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### The Criminal Cases of Russell County, Kansas

Clyde Leon Dutt

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THE CRIMINAL CASES

OF

RUSSELL COUNTY

KANSAS

being

A Thesis presented to  
the Graduate Faculty of the Fort Hays Kansas  
State College in partial fulfillment of the  
requirements for the degree of  
Master of Science

by

Clyde L. Dutt, B. S. in Education  
Pittsburg Kansas State Teachers College

Approved: \_\_\_\_\_

W. M. Moreland  
Major Professor

April 25, 1938  
Date

F. B. Streeter  
Acting Chmn. Graduate Council

## ACKNOWLEDGEMENT

*Gift*

I acknowledge most gratefully the aid of Judge J. C. Ruppenthal and George Brandt, district court clerk, who were always ready to interpret and solve the much faded handwriting of the early judges, who did not have secretaries, and did the writing of their cases in longhand. It would have been impossible for me to have determined the nature of the case had it not been for them.

*Clyde L. Dutt*

To those who have contributed suggestions and added information, freely and willingly, I wish to acknowledge with special gratitude, the kindness of county attorney-elect, Floyd L. Kirkman, and attorneys Jerry Driscoll, Oscar Ostrum, and Clifford Holland; county clerk, Frank A. Vopat; police judge, Herbert N. Holland; county superintendent of schools, and F. M. Wright, all of whom mentioned live in Russell, Kansas.

My thanks and appreciation are due my major professor, Dr. W. D. Moreland, and Dr. F. B. Streeter, librarian of the Fort Hays Kansas State College, for their kind assistance and criticism during the advancement of this work.

*7-38*

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## INTRODUCTION

The gathering of criminal statistics has long been recognized as a need and a valuable aid to the federal, state and county officials and to students who desire information over a period of years of the history of a municipality or other governmental area.

The primary aim of the writer of this thesis has been to investigate all the criminal cases of Russell County so far as offenses against the law have been prosecuted in the district court.

In doing this the entire records of the district court have been used, especially the appearance dockets, numbered 1 to 14 inclusive and the journals of the court, numbered 1 to 17 inclusive, which contain the court's formal judgments, rulings and decisions of final disposition of the cases. The direct and inverted indexes were used; the former furnished the names of the plaintiffs, alphabetically arranged, as well as the "file" number of the case, and the latter furnished the names of the defendants alphabetically arranged. All of the papers that were presented by any party or attorney in the case or by the court or judge, and received by the clerk of the district court

were referred to for reference. From the total of these were found, first, the name of the plaintiff and of the defendant in each case.

The plaintiff was always The State of Kansas, by reason of a provision of the state constitution, except that the few city cases have instead the name of The City of \_\_\_\_\_ as the plaintiff.<sup>1</sup>

The person accused of or charged with an offense against the law was called the defendant. Whether a prosecutor had one or more defendants was in the discretion of the county attorney or other prosecutor, who drew the complaint information or indictment.

The books and the files named state who the plaintiff and defendant were, and in detail the acts charged to violate some criminal law.

The cases were numbered consecutively from 1 to 5812. The civil and criminal cases were numbered one after another as filed, and in early years the criminal cases were kept in a separate docket.<sup>2</sup>

The data presented covers the entire history of the country, finding the total number of cases for the sixty-five years, then by ten-year periods, to find out what years were outstanding as to the number and kinds of of-

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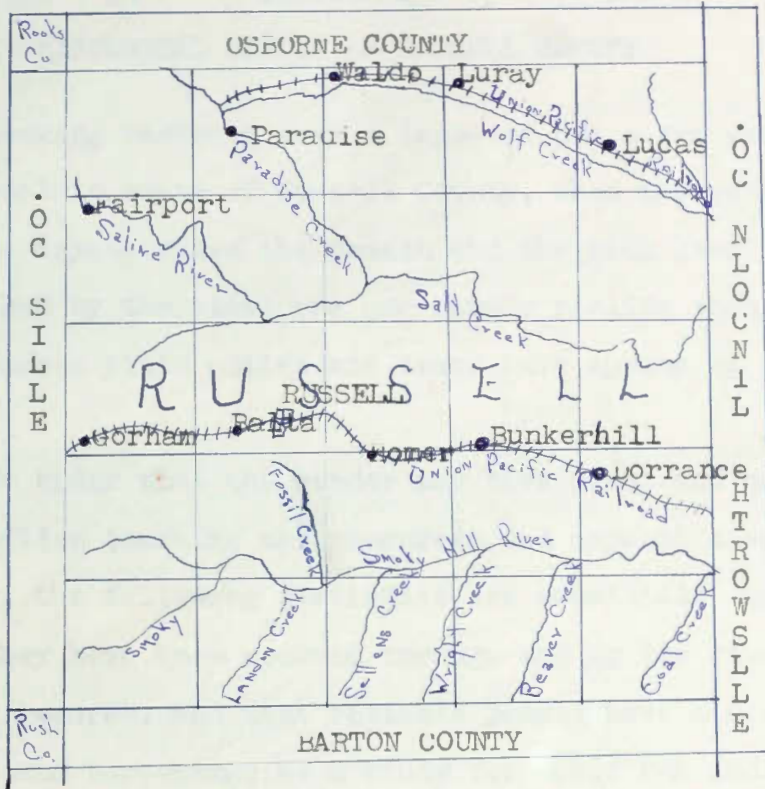
1. Statutes of Kansas 1935. Article 3, paragraph 17.

2. Records of the District Court Clerk in Russell County Court House, Russell, Kansas.

fenses charged. There were three hundred eighty-three cases recorded from the first offense October 24, 1872, to March 30, 1937.

A chapter has been prepared for a better understanding of how the cases have been classified as to the nature and kind of offense. The totaling and method of procedure in this research is taken from the form prepared by the Department of Commerce, Bureau of the Census, Washington, D. C., for the Judicial Criminal Statistics for 1934.

MAP OF  
RUSSELL COUNTY



- 1870 - Census of Russell County shows about 167 persons.<sup>1</sup>  
1930 - Census shows 11,045 persons in the county.<sup>2</sup>

1. The Census of 1870 and the map are taken from the Report of The Underground Resources by the Kansas State Board of Agriculture for the Quarter ending 1926. pp. 116 & 117.  
2. The Fifteenth Census of the U.S. for 1930. Vol. 3, part 1. p. 884.



## CHAPTER I

### HISTORICAL SKETCH OF RUSSELL COUNTY

Looking backward over a lapse of but a few years into the desolate waste of Russell County, when the rattlesnake and the coyote ruled the domain and the rich land remained untouched by the plow, one can hardly realize that on this once barren plain cities and towns have sprung up as if by magic.

In order that the reader may have exact and definite information touching the resources and capabilities of this county, the following statistics are submitted. The fact that they have been secured through and by the study of the county records, and that reliable people have checked the events and happenings as a study for their own individual needs and have made a record of the same, proves less chance of doubt and inaccuracy.<sup>1</sup>

The 1870 census of Russell County shows about 167 persons in the county.<sup>2</sup>

A colony of about 70 people from Ripon, Wisconsin, located at Fossil station on the Union Pacific on April 18, 1871. This was later named Russell. The colony was known

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1. The Russell Record, article by F. D. Steiner, V. 45, No. 1, Sec. 1, p. 1. "Russell and Russell County of To-day."

2. Ibid. Article by F. D. Steiner, V. 45, No. 5, p. 1.

as the Northwestern Colony and was largely recruited from Winnebago, Fond du Lac and Green Lake counties, Wisconsin.<sup>3</sup> From the settlement of this colony may be dated the permanent settlement in this part of the county. Soon after their location at Russell another colony, but much smaller, arrived from Ohio and located at a point ten miles east of Russell, on the Union Pacific Railroad, where they started a town to which they gave the name of Bunkerhill. Settlers now began to come in and locate in different parts of the county, and among those who came the first year was Jesse Connell, formerly state senator from Leavenworth, who was the first person to make settlement on Paradise Creek in the northwestern portion of the county.<sup>4</sup>

Russell was granted a petition for the organization of a city of the third class on May 21, 1872. This petition was granted by J. H. Prescott, judge of the district court of the fourteenth judicial district, including Russell County, with chambers at Ellsworth.

An election was held on June 1, 1872, and about sixty-three votes were cast. The vote was canvassed and the result declared on June 3, 1872.<sup>5</sup>

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3. The Russell Record. V. 45, No. 5, p. 1.

4. Ibid. V. 45, No. 5, Sec. 1, p. 1. Article by M. D. Steiner.

5. Ibid. V. 45, No. 5, p. 1.

## ORGANIZATION

Russell County was organized in 1872 by the appointment of John Fritts, J. B. Corbett, and E. W. Durkee as special county commissioners, and George A. J. Himes as special county clerk. These appointments were made by Governor J. M. Harvey on July 18 of that year, who designated Russell as the temporary county seat.<sup>6</sup>

Ten days after the county was organized the county board met and apportioned the county into townships and commissioner districts. Five townships were designated, and an election was called for September 9, 1872, for the selection of the permanent county seat and the organization of the county. Bunkerhill was selected as the county seat and here the county affairs were handled until the seat of government was moved to Russell.

A county seat controversy ensued and continued for two years before it was definitely settled. A canvass of the votes made by the temporary commissioners showed a majority in favor of Bunkerhill for the county seat. The Russell citizens claimed that fraudulent votes had been cast and stuffing of the ballot box had taken place. The state asplaintiff brought the case to the district court of the fourteenth district and Judge J. H. Prescott affirmed the injunction that the officers had not been duly elected

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6. The Russell Record, V. 45, No. 5, p. 1.

and were qualified to hold their offices. The case was then appealed to the Kansas Supreme Court, which upheld the decision of the district court and ruled Russell as the county seat.<sup>7</sup>

#### GERMAN-RUSSIAN COLONY

In July, 1876, a number of families of German Russians from the Volga River section of Russia decided to emigrate. There were seventy-two persons in the colony headed by George Bender, Jacob Krug, Sr., and Adam Dietz. They came to the United States, toured Nebraska and finally located in what is now Lincoln township, some eleven miles south of Russell. A second colony came in December, 1876, a third in February, 1878, and a fourth in November of the same year. These people suffered great hardships and privations the first few years, but gradually success crowned their efforts and today Russell County numbers among her best citizens the offspring of the German Russian peasants.<sup>8</sup>

#### MORTGAGE ON 2,000,000 ACRES

The first real estate mortgage was recorded November 10, 1870, and covered 2,000,000 acres of land owned by the Union Pacific Railway. The grantees were Adolphus Meier and

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7. Kansas Reports (second edition), V. 12, pp. 245-250.

8. The Russell Record. V. 45, No. 5, p. 1. Article by M. D. Steiner.

Charles Enslin. At this date, Russell County was attached to Ellsworth County for judicial purposes. The lands described began "at the Missouri River at the mouth of the Kansas River on the north side, thence westward to the 380th mile post, west from the initial point aforesaid." These were the lands granted by the several acts of Congress to the Union Pacific Railway to induce them to build their line and encourage immigration. The first chattel mortgage on record was filed November 12, 1872. This was given by F. L. Pestana to William George and his wife. The mortgage was for seventy dollars and as security for the payment of the loan the records show Mr. Pestana gave in "one dark brown mare fifteen hands high and seven years old."<sup>9</sup>

#### RAILROAD

The railroad facilities of the county are confined to one main line, the Kansas Pacific, which runs through the center of the county from east to west, nearly midway between the Saline and Smoky Hill rivers. Russell is the principal station on the line, the others being Manhattan and Dorrance to the east, and Gorham, which is located almost on the west line of the county.<sup>10</sup>

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9. The Russell Record. Article by M. D. Steiner, V. 45, No. 5, p. 1.

10. Andreas, A. T., History of State of Kansas. p. 1280.

The first conveyance recorded in the county was a deed from the Kansas Pacific Railroad Company to the Russell Townsite Company, granting, selling, and conveying for the consideration of one dollar, the east one-half of Section 27, Township 13, Range 14, west of the sixth principal meridian. This consisted of 320 acres. The instrument was dated September 1, 1871.<sup>11</sup>

#### FIRST MARRIAGE

The first recorded white marriage in the county, as shown by the record in the office of the probate judge, was that of J. E. Brown and Miss Mary A. Shultz, which took place November 20, 1873, the officiating clergyman being Rev. J. J. A. T. Dixon. While this is the first marriage that appears on record, it was not the first that occurred in the county, as E. W. Durkee and Mrs. Hattie Burt were married in November, 1871, by Stillman Mann, who was the first justice of the peace of the county.<sup>12</sup>

#### FIRST BIRTH

The first white child born in the county was a daughter of Mr. and Mrs. Beckwith. These parties resided in the county but a short time, removing to Osborne County. The Russell Townsite Company, however, presented the young lady

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11. Wilder, D. W., Annals of Kansas. pp. 458 and 459.

12. Andreas, A. T. History of State of Kansas. p. 1285.



with a town lot, but the records at this time do not show as to the location or disposition of the estate given to her.<sup>13</sup>

### SCHOOLS

The first school was a private school established in July, 1871, in the town of Russell. It was supported by the colonists who located at Russell in April of that year. The school was kept in a small frame building, erected by the colonists for school purposes. It was large enough to accommodate all the pupils there were to attend because, while the colony numbered about seventy souls, only five families came with it, and only two of these had children of school age. Of this little school Mrs. Swan, a daughter of Rev. A. H. Annis, was the first teacher. School interests continued to grow, and in 1883 there were sixty-two organized school districts in the county. The report of the county superintendent made to the state superintendent of public instruction, for the year ending July 31, 1882, shows the school population of the county to have been 2,132, which included all children between the ages of five and twenty-one years. The average salary paid male teachers was twenty-nine dollars per month, while the female teachers received twenty-three dollars.<sup>14</sup>

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13. The Russell Record. V. 45, No. 5, p. 1. Article by M. D. Steiner.

14. Andreas, A. T., History of State of Kansas. p. 1285.

At the end of the 1935-'36 school year there were sixty-eight one-teacher schools operating with a total of six hundred seventy-three pupils, with three hundred thirty-six males and three hundred thirty-seven females. Eighteen schools of atwo-teacher type had a total enrollment of four hundred sixty-eight, of which two hundred forty-five were males and two-hundred twenty-three females; five districts with a total of five high schools had a total enrollment of eight hundred twenty-four, of which four hundred whites and two negroes were males and four hundred three whites and two negroes were females. The city of Russell with the exception of the kindergarten had one thousand one hundred sixteen, and those in kindergarten totaled sixty-nine, of which thirty-nine were males and thirty were females. There were two hundred seventy-three males, two hundred seventy-one whites and two negroes, and two hundred seventy-six females, two hundred seventy-four whites and two negroes, in the Russell grade schools. In the junior high school there were ninety-five males, ninety-four whites and one negro, and eighty-two females, eighty-one whites and one negro. In the senior high school two hundred three males, two hundred two whites and one negro, and one hundred ninety females, one hundred eighty-nine whites and one negro. At this writing a new structure is being built



at a cost of \$252,000.<sup>15</sup>

Upon close observation the reader will find a few negro families represented in the Russell County schools. They rank unusually high intellectually, and not a one of them has ever given or caused trouble. They are very dependable, reliable, and always ready to cooperate with others and eager to promote the interests which tend to build a better community. The problem of illiteracy is not so outstanding and noticeable here. Out of a total of 8,677 persons in 1930<sup>16</sup> who were ten years of age and over, eighty-five or one per cent were illiterate. The native whites totaled 7,653 persons in 1930, out of which twenty-four, or three-tenths of one percent were illiterate. The total number of foreign born whites was ninety-nine, out of whom fifty-six, or five and seven-tenths percent, were illiterate. The total number of negroes was thirty, out of which four or one and three-tenths percent were illiterate.

Russell County had a total population of 11,045 persons in 1930, of which 5,604 were males and 5,441 females; 11,003 were whites and thirty-nine negroes. The total num-

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15. Personal Interview with the Russell County Superintendent, F. M. Wright.

16. Fifteenth Census of the United States for 1930. Population, V. 3, Pt. 1, p. 846, table 13.

ber of native whites was 10,009; those of native parentage 6,771; those of foreign or mixed parentage 3,238; those of foreign born whites 994.

The foreign born group of 994 persons was broken into nationalities by country of birth according to the 1930 census as follows:<sup>17</sup>

Russian	631	Switzerland	8
Germany	137	Austria	5
Czechoslovakia	87	Denmark	5
England	30	Scotland	5
Canada - Others	26	France	4
Irish Free State	13	Northern Ireland	3
All others	12	Wales	2
Sweden	12	Canada - French	1
Poland	10	Norway	1

According to the different age groups, the numbers are as follows:<sup>18</sup>

Under 5 years	1,154
5-14	2,424
15-24	2,108
25-34	1,587
35-44	1,354
45-64	1,354
65 and over	654

The rural population totaled 5,982 persons.<sup>19</sup> The total population of Russell County was 11,045 persons, which gives a contrast in figures as to where most of the crime takes place. There is usually less crime in the rural than in the urban communities because of the stable home and home loyalty.

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17. Fifteenth Census of the United States for 1930. Population, V. 3, Pt. 1, p. 849, table 18.

18. Ibid. V. 3, Pt. 1, p. 836, table 11.

19. Ibid. V. 3, Pt. 1, p. 846, table 13.

Usually the rural people spend what leisure time they have in a clean, wholesome way, and are not found on the average in gangs and loitering on the streets. These factors have a tendency toward influencing crime.

### CHURCHES

The first sermon ever preached in the county was by Rev. A. H. Annis, who came with the northwestern colony from Wisconsin. His hearers were the colonists, and his church was a box-car. In 1878, the Congregationalists were the first to erect an edifice in the county. It was a frame structure and cost \$4,000. This church was organized by Rev. W. B. Christopher, but the first resident pastor was Rev. William Payne. The Methodists, although having an organization since December, 1872, when the church was organized by Rev. John O'Connor with a membership of ten, had no edifice of their own in which to worship until 1879. There are about forty church organizations in Russell County today, and eight or more denominations are represented.<sup>20</sup>

### OIL

One of the most interesting developments in the past few years of oil and gas exploitation in Kansas was the dis-

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20. Andreas, A. T. History of the State of Kansas, p. 1287.

covery of commercial oil in northwestern Russell County, one hundred thirty-five miles northwest of the productive territory in Butler county and separated throughout this distance by territory lacking production. The discovery well was brought in on Thanksgiving Day in 1923, on a north-south trending anti-cline first mapped by V. H. McNutt, geologist of Tulsa, Oklahoma. In the period of three years after the finding of this oil more than fifty producing oil wells had been drilled.<sup>21</sup>

At present Russell County is one of the best oil pools in the state, and as to number at this writing, there are about seven hundred wells and eighty operations and locations which constitute the oil picture.<sup>22</sup>

One should not forget that there is more than just the one side to the bringing in of oil; from the financial basis, it is a good thing, but along with it have come different elements and classes of people. They have built within the city many beautiful homes, while in some instances they have built mere shanties or the so-called "just put-together" homes.

#### ROAD-HOUSES

Among the good things have come the bad, and one of the

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21. The Russell Record. Anniversary Edition. April 14, 1921.

22. Russell Record. May 20, 1937.

most deteriorating of these are the "Road-Houses" which number around thirty. Just why such places are allowed to operate, and the people in the churches have had it brought to their attention just what is taking place, is decidedly understood.<sup>23</sup>

In an article written by Miss Irene Dawson, she quotes the words of a local pastor "as to why the city and adjoining parts of the county should tolerate such places," to which the pastor's reply was "that the people wanted them."<sup>24</sup>

The statement was made that these bad moral issues are going on because the officials of the law are "hood-winking" and not a single criminal case has come before the district court since May 2, 1936.<sup>25</sup> The eyes of the people seem to be upon the value of the dollar rather than the value of the youth of the county, but some day the curtain is going to fall upon serious tragedies, more serious than those of the past.

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23. Personal Interview with Police Judge, Herbert N. Holland.

24. The Russell Record. Article by Miss Irene Dawson, issue of June 10, 1937. Commenting upon the sermon of Rev. Stephen Williams.

25. Personal Interview with Judge J. C. Ruppenthal.  
Note of Explanation: "Hood-winking" - to deceive as if by blinding or not seeing or paying attention to the acts committed.



## CHAPTER II

### CLASSIFICATION OF THE CRIMINAL CASES

#### NATURE OF THE ACT

The distinction between cases is an important step toward determining the number of cases which falls under its proper title as to the nature of the case. For example, the distinction between felonies and misdemeanors is an important one. Though the distinction between felonies and misdemeanors as to punishment has been abolished in the abolition of attainder and forfeiture for crime, other important distinctions remain. "A felony is any offense which by statutes or by the common law is punishable with death, or to which the Old English Law attached the total forfeiture of lands or goods, or both, or which a statute expressly declares to be such." In some states the statutes expressly declare all crimes to be felonies which are punishable by death or by the imprisonment in the state prison, penitentiary or reformatory; while all crimes less than felonies are misdemeanors.<sup>1</sup>

Kansas classes public offenses into felonies and misdemeanors. A felony is punishable by death or confinement and hard labor in the penitentiary. A misdemeanor is pun-

ishable by fine, or sentence to the county jail, or by both.<sup>2</sup>

1. Clark's Criminal Law. Third Edition, William E. Mikell, p. 42.

2. Statutes of Kansas 1935. Article 1, 21-112. p. 582.

## OFFENSE CLASSIFICATION

### 1-A. Murder

Include all degrees of murder. Exclude assaults with intent to kill; exclude attempts to commit murder (see 3-A, Aggravated Assault).

### 1-B. Manslaughter

Include all degrees of manslaughter; exclude assaults with intent to kill and attempts at manslaughter (see 3-A, Aggravated Assault).

## 2. Robbery

Include all offenses in which property is taken from the person or immediate presence of another through means of force or violence or by putting to fear. Examples are robbery armed, highway robbery, bank robbery, hold ups, etc. Include assaults with intent to rob; include attempts to commit robbery.

### 3-A. Aggravated Assault

Include assaults and attempted assaults which might well have resulted in severe bodily injury to the victim, or in death. For example, assault with intent to kill; poisoning; mayhem; maiming; assaults with a dangerous or deadly weapon; with explosives; obstructing railroads, assaults by shoot-

ing, stabbing, cutting, scalding, use of acids, and similar offenses. Exclude such assaults in connection with robbery, burglary, rape, or other specific offense.

### 3-B. Other Assault

Include assaults and attempted assaults which are not of an aggravated nature and which do not belong in 3-A, Aggravated Assault. Examples are simple assault; assault and battery; intimidation; hazing; wife beating; pointing the gun in jest; drawing dangerous weapons; resisting or obstructing an officer, unless under circumstances which place the offense under 3-A, Aggravated Assault.

### 4. Burglary - Breaking or Entering

Include all offenses wherein any building or structure is broken into or entered with the intention of committing a felony or any larceny therein at any time, whether day or night. Include assaults with intent to commit burglary; include attempts to commit burglary. Exclude making, possessing, etc., burglars' tools. These offenses are placed in Class 15.

### 5-A. Larceny, Except Auto Theft

Include offenses of stealing which are committed under circumstances not amounting to robbery or burglary. Examples are pocket picking, shop lifting, and other stealing of personal goods other than by force or violence or putting in



fear. Include attempts to commit larceny. Exclude auto theft (see 5-B, Auto Theft). Exclude fraudulent conversion of property entrusted, and obtaining by false pretenses (see 5-C, Embezzlement and Fraud).

#### 5-B. Auto Theft

Include all offenses in which the vehicle of another is stolen, or is driven away and is abandoned by some one not having lawful access thereto. Include attempts at auto theft.

#### 5-C. Embezzlement and Fraud

Include all offenses of fraudulent conversion, embezzlement, and obtaining money or property by false pretenses. For example, embezzlement, fraud, confidence game, fraudulent conversion, false pretense, gross fraud, cheating or swindling, check frauds, drawing checks without funds, fraudulent use of telegram or telephone messages, insurance frauds, use of false weights and measures, false advertising. Include attempts to commit any of these offenses.

#### 5-D. Stolen Property

Include buying, receiving, possessing. Include attempts to do so.

#### 6. Forgery and Counterfeiting

Include all offenses relating to the making, altering, uttering, or possessing, with intent to defraud, anything

false which is made to appear as true. For example, altering or forging public and other records; making, altering, forging, or counterfeiting bills, notes, drafts, tickets, checks, etc.; forging wills, deeds, notes, bonds, seals, trade-marks, etc.; possessing or uttering forged or counterfeited instruments; possession, etc., of counterfeiting apparatus; using forged labels; selling goods with altered, forged, or counterfeited trade-marks. Include attempts.

#### 7-A. Rape

Include such offenses as rape; rape with consent; assault with intent to rape; etc. Include attempts to commit any of these offenses.

#### 7-B. Prostitution and Commercialized Vice

Include such offenses as prostitution, keeping bawdy or disorderly house or house of ill fame, pandering, procuring, transporting, or detaining women for immoral purposes, etc. Include attempts to commit any of these offenses.

#### 7-C. Other Sex Offenses

Include such offenses as adultery, fornication, and lewd and lascivious cohabitation; buggery; incest; indecent exposure; indecent liberties; seductions; sodomy or crime against nature, etc. Include attempts to commit any of these offenses. Exclude violations of marriage laws; exclude also abor-

tion and bastardy. These offenses are to be placed in Class 15.

#### 8. Violations of Narcotic Drug Laws

Include all offenses relating to narcotic drugs; e.g. unlawful possession, sale, etc., of narcotics; keeping or frequenting opium dens; habitual users. Include attempts. Exclude violations of pure food and drug acts (see 15).

#### 9. Carrying, Etc., Deadly Weapons.

Include all regulatory offenses concerning weapons; e.g., manufacture, sale, or possession of deadly weapons, carrying deadly weapons; using, manufacturing, etc., silencers; furnishing to minors. Include all attempts.

#### 10. Nonsupport or Neglect of Family or Children

Include offenses of nonsupport, neglect, or abuse of family and children, such as desertion, abandonment, or nonsupport of wife or child.

#### 11. Violations of Liquor Laws

Include liquor law violations, such as illegal manufacturing, selling, transporting, furnishing, and possessing intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still, etc. Include public intoxication and drunkenness (see 13-A).

#### 12-A. Driving while Intoxicated

Include driving or operating any motor vehicle while drunk or under the influence of liquor or narcotics.

#### 12-B. Violations of Road and Driving Laws

Include violations of regulations with respect to handling of motor vehicle when in motion. Examples: failure to obey traffic signal; reckless driving; operating with unsafe equipment, etc. Exclude 12-A, driving while intoxicated.

#### 12-C. Parking Violations

Include all violations of parking ordinances. The emphasis here is upon situations in which the car is not in motion.

#### 12-D. Other Violations of Motor Vehicle Laws

Include offenses not covered in 12-A, 12-B, or 12-C. Examples: improper license for car or driving; leaving scene of or failure to report accident; lack of title; obscured or defective markers; misrepresentation of ownership or license, etc. Exclude 5-B, Auto Theft.

#### 13-A. Disorderly Conduct and Drunkenness

Include offenses, or attempted offenses, as breach of peace; disturbing the peace, unlawful assembly; disguised or masked person; blasphemy, profanity, and obscene language; drunk and disorderly; drunkenness and public intoxication.

Exclude operating, while intoxicated, motor vehicle on highways (see 12-A).

#### 13-B. Vagrancy

Include such offenses as vagrancy; begging; loitering; vagabondage, etc.

#### 14. Gambling

Include offenses of promoting, permitting, or engaging in gambling. Examples are: keeping gambling devices, common gambler; owning and frequenting a gambling resort; lotteries; gambling in any manner. Include attempts.

#### 15. All Other Offenses

Include all offenses for which provisions have not been made in Classes 1 to 14, inclusive. A few illustrations are violation of marriage laws, such as bigamy, abduction, and compelling to marry, marriage within prohibited degree, miscegenation, etc.; offenses contributing to juvenile delinquency (except as provided for in Classes 1 to 14, inclusive), such as employment in immoral vocations or practices, admitting minors to improper places, etc.; violations of fish and game laws; violations of Sunday laws; violations of labor and factory inspection laws; violations of health measures affecting pure foods and drugs, sanitation, quarantine, etc.; arson, bombing, and other malicious injury to property; tres-

pass; violations of explosives regulations; improper operation of instruments of transportation (other than motor vehicles); blackmail and extortion; bribery; perjury and subornation of perjury; contempt of court; criminal anarchism or syndicalism; displaying red or black flag; rioting; kidnapping; abortion; bastardy; possession or sale of obscene literature; manufacture or possession of burglars' tools; unlawfully bringing weapons, liquor, or drugs into prisons or hospitals; discrimination; unfair competition; etc.

The offense classification is taken from the outline as used for the Federal Courts Procedural Outcome for 1934.<sup>3</sup> All cases have been classified according to this outline.

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3. Tally Sheet No. 1 - Procedural Outcome for 1934 for Courts of general criminal jurisdiction. No. 8-6437a, Department of Commerce, Bureau of the Census, Washington, D. C.



### CHAPTER III

#### NUMBER AND NATURE OF THE CASES

There were a total of 5,811 listed cases, both civil and criminal, involved in this sixty-five year period of research. Three hundred eighty-three of these were criminal.

The statistics showed a wide variation in regard to the number and kinds of cases during the different periods.

Attention must be called to some of the changes which have taken place during this time. Rapid progress has been made in the methods and ways of transportation facilities; growth in population showed a marked increase, especially during 1923 to 1937 on account of the oil boom. The means of communication have been improved with the marvelous inventions of the telephone, radio, and the printing press. An extensive building program, and a more varied and adaptable educational program have been developing rapidly.

A great experiment was tried in prohibition and was ultimately defeated. During the years of 1922 to 1937 the greatest number of offenses committed were those of violations of the prohibition or liquor laws.

Oil brought more people and money into the county, but it also brought in an unstable type of people, many of whom were roamers, with demoralizing traits, careless, and with carefree ambitions, which had a marked influence upon crime in this county during the years of 1923 to 1937.

The accompanying table presents the classification and number of the offenses committed.<sup>1</sup>

Offense Classification	Total Number
1-A. Murder.....	7
1-B. Manslaughter .....	0
2. Robbery .....	1
2-A. Aggravated Assault .....	26
3-B. Other Assault .....	16
4. Burglary - Breaking or Entering .....	15
5-A. Larceny, Except Auto Theft .....	62
5-B. Auto Theft .....	3
5-C. Embezzlement and Fraud .....	32
5-D. Stolen Property .....	0
6. Forgery and Counterfeiting .....	13
7-A. Rape .....	11
7-B. Prostitution and Commercialized Vice .....	1

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1. As according to Tally Sheet No. 1 - Procedural Outcome for 1934 for courts of general criminal jurisdiction. No. 8-6437a, Department of Commerce, Bureau of the Census, Washington, D. C., as explained in Chapter II.



7-C.	Other Sex Offenses .....	9
8.	Violations of Narcotic Drug Laws .....	0
9.	Carrying, Etc., Deadly Weapons .....	2
10.	Nonsupport or Neglect of Family or Children .	11
11.	Violations of Liquor Laws .....	92
12-A.	Driving While Intoxicated .....	2
12-B.	Violations of Road and Driving Laws .....	2
12-C.	Parking Violations .....	0
12-D.	Other Violations of Motor Vehicle Laws .....	0
13-A.	Disorderly Conduct and Drunkenness .....	39
13-B.	Vagrancy .....	1
14.	Gambling .....	3
15.	All Other Offenses .....	35
	Total	<u>383</u>

Dividing the sixty-five years into ten-year periods for comparison and contrasting purposes showed a fluctuation in the number and kinds of cases appearing within each period.

The following data presented in the form of tables designates the period, total number of cases for said period, and the kind and number of each case.

Period of 1872 to 1882

Larceny .....	22
Embezzlement and Fraud .....	16
Disorderly Conduct and Drunkenness .....	7
Other Assault .....	7
Aggravated Assault .....	5
Murder .....	2
Burglary .....	2
Bastardy .....	2
Arson .....	2
Libel .....	1
Robbery .....	1
Forgery and Counterfeiting .....	1
Rape .....	1
Prostitution and Commercialized Vice ...	1
Violation of Liquor Laws .....	1
Total	<u>71</u>

Period of 1882 to 1892

Disorderly Conduct and Drunkenness .....	13
Larceny .....	12
Aggravated Assault .....	5
Burglary .....	4
Rape .....	3
Bastardy .....	3
Murder .....	2
Forgery and Counterfeiting .....	2
Violation of Liquor Laws .....	2
Libel .....	1
Other Assault .....	1
Embezzlement and Fraud .....	1
Total	<u>49</u>

Period of 1892 to 1902

Larceny .....	7
Violation of Liquor Laws .....	4

Other Assault .....	2
Murder .....	1
Aggravated Assault .....	1
Burglary .....	1
Embezzlement and Fraud .....	1
Rape .....	1
Disorderly Conduct and Drunkenness .....	1
Total	<u>10</u>

Period of 1902 to 1912

There were no cases recorded for this period.

Total 0

Period of 1912 to 1922

Disorderly Conduct and Drunkenness .....	1
Forgery and Counterfeiting .....	1
Total	<u>3</u>

Period of 1922 to 1931

violation of Liquor Laws .....	74
Larceny .....	12
Nonsupport or Neglect of Family or Children .....	11
Disorderly Conduct and Drunkenness .....	11
Aggravated Assault .....	10
Embezzlement and Fraud .....	8
Burglary .....	7
Forgery and Counterfeiting .....	5
Possession of Tools - Breaking Jail .....	5
Contempt of Court .....	5

Other Assault .....	4
Rape .....	4
Adultery .....	4
Auto Theft .....	3
Violation of Fish and Game Law .....	3
Malicious Injury to Property .....	3
Trespass .....	3
Driving While Intoxicated .....	2
Violation of Road and Driving Laws .....	2
Murder .....	2
Concubinage .....	2
Violation of Sunday Law .....	2
Bastardy .....	2
Violation of Warehouse Act .....	1
Violation of Pure Food Law .....	1
Vagrancy .....	1
Kidnapping .....	1
Total	<u>194</u>

Period of 1932 to 1937

Violation of Liquor Laws .....	11
Embezzlement and Fraud .....	6
Aggravated Assault .....	5
Forgery and Counterfeiting .....	4
Disorderly Conduct and Drunkenness .....	4
Adultery .....	3
Gambling .....	3
Larceny .....	3
Carrying, Etc., of Deadly Weapons .....	2
Other Assault .....	2
Rape .....	2
Burglary .....	1
Arson .....	1
Total	<u>47</u>

Considerable comment on the report of the cases appearing in the preceding tables should be made since

there were some very outstanding cases. From 1872 to 1882, twenty-two or thirty-one percent of the seventy-one cases were those of larceny and sixteen or twenty-two percent were forgery and counterfeiting. One of the two cases of libel which appeared in the entire study came up during this period.

From 1882 to 1892, thirteen or twenty-six and five-tenths percent of the forty-nine cases were disorderly conduct and drunkenness and twelve or twenty-five percent were larceny. The second case of libel came up during this period.

From 1892 to 1902 seven or thirty-six and eight-tenths percent of the nineteen cases were those of larceny and four or twenty-one percent were violations of the liquor laws.

From 1902 to 1912 there were no criminal cases recorded, and just why or how this could ever be possible is beyond that of an authentic reason.

From 1912 to 1922, only three cases were brought up, two of which were disorderly conduct and drunkenness, and one forgery and counterfeiting. This period includes the years of the World War and very little was done in regard to court proceedings.

From 1922 to 1932 marked the greatest number of cases recorded throughout the entire study. One hundred ninety-four cases were brought up, seventy-four of which or thirty-eight percent were violations of the liquor laws; second, eighteen or nine and two-tenths percent were larceny; third, eleven or five and seven-tenths percent were nonsupport or neglect of family or children; fourth, eleven or five and seven-tenths percent were disorderly conduct and drunkenness; and fifth, ten or five and two-tenths percent were aggravated assault.

From 1932 to 1937 does not show much as to contrast since this period covers only five years with a total of forty-seven cases; however, eleven or twenty-three and five-tenths percent were violations of the liquor laws and six or twelve and eight-tenths percent were embezzlement and fraud.

As to the study of the amount of crime per thousand in population for each of the ten years, taking into consideration the number of cases committed, the following percentages were obtained.<sup>2</sup>

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2. Census of Russell County from 1872 to 1937. Census records in the county clerk's office of the Russell County court house.



Years	Pop.	
1872-1882	27,862	71 cases or .255 % per thousand
1882-1892	71,352	49 cases or .068 % per thousand
1892-1902	74,422	19 cases or .025 % per thousand
1902-1912	93,264	0 cases or 0 % per thousand
1912-1922	110,664	3 cases or .002 % per thousand
1922-1932	108,391	194 cases or .179 % per thousand
1932-1937	79,410	47 cases or .057 % per thousand
	<u>565,368</u>	<u>383</u>
		.067 for the 65-year period

A general summary showed that there were ten classes of offenses which were the most violated. These appeared in the following order: (1) violations of the liquor laws, (2) larceny except auto theft, (3) disorderly conduct and drunkenness, (4) all other offenses, or the anti-social group, (5) embezzlement and fraud, (6) aggravated assault, (7) other assault, (8) forgery and counterfeiting, (9) rape, and (10) nonsupport or neglect of family or children.

The ten offenses listed in the above paragraph appeared the most frequently as to the periods which were presented as follows: (1) violations of the liquor laws, 1922 to 1932; (2) larceny, except auto theft, 1872 to 1882; (3) disorderly conduct and drunkenness, 1882 to 1892; (4) all other offenses or the anti-social group, 1922 to 1932; (5) embezzlement and fraud, 1872 to 1882; (6) aggravated

assault, 1922 to 1932;-(7) other assault, 1872 to 1882;  
(8) forgery and counterfeiting, 1922 to 1932; (9) rape,  
1922 to 1932; (10) nonsupport or neglect of family or  
children, 1922 to 1932.



## CHAPTER IV

### GENERAL SURVEY

It is the purpose of this chapter to give the reader a brief survey of and in what way the "Offense Classification" may be broken up into main headings, as given in and by The General Statutes of Kansas, 1935 edition, by Corrick, except one. This has been classified as Anti-social,<sup>1</sup> since the offenses committed involve a type of person whose life is hostile to the organization of the society in which he lives; one who injures the peace, contentment, or the political or social organization in which his life is case. Number fifteen, "All Other Offenses," is left to itself, since it is impossible to classify each charge as just one particular type of offense. The percents of the highest number of the offenses totaled are also given, in order to indicate those cases which appear most frequently throughout the study of the sixty-five years covered.

Offenses of crimes which are Anti-social<sup>2</sup> are: 8,

1. Crime, Its Cause and Treatment, by Clarence Darrow, member of the American Bar Association. p. 5.
2. Ibid. by Clarence Darrow. p. 5.

violations of narcotic drug laws; 11, violations of liquor laws; 12-B, violations of road and driving laws; 12-C, parking violations; 12-D, other violations of motor vehicle laws; 13-A, disorderly conduct and drunkenness; 13-B, vagrancy; and 14, gambling. A total of one hundred thirty-seven cases. The period of 1922 to 1932 showed eighty-eight cases of anti-social offenses. Violations of the liquor laws constituted seventy-four or fifty-four percent of those.

Offenses against Property<sup>3</sup> are: 4, burglary - breaking or entering; 5-A, larceny, except auto theft; 5-B, auto theft; 5-C, embezzlement and fraud; 5-D, stolen property; and 6, forgery and counterfeiting. A total of one hundred twenty-five cases. The periods from 1872-1882 and 1922-1932 had the same number of offenses against property. Each had forty-one cases. Larceny constituted twenty-two or seventeen and six tenths percent from 1872 to 1882, and larceny constituted eighteen or fourteen and four tenths percent from 1922 to 1932.

The offenses which are grouped under Offenses against Persons<sup>4</sup> are: 1-A, murder; 1-B, manslaughter; 2, robbery;

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3. Statutes of Kansas. Article 5. 21-501 to 588.

4. Statutes of Kansas. Article 4. 21-40 to 21-452.

3-A, aggravated assault; 3-B, other assault; 7-A, rape; and 10, nonsupport or neglect of family or children.

Total of seventy-two cases. The period from 1922 to 1932 showed thirty-one cases of offenses against persons. Nonsupport or neglect of family or children constituted eleven or fifteen and two tenths percent of these.

Offenses of crimes against No. 15,<sup>5</sup> All Other Offenses, total thirty-five cases. The period of 1922-1932 showed the greatest number of offenses of "All Other Offenses." Total of twenty-six cases. Breaking jail and contempt of court each constituted five or a total of ten cases or fourteen and two tenths percent for each.

Offenses of Crimes Against Public Morals and Decency<sup>6</sup> are: 7-B, prostitution and commercialized vice and 7-C, other sex offenses. A total of ten cases. The period from 1922 to 1932 had six cases of offenses against public morals and decency. Adultery and concubinage totaled six or six and six tenths percent of these.

Offenses of Crimes against Public Peace<sup>7</sup> are: 9, carrying, etc., of deadly weapons and 12-A, driving while intoxicated. A total of four cases. The periods of 1922 to

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5. Tally Sheet No. 1. Procedural Outcome for 1934 for Courts of General Criminal Jurisdiction. No. 8 - 6437a, Department of Commerce, Bureau of the Census, Washington D.C.

6. Statutes of Kansas. Article 9. 21-901 to 21-963.

7. Ibid. Article 10. 21-1001 to 1009.

1932 and 1932 to 1937 each had two cases of offenses against public peace. Driving while intoxicated and carrying, etc., of deadly weapons each constituted two or a total of four or forty percent of those for each period.

The greatest number of offenses of crimes appearing under this classification were as follows: (1) anti-social crimes, which constituted one hundred thirty-seven cases or thirty-five percent; (2) crimes against property, one hundred twenty-five cases or thirty-two percent; (3) crimes against persons, seventy-two or nineteen percent; (4) crimes of all other offenses, thirty-five cases or nine percent; (5) crimes against public morals and decency, ten cases or three percent, and (6) crimes against public peace, four cases or two percent.

## CHAPTER V

### CONCLUSION AND RECOMMENDED REFORMS

It is hoped that the conclusion of this research will do a great deal toward arousing the need for a better trained and qualified body of public spirited, efficient, intelligent officials to handle our court records and reports in the presenting of criminal evidence.

If this investigation can serve but one purpose, and that, for the sake of comparison, of this county with the others of the state and stimulate public thinking and interest for a change, it will well have made its contribution. The public must be sufficiently informed to appreciate the need for a change and be willing to pay for it; and when the change comes, we must have an available supply of technically trained persons to make the new methods and machinery successful in its undertakings. Let us consider some of these needs just a little further.

Two very important factors could not be determined, those of duration and disposition of cases, because of the inadequate information and inefficient reports which had been made by most of the district judges, district court



clerks, lawyers, and attorneys.

Society may know that something has happened, such as a murder, a burglary, an assault, or a case of arson, but according to the inadequate records society can not find out essential salient factors as the duration or the disposition of the case. The citizen and taxpayer is entitled and justified in asking for this information.

A suggested scientific method should be recommended which the officials should have to follow to make the records complete, not for their own individual and personal needs but for the benefit of the public as a whole.

The short ballot would undoubtedly be a valuable aid in getting a better staff of officials. If the three county commissioners could be elected by the people and the rest of the officials selected according to the merit system, certainly a step in the right direction would be taken. Trained personnel would be more conducive to efficiency. Under this program the clerk and assistants would be selected according to their ability to keep records. The judge should not be required to be a policeman, but possibly should be appointed by the Governor from a list previously prepared by the Kansas Bar Association.



The present method of shifting men about in the court house from one department to another should give way to the development of experts in the different lines of service. Adequate compensation, security of tenure, a pension system, as well as the respect of the public should be such as to attract the attention and hold capable men and women, and, it goes without saying that the service should be free from political interference. The removal of the suspicion of corruption and the manifestation of skill and efficiency in the doing of their work would make the courts the symbols of justice, honesty, and efficiency.

We shall need to take a new attitude toward the scope and purpose of public education, toward our processes and machinery for law making, and toward the organs which create and influence public opinion. Our homes, churches, and schools with a combined educational, social, and spiritual cultural type of program will tend to bridge the gap which exists at present.

The remedy for lawlessness is not more laws. Certainty and swiftness of punishment is usually more of a deterrent than severity, however, a jail sentence in addition to the accustomed fine for all cases of drunkenness might be more effective.

Economic depressions always tend to bring out certain phases of crime more than others. The periods from 1872 to 1882 and 1922 to 1932 show that larceny was the outstanding offense or forty-six percent of all of the total cases for those periods.

There was also an increase in drunkenness, burglary, nonsupport or neglect of family or children, and embezzlement and fraud during those periods. Loss of employment frequently means loss of morale, with ultimate loss of morals and when this stage is reached man does not hesitate taking other peoples property or drinking to overcome the reality of life.

The oil boom brought more cases of an anti-social nature from 1923 to 1937, as a large increase in violations of the liquor laws, road and driving laws, and disorderly conduct and drunkenness. The roadhouses are noted for selling more than pop and hamburgers. It would not be difficult to gather evidence showing what roadhouses are violating the law, if the officials really wanted to close them.

Reform depends more upon men and methods than it does upon machinery, and no doubt the present system would op-

erate more efficiently if it were manned by a properly trained and organized personnel.

During the periods of 1902 to 1912 and 1912 to 1922, scarcely any cases appeared of a criminal nature. Officials seemed to have forgotten or neglected criminal issues. Part of this might have been due to economic and war conditions.

More publicity and reporting of our criminal statistics and information leading up to the arrest, officials involved, nature of the case, duration, and disposition of the case would arouse the interests of the people. The newspapers could play an active part in putting such information before the people.

An amendment to the constitution is needed very much in the matter of requirements and qualifications pertaining to the justice of the peace. The justice of the peace should have other qualifications than just that of a qualified elector,<sup>1</sup> if they are to remain as administrators of justice.

A better system of filing the cases is needed to take the place of the many torn and worn out paged folders,

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1. Statutes of Kansas. Article 2. 80-202.

crowded into file boxes. The judge does not even have a way of finding the counts which have been previously made by the person charged because of the inadequate records.

Other measures worth considering that might ultimately affect the administration of justice and cause the general welfare are, the extension and improvement of the method of dealing with delinquents; the expansion of the social work program of the churches and schools; the scientific organization and recreation; and a more adequate program of child care, family case work and social health work.

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Mr. Brendt, who has held the position of district court clerk of Russell County, Russell, Kansas, for nearly 5 years, assisted to a very great extent in explaining the use of the documents, books and files in this office.

Dawson, Irene. Editor of the Russell Record, Russell,  
Kansas, June, 1937.

Miss Dawson has given valuable information both verbal and written, permitting observation and use of the newspapers at any time desired.

Driscoll, Jerry. Attorney at Law, Russell, Kansas, June,  
1937.

Mr. Driscoll is also State Director of the Kansas Emergency Relief Corporation. He has assisted in explaining some of the doubtful issues of handwritten cases.

Holland, Herbert N. Police Judge, Russell, Kansas, June,  
1937.

Mr. Holland aided in information pertaining to the "Road Houses" of Russell County.

Kirkman, Floyd L. County Attorney-elect, Russell, Kansas, June, 1937.

Mr. Kirkman took office in January, 1937, and has assisted with the records of criminal reports.

Ostrum, Oscar. Attorney at Law, Russell, Kansas, June, 1937.

Mr. Ostrum, a member of the board of education, has given valuable information as to the cost of the new Russell high school building, and also information as to the "Road Houses" of Russell County.

Ruppenthal, Jacob C. Attorney at Law, Russell, Kansas,  
June, 1937.

Mr. Ruppenthal, who has held the position of judge of the twenty-third judicial district, and is an attorney at law at present, has supervised the gathering of criminal statistics for this thesis.

Vopat, Frank. County clerk, Russell, Kansas, June, 1937.

Mr. Vopat allowed his records to be observed often for added information for early history details of Russell County.

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Mr. Wright has been county superintendent for nearly 5 years and has given information pertaining to the statistics of the schools of Russell County.