kansas.

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Once again back to Hays, where he served as County Attorney from 1946 to 1950. After leaving the County Attorney's office, Fritz joined the firm of Haney and Cruise, and was instrumental in placing Simon Roth, Jr. in the firm. The firm was dissolved in 1954, Benedict Cruise being elected as District Judge, and the other members of the firm going into their own practices.

Fritz served at various times as City Attorney of Victoria, Kansas, Police Judge of the City of Hays, Democratic District Chairman. He was nominee for Congress and nominee for the Supreme Court on the Democratic ticket. He was a member of St. Joseph's Catholic Church, American Legion, Elks Lodge, and the American, Kansas, Northwest Kansas, Ellis County Bar Association, the SOABS, and admitted to practice before the United States Supreme Court and a member of Phi Alpha Delta legal fraternity, while a student at Washburn.

Fritz was approached to organize and head as Commanding Officer the 388 Medical Depot here in Hays, which he did and served in that capacity for several years and was retired from the United States Army Reserve with the rank of Major.

As an attorney, Fritz possessed an analytical mind, and enjoyed research. During his active practice, he had many successes before the Kansas Supreme Court. He had a very great respect for the Courts, and was especially fond of District Judge C. A. Spencer. An interesting episode occurred in Judge Spencer's Court, which is quoted here: "It's a Girl Judge Obliges Expectant Father; Recesses Court: Courtroom procedure gave way to more lively doings here Friday when the district court was recessed for the benefit of a harrassed and expectant father. The father, Fredolin Wasinger, Ellis county attorney, was appearing before the county commission on a tax foreclosure action when he received word from the hospital that an addition to the Wasinger family was expected within the hour. Wasinger was due in court on important legal business. A contempt proceeding was coming up. Perspiration stood on the attorney's head, and the temperature outside was 100 degrees in the shade.

Finally, the county attorney could stand the pressure no longer. 'Your honor', he said, 'my wife is about to have a baby, and I am wanted at the hospital'. The judge removed his spectacles and smiled. 'The court can wait, but baby can't, he said. 'Court is recessed.'

IN MEMORIAM

BENEDICT P. CRUISE

1908-1982

Benedict P. Cruise was born in Hebron, Nebraska, April 18, 1908. He was the son of Michael Cruise and Viola Beck Cruise. He was the seventh child in a family of fourteen children.

Benedict Cruise graduated from Maur Hill High School in Atchison, Kansas. He attended St. Benedict's College in Atchinson and graduated with an BA Degree and a law degree from the University of Nebraska at Lincoln. He joined the FBI in 1934 as a special agent and was stationed at various offices, including Denver, Milwaukee, Washington D.C. and Kansas City.

He married Pauline Bundy in Topeka, Kansas, in 1937. Surviving today are his wife, a son, Benedict B. who is also a special agent with the FBI, and a daughter, Susan, who is a nurse with the Hays unified school district.

Upon resigning from the FBI in 1945, he founded a law partnership with Delmas Haney in Hays and was later joined by F. F. Wasinger in that partnership.

In November of 1954 he was elected District Judge of the Twenty-Third Judicial District and served in that capacity until his retirement in 1975.

The Cruise family was a family of professionals. The Judge's brothers and sisters include a dentist, another special agent for the FBI, a lawyer, professionals in the medical field and an admiral in the United States Navy.

Judge Cruise was respected by the trial bar of this state. No one questioned his fairness, impartiality or integrity, and long before computers and judicial

administrators were monitoring the flow of the court system, Judge Cruise was efficiently setting cases for trial, hearing them and rendering decisions. Judge Cruise firmly believed that one of his significant contributions to the development of an efficient judicial system rested with a method of selecting juries which he originated and developed wherein he scheduled those cases ready for trial for a certain date and selected juries in four of the cases at one time.

After his retirement the Judge and his wife traveled extensively throughout the United States and North America from Florida and Mexico to Hawaii, Canada and Alaska. The Judge particularly enjoyed touring with the Airstream caravans and rarely missed an opportunity to join those caravans on their golfing excursions throughout the country.

Judge Cruise died at St. Anthony Hospital in Hays, Kansas, on October 15, 1982.

IN THE DISTRICT COURT OF ELLIS COUNTY, KANSAS

In the Matter of the Memorial
of Benedict P. Cruise,
Deceased

Case No. _____

JOURNAL ENTRY

Now on this 29th day of October, 1983, the above-captioned matter comes on for consideration by the Court on the motion of Dennis L. Bieker, made on behalf of the Ellis County, Kansas Bar Association, that the Memorial presented at the Northwest Kansas Bar Association meeting at Hays, Kansas, on the 29th day of October, 1983, of Benedict P. Cruise be docketed and made a part of the permanent records of this Court.

Upon consideration thereof, the Court finds that said motion is proper and appropriate.

IT IS THEREFORE BY THE COURT CONSIDERED, ORDERED, ADJUDGED AND DECREED that said Memorial be and the same is hereby ordered docketed, recorded and made a part of the permanent records of this Court.



Steven P. Flood
District Judge

89C-105

IN MEMORIAM

CLAYTON S. FLOOD

(1911-1989)

For three generations the name Flood has been synonomous in this area with the finest in the legal profession. Three Flood generations have favored our County and State with outstanding attorneys for most of this century. The Flood tradition began with Grandfather Edward Clayton Flood and his generation's chapter ended with his death on February 27, 1961. The second chapter concluded recently with the death of Clayton S. Flood at his home in Hays on April 26, 1989. A third generation continues the family tradition in the person of District Judge Steven P. Flood.

Clayton S. Flood was born at Ellis, Kansas on June 20, 1911 to Edward Clayton Flood and Elizabeth Stanfield Flood. He wed Mary E. Pinet in Topeka on October 15, 1936. She predeceased him on October 19, 1985.

Clayton S. Flood is survived by a son, Steven Pinet Flood, and a daughter, Susan Pinet Flood, as well as four grandchildren: Julie Leiker, Rachel Flood, Karen Flood and Sarah Flood. One great grandchild, Jessie John Leiker, survived at his grandfather's death as did Clayton's sister, Jane Grimes.

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Clayton S. Flood graduated from Hays High School before matriculating to Kansas University for two years. This was followed by attendance at Washburn Law School of Topeka from which he graduated in 1935 with an LLB degree. Shortly thereafter he passed the Kansas Bar and commenced the practice of law with his father in Hays. Their partnership continued until E. C. Flood's death in 1961. In 1963 Steven P. Flood joined his father's firm and their partnership continued until it was merged in 1968 with Richard Coffelt and Donald Martin under the firm name of Flood, Martin, Coffelt and Flood. This entity operated until 1975 when Steven P. Flood was appointed District Judge of the 23rd Judicial District. At that time Clayton S. Flood opened an office as a sole practitioner and performed in that capacity until his retirement a short time before his death. His career as a practicing attorney spanned more than fifty years.

Clayton S. Flood was actively involved in his profession. He was a member of the Ellis County Bar Association, the Northwest Kansas Bar Association, the Kansas Bar Association and the American Bar Association. He served as a member of the Executive Council of the Kansas Bar Association and also on the State Ethics Committee. He was admitted to practice in the Kansas court system as well as the federal courts, including the United States Supreme

Court. His practice was extensive and varied. For many years he served the local school district as board attorney. In 1943 he was elected Ellis County Attorney. World War II intervened. He resigned as County Attorney, enlisted in the United States Navy and went on active duty March 15, 1944. He served as a gunnery officer on the SS Dashing Wave, a troop carrier, and, after the termination of the war in the Pacific, served on the staff of Wesley Brown (later to become a federal judge) in the prosecution of the war crimes trials in Manila. He was discharged from the service on December 15, 1945. Clayton continued a close working relationship with his fellow veterans and was active for years in VFW and American Legion activities. In fact, he served as Commander of the local American Legion's Casper J. Middlekauf Post.

While the practice of law was his paramount concern, he contributed extensive time and effort to many community activities. Mr. Flood was a key figure in the establishment of the Cedar Bluffs Irrigation District. He also served as a director of the Hays Savings and Loan Association for many years. He was a member of the First Presbyterian Church and the Masonic Order, as well as being a charter member of the local Elks Lodge. I would be derelict if I did not mention that the law, despite its reputation as a jealous mistress, had sound basis for

looking over its shoulder at Clayton's other love -- fishing and hunting. It would be an understatement to say he was an avid hunter and fisherman. He was conversant with every good fishing hole in the area and there was little about hunting that passed him by. He and Billy King were major players in the restocking of the Saline and Smoky River Valleys with Bob White quail after their near extinction during the drought of the 1930's. Clayton relished the retelling (especially at the annual Ellis County Bar Picnics) of the many stories involving court cases and fellow lawyers, but above all, he enjoyed the yarns about the fishing and hunting exploits with his friends. Among the never to be forgotten experiences was the excruciatingly cold winter day when Clayton, Bill Billinger, Frank Rohleder, Gin Mar and son Steve were fishing and had to be rescued after breaking through the ice. Like his friend and fellow practitioner, Henry F. Herrman, Clayton's zeal for fish and birds knew few bounds and weather was not a factor when he felt the fish were running and the dogs were raring to go.

Clayton's interests were indicative of a genuine, but muted appreciation of life. When one searches for terms descriptive of his character, words such as fair, conscientious and contemplative vie for priority consideration. Those who experienced his approach to the

practice of law will agree that the bard must have known Clayton when he wrote:

"Let us consider the reason of the Case. For nothing is law that is not reason."
(Sir John Powell in Coggs v. Bernard, 2 Lord Raymond, 911)

He was fair. He displayed little interest in technicalities. The facts came first! He was knowledgeable, a true student of the law, a lawyer's lawyer. His was the quiet, mannerly approach. He had little truck for the "windy side of the law". (Shakespeare, Twelfth Night) Always a gentleman, he exuded dedication to his profession under a banner of absolute integrity.

Despite his many accomplishments, Clayton was an extremely modest individual. Never one to drop names or "toot his horn", few, except his close friends, knew of his close relationships with the influential and the powerful in this state. He and former Governor Ed Arn were classmates at Washburn Law School and Clayton worked with Arn at the State Highway Commission during law school days.

He was involved for years in politics and government. Although a member of the Republican Party, he was able to win election as County Attorney of this heavily Democratic county - primarily because Ellis Countians knew that his politics was not blindly partisan - that it was constructive and involved a serious quest for better government.

I have saved for last the characteristic that I think dominated his life. He was a kind man. A personal recollection underscores his consideration for others. It was the summer of 1946. I was not acquainted with Topeka and Washburn. I sought information about enrollment in the law school and living accommodations in Topeka. It was Clayton who offered assistance. He helped at the school. Then he called Mrs. Raines, at whose home he had resided while a law school student. In no time at all Clayton's assistance resulted in my moving into his old quarters at the Raines residence. Clayton was that way! In the years since then many of us have relied on his help and advice. He was always available. Clayton was that way!

Yet, with it all, this modest, self-effacing individual exhibited an ability to balance his realistic approach with a rare, wry wit. Recently, I noticed among his son's mementoes a poem that I think typifies what Clayton (who shunned courtroom theatrics) would have advised his son on the relevant considerations in determining whether to submit his first case to a jury trial. His advice would have considered the facts, faced the somber realities, but would have been accompanied with a quiet smile, a glint in the eye, subdued humor, and the implied suggestion that life be not taken too seriously. Visualize with me Clayton's probable approach to the problem as reflected in that poem:

JURIES

I.

You ask me, my son, were I in your place,
Would I ask for a jury to try my first case?
I don't know what facts or what law are
involved
But your problem, my lad, can be easily
solved.

II.

All jurymen, son, whate'er their vocation,
When called to the box undergo transfor-
mation.
Though happy and cheerful a moment ago,
They change to a visage which promises woe.

III.

They all become solemn; they sit there in
state,
While litigants tremblingly pass to their
fate.
They all are convinced of the height of their
tasks
So they tune their souls up to the pitch of
their masks.

IV.

While sternly they gaze in a forward
direction
The facts pass them by leaving no recollec-
tion.
They attend to the judge for all judges
demand it
When expounding the law so one can't under-
stand it.

V.

Thus blank as to law and dim as to fact
The jury is called upon now, son, to act.
With faces immobile they pass from the room
While you sit with your client and wait for
his doom.

VI.

But don't be dismayed; take some consolation.
Your opponent, my son, 's in the same situation.
No matter how far thru the law you may ramble
A trial by a jury, my son, is a gamble.

VII.

The wisest by far that e'er gladdened my vision
Returned to report the most cock-eyed decision.
Another so stupid I quailed in my fears
Reported a verdict which marked them as seers.

VIII.

Be certain of heaven, be sure of hell's fury,
But never, son, never, be sure of a jury.
Most rules have exceptions - this one's
always true,
You never can tell what a Jury will do.

(Welburn Maycock)

The Bar, the community, the state, his country -
are better today because Clayton S. Flood passed our way.
Godspeed, good friend.

Submitted
Norbert R. Dreiling
May 15, 1989