The Controversy Over the Location of the County Seat in Logan County, Kansas

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THE CONTROVERSY OVER THE LOCATION OF THE COUNTY SEAT IN LOGAN 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 Arts

by

Donald D. Short, B.A.

Fort Hays Kansas State College

Date July 30, 1962 Approved

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THE CONTROVERSY OVER THE LOCATION OF THE COUNTY SEAT
IN LOGAN COUNTY, KANSAS
by
Donald D. Short
(An Abstract)

An attempt has been made in this study to present a concise history relating to the initial location of the county seat at Russell Springs, Logan County, Kansas, and the elections to move the county seat to Oakley in 1937 and 1960. The 1960 election, the election campaign, the statutory requirements for holding an election of this type and the court decisions affecting the Logan County relocation issue have been emphasized.

The author, in conducting his research, reviewed the constitution, statutes and court decisions of Kansas which related to the relocation issue in Logan County. Official county records, county newspapers and personal interviews were utilized to show how the campaigns were conducted and the election results.

The results of this study reveal that the county seat was located in 1887 according to the dictates of a predominantly rural social and political order. A shift in county population from the rural family farm to a town with a majority of the county's population created new opinions and attitudes toward local politics. The 1960 controversy was a traumatic experience for many of the
county's inhabitants, but the American sense of fair play so inherent in our way of life was still closely observed.

The study also revealed the ethical, social and economic principles guiding the opposing factions in the relocation controversy. The value of excellent leadership and organization in overcoming political apathy was concretely shown in the present study.
ACKNOWLEDGMENT

The author wishes to thank all of the persons who have helped with the preparation of this report; especially Dr. W. D. Moreland and Mr. Don B. Slechta, who gave so generously of their time in my behalf. The writer would also like to acknowledge the help of his graduate committee members whose careful perusal of the manuscript helped eliminate errors that might have otherwise gone unnoticed. Acknowledgment also must be made to the citizens of Logan County, Kansas. Without their kind cooperation the collection of data for this thesis would have been more difficult.
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CHAPTER I

INTRODUCTION

Western Kansans have thought of their counties and county governments with pride. This pride is evident in the location of the county seat. The original location of the county seat was selected by the voters of the county under conditions as outlined by the state legislature. This was a serious problem to the early settlers as can be shown by the battles between towns even after one of them was voted as the site for the county seat. County seat "fights" often developed in which various means were utilized by competing towns in attempting to become the permanent county seat of government. Gunmen were hired,¹ records were stolen² and in some cases two sets of county officials were keeping two separate sets of county records.³

The history of county seat "fights" was most interesting, but with law and order coming to dominate the scene, relations between contenders have been settled by


³Collections, op. cit., p. 456.
ballots and often by the Supreme Court as interpretation of the law was needed.

The author reviewed the constitution, the General Statutes of Kansas and the Kansas Supreme Court decisions for interpretations as they affected Logan County.

The second chapter is devoted to the westward movement and growth of towns and settlements in what was later to be Logan County, Kansas, early administration of Logan County and the initial organization of that county. The third chapter concerns itself with the first county seat election in Logan County, and particularly the attempts by townsite companies to have their locations chosen for the permanent county seat.

Chapter IV relates to the attempts in 1911 and 1937 to have the county seat removed to the City of Oakley. The chapter centers around statutory changes sought for and ultimately passed, the campaign processes and the election results.

The fifth chapter is concerned with the 1960 county seat relocation election held in Logan County. The procedures followed in trying to remove a county seat once it has been permanently located are explained in detail. Included is the petition and election process and the conduct of the campaign for removal of the county
seat from Russell Springs to Oakley. The statutory procedure is dealt with to show the problems of a special election of this type. The 1960 relocation issue is not yet settled. The courts are being utilized to resolve the matter. A summary of what has thus far developed in the District and Supreme Courts of Kansas is presented. Many interesting points of law have arisen which should point up the legal difficulties resulting from this vital question which has for many years disrupted harmony in the County of Logan.

This report is limited primarily to the county seat struggle in Logan County. However, other questions of importance related to the relocation issue, such as bonded indebtedness for a new courthouse, increased taxes, and the ultimate viability of Russell Springs, are considered because of their political implications.
CHAPTER II

THE ORGANIZATION OF LOGAN COUNTY

The western part of Kansas during the period preceding the entrance of the state into the union in 1861, and a few years thereafter, was little more than a vast buffalo hunting ground and potential highway to the sparsely settled west. The California gold rush of 1849, the Colorado gold rush of 1858, and the necessity of connections with the City of Denver and the Pacific coast created a demand for a short, convenient and fast route to the west.

The Smoky Hill Trail during the 1860's became prominent as it promised to be the best route. In Logan County, the trail followed the Smoky Hill River through present day Russell Springs. The trail then crossed the north fork of the river and extended on by way of the south fork to Fort Wallace, then to the west. The Butterfield Overland Dispatch, Overland Express and Wells Fargo stage lines passed over this trail. Fort Wallace, established in 1865 as the farthest western outpost along this road, bore the brunt of Indian attacks for years.1

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The City of Russell Springs was founded on the site of Eaton Station, a stop on the Butterfield Overland Dispatch. The station, established in 1865, became known as Russell Springs by 1867. It was named after William Russell, a rancher, who utilized the springs to water his cattle. The importance of the Smoky Hill Trail came to a close as the railroad projected its iron nose farther onto the frontier.

The coming of the Union Pacific Railroad was undeniably a formidable force in advancing civilization to the western parts of Kansas. Possibly in anticipation of this growth, the Kansas Legislature in 1867 created thirty-six new counties which included all that unorganized portion of the State of Kansas, lying and being east of Range Line twenty-six, west of the Sixth Principle Meridian.² This left approximately the western one-fourth of the state yet to be designated as counties. County creation was quite distinct from county organization. The legislature created the county but organization could only come about after having the requisite population as required by the legislature which in many cases was several years later. The act creating these counties provided that no county would

²The Laws of the State of Kansas, 1867, Ch. 33, Sec. 1 (Leavenworth, Kansas: Printed at the Bulletin Book and Job Office, 1867).
be entitled to representation in the legislature until organization.3

Growth of Towns and Settlements

The Union Pacific Railroad, as it advanced further across the plains, apparently created the necessity or at least desirability of creating two new counties to the west of Range Line twenty-six. The legislature in 1868 created Gove and Wallace counties.4 Wallace included present day Logan and Wallace counties. These two counties were the first extension of counties to the Colorado State line. By 1868, the railroad progressed across Gove County and reached a temporary terminus at Lisbon Siding to the northeast of the north fork of the Smoky Hill River in Logan County. Sheridan, named after General Phillip Sheridan, was established in Lisbon Siding to become the largest settlement in the western part of the state. As the Union Pacific Railroad construction crews moved on westward building the first railroad to span Kansas from east to west, Sheridan soon dropped from existence.

In 1881, the legislature passed a bill creating

3Ibid., Sec. 40.

4Special Laws of the State of Kansas, 1868, Ch. 14, Sec. 2 (Lawrence, Kansas: Printed for the State by John Speer, Public Printer, 1868).
St. John County. This was done by dividing Wallace County with St. John County being the eastern half named after John P. St. John and governor of Kansas from 1879 to 1883.

**Early Administration of the County**

St. John County, which later became Logan County, was unorganized and so became a municipal township of Trego County because it was the closest organized unit of county government. An indication that population had begun to increase and there was a need for some type of administration in St. John County was shown by a petition presented to the Trego Board of County Commissioners requesting an election for township officers. This election was held on November 4, 1884, with Charles Magee and J. J. Sears appointed to conduct the election. The town of Monument in the unorganized County of Logan was the place designated by the board for holding the election.

On September 11, 1886, a petition was presented to the Trego County Commissioners asking for the establishment of two additional voting precincts. This would indicate

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6The election was for township officers and not county officers.

7*Commissioner's Journal*, Trego County, Kansas, Vol. A, October 6, 7, 8, 1884, pp.186-7. (Located in the Office of the County Clerk, Trego County Courthouse, WaKeeney, Kansas.)
a more rapid influx of settlers into St. John County at that time. After consideration by the Trego County Commissioners it was ordered that the present voting precinct which consisted of the municipal township of St. John County be abolished with the county being divided into three election precincts as follows:

First Precinct: All that territory lying in St. John township included in Range thirty-two shall constitute one election precinct to be known as the Oakley precinct, and the town of Oakley shall be the polling place for said precinct.

Second Precinct: All that territory lying in St. John township included in Ranges thirty-three and thirty-four shall constitute one election precinct, to be known as the Ennis City precinct, and Ennis City shall be the polling place for said precinct.

Third Precinct: All that territory lying in St. John township west of Range thirty-four shall constitute one election precinct, to be known as the Winona precinct, and the town of Winona shall be the polling place for said precinct.

Later in the same month, the citizens of St. John County presented another petition to the Trego County Commissioners asking for the forming of an election precinct with the polling place at St. John Center. It was ordered that:

All that territory in the precincts of Oakley, Ennis City and Winona lying south of the township line between townships 12 and 13 shall form one

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8Ibid., September 11, 1886, p. 259.
A majority of the early population settled in the northern part of the county along the line of the railroad. By 1887, most of the land was taken which caused a shift in new settlement to the south. Six voting precincts were petitioned for and established by the Trego County Commissioners with Oakley, Monument, Winona, McAllaster, Russell Springs and Logansport named as the polling places.¹⁰

**County Organization**

During the 1887 session of the Kansas legislature, a bill was enacted changing the name of St. John County to Logan.¹¹ The late General John A. Logan was honored while John P. St. John was in disfavor with the Republican Party because he had bolted it to become the leader of the Prohibitionists.¹²

Early in 1887, the citizens of Logan County submitted a memorial as required by law petitioning the

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governor to appoint some competent, disinterested person, who was a citizen of the state and a non-resident of the county, to take the census and ascertain if the county possessed the requisite population to organize as a county. This same law specified what the population should be before organization could be accomplished:

. . . That when there shall be presented to the governor a memorial signed by four hundred householders who are legal electors of the state of Kansas, of any unorganized county, showing that there are two thousand five hundred bona fide inhabitants in such county, and that four hundred of said two thousand five hundred are householders and reside in said county, and praying for the organization of the same, . . . 13

A Hays City resident, J. H. Downing, had just previously sold his newspaper, The Ellis County Star,14 and was appointed on July 12, 1887, to ascertain the number of bona fide inhabitants and to make an assessment of the taxable property of the unorganized County of Logan.15 This information was to be returned to the governor by


15Governor's Proclamation, transcribed into the Logan County Commissioner's Journal with the affixed date of September 17, 1887, Vol. IV, September 21, 1887, p. 4. (Located in the office of the County Clerk, Logan County Courthouse, Russell Springs, Kansas.)
September 2, 1887. Downing was also to register opposite the name of each legal voter his selection for temporary location of the county seat.\textsuperscript{16}

The report submitted to the Governor by Downing indicated that there were 3,772 bona fide inhabitants and 1,358 householders in the county, $447,534.00 worth of taxable property in excess of legal exemptions, of which $123,505.00 was real estate and exclusive of railroad property.\textsuperscript{17} Russell Springs was selected as the temporary county seat by receiving 542 votes while Logansport received 273.\textsuperscript{18} It is not known if votes were cast for any of the other towns in the county.

Governor Martin appointed J. W. Kerns, N. C. Phinney and R. P. McKnight to act as County Commissioners; Joseph W. Jones as County Clerk and N. G. Perryman to act as Sheriff. The governor declared Russell Springs as the temporary county seat on the basis of the Downing census.\textsuperscript{19} Logan County was now organized as a legally constituted entity.

\textsuperscript{16}\textit{Ibid.}

\textsuperscript{17}\textit{Ibid.}


\textsuperscript{19}\textit{Governor's Proclamation, loc. cit.}
The appointed commissioners immediately undertook the tasks before them. N. C. Phinney was chosen by its members to be the first chairman.\(^20\) The first election for the permanent location of the county seat would be by townships, and township and county officers were to be elected at the same time. The date fixed for the first election was not to be less than ninety nor more than one hundred and twenty days after the organization of the Board of County Commissioners.\(^21\)

On October 4, the county was divided into commissioner districts as the law required:

District 1 - Townships of Oakley, Monument and Elkader.

District 2 - Townships of Winona, McAllaster and Western.

District 3 - Townships of Russell Springs, Logansport, Lees and Augustine.\(^22\)

Paxton Township was at that time a part of Lees and Augustine Townships. It came into existence the following year.\(^23\)

Each of the newspapers in the county received

\(^20\)Commissioner's Journal, Logan County, Kansas, Vol. IV, September 21, 1887, p. 5.

\(^21\)Kansas, Session Laws of 1887, Ch. 128, Sec. 5 (Topeka, Kansas: Kansas Publishing House, T. D. Thacher, State Printer, 1887).

\(^22\)Commissioner's Journal, Logan County, op. cit., October 4, 1887, p. 8.

\(^23\)Ibid., October 12, 1888, p. 65.
notice that the permanent county seat election was set for December 22, 1887.\textsuperscript{24} The voters of Logan County would decide on election day where the county seat would be permanently located.

\textsuperscript{24}Ibid., October 5, 1887, p. 8.
TABLE I

MAP OF LOGAN COUNTY, KANSAS IN 1887
SHOWING TOWNS AND TOWNSITES

- Russell Springs
- Logansport
- Winona
- Monument
- Oakley
CHAPTER III

THE FIRST COUNTY SEAT ELECTION

The prospect of becoming a boom town upon being chosen the county seat was the dream of local inhabitants. This chapter is an attempt to show what efforts were made by towns and townsite companies toward having their locations chosen as the county seat of Logan County. The results of the first county seat election in 1887 and subsequent events as they involved the further administration and establishment of the permanent seat of government are here chronicled.

The Kansas Constitution provides that:

The legislature shall provide for organizing new counties, locating county seats, and changing county lines; but no county seat shall be changed without the consent of a majority of the electors of the county; nor any county organized, nor the lines of any county changed so as to include an area of less than four hundred and thirty-two square miles.1

Towns and Townsite Companies

A townsite can be defined as a portion of the public domain segregated from the great body of public

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1Constitution of the State of Kansas, 1859, Art. 9, Sec. 1.
land by proper authority as a site for a town.2 In 1887, some towns existed in Logan County along the route of the Union Pacific Railroad while townsites were created by speculators in hopes of obtaining great wealth if the people of the county could be induced to vote for their site as the location of the county seat.

St. John Center was laid out in December, 1885, by the St. John Center Townsite Company. In its dedication of the townsite, the company offered to convey to the public for their use the School House Block, Fairmont Park, Streets, Avenues and Alleys and also the Court House Block when the county seat is established at St. John Center.3

The location of St. John Center was very near the center of the county and just east of present day City of Russell Springs. St. John Center dropped from existence before the 1887 county seat election was held.

Logansport, another "town on paper" with no inhabitants, was laid out in 1887 by the Union Pacific Town Site

2The General Statutes of the State of Kansas, 1868, Ch. 109, Art. 3, Sec. 23 (Lawrence, Kansas: Printed for the State by John Speer, State Printer, 1868).

3Plat Book #1. (Located in the office of the Register of Deeds, Trego County Courthouse, Wakeeney, Kansas.)
Company and was located near the original St. John Center townsite. Logansport presented itself as the best place for the county seat of government. The townsite company offered to build a new hotel with clear running water on every floor. The hotel could be used as the courthouse until one could be provided, if Logansport was chosen as the county seat.

The northern part of the county presented a different situation. All of the contenders for the county seat were existing towns along the railroad. Oakley, situated in the northeast corner of the county, had hopes of becoming a metropolis of the plains and the first city in Logan County. Oakley citizens presented a petition on July 5, 1887, to the Trego County Commissioners asking that the town of Oakley be made a city of the third class. The commissioners, not certain of their capacity, tabled the petition in order to get written opinion from the County Attorney regarding their jurisdiction. No action was taken, but the people of Oakley did not give up. Making every effort to gain an advantage, a petition was presented on October 15, 1887, to

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4Flat Book #2. (Located in the office of the Register of Deeds, Trego County Courthouse, WaKeeney, Kansas.)

5The Oakley Graphic, Oakley, Kansas, October 6, 1960, p. 1.

the newly organized Logan County Board of County Commissioners by Commissioner Kerns, signed by John A. Goodien and forty-one others, asking that Oakley be declared a city of the third class. The petition was approved as it was ascertained that all legal requirements were met. Oakley was proclaimed a city of the third class.7

The Oakley Town Company, in an effort to gain population for the town and riches for itself, advertised widely. Oakley was an outstanding candidate in the forthcoming race for the county seat because of its rich and bountiful soil, the branch line of the Union Pacific Railroad from Oakley to Colby and the fact that it was the most populous town in the county.8

Oakley, not to be completely outdone by the offers made by other towns and townsite companies, just before the election provided what was called an "unparalleled offer." The City of Oakley publicized that it would give ten thousand dollars for the construction of a courthouse in the event they won the election. This offer was signed by the officers of the Oakley Town Company and forty-seven citizens of the city.9


8Brochures. (Located in the office of The Oakley Graphic, Oakley, Kansas.) (Circulated by the Oakley Town Company.)

9The Oakley Republican, December 8, 1887, p. 1 (Located in the Office of The Oakley Graphic, Oakley, Kansas.)
Ennis City advertised as being located near the center of the county, east and west, with the destiny of becoming the largest city in western Kansas. John B. Ennis, the promoter, stressed opportunities for all classes of people in the heart of this rich agricultural land. His brochure stated, "... The boom is on; there is no better place for investments and rare opportunities for the early comers. ..."10 As a prospective location for the county seat, Ennis City was not popular. No votes were cast in its favor in the election of 1887. Ennis City became present day Monument.

The only other town on the Union Pacific Railroad to be here considered was Winona. Once known as Gopher, a station stop on the railroad, Winona also had hopes of becoming the first county seat of Logan County. Winona was expanded in size by the Western Town Site Company in 1886.11

Russell Springs was selected by the Pioneer Town

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10Brochure. (Located in the office of the County Clerk, Logan County Courthouse, Russell Springs, Kansas.) (Circulated by John B. Ennis, Ennis City, Monument Post Office, St. John County, Kansas.)

11Plat Book #2. (Located in the office of the Register of Deeds, Trego County Courthouse, WaKeeney, Kansas.)
Company as its site in January, 1887.\textsuperscript{12} In May of the same year an addition was platted to the original site called River-View.\textsuperscript{13} As prospects grew for the site of Russell Springs for the county seat, Warden's Addition was laid out which brought the townsite to cover nearly a section of land.\textsuperscript{14}

Russell Springs, situated well to the center of the county, met the accepted principle that county seats were normally located near the center of the county. This was an excellent qualification for selection as the county seat. The Pioneer Town Company presented to the Board of County Commissioners on November 21, 1887, a duly authenticated deed to Block thirty-two of Warden's Addition to Russell Springs upon which was being erected a new building specifically built by the Pioneer Town Company to be used as a courthouse. This deed to the commissioners in trust was to be accepted by the county if the permanent county seat of Logan County was located at Russell Springs within two months from the 17th day of November, 1887.\textsuperscript{15} This was not just a promise to entice the voters. The

\begin{itemize}
\item \textsuperscript{12}Ibid.
\item \textsuperscript{13}Ibid.
\item \textsuperscript{14}Ibid.
\item \textsuperscript{15}Commissioner's Journal, Logan County, Kansas, Vol. I, November 21, 1887, p. 11.
\end{itemize}
two story brick and stone building loomed on the skyline for all to witness.

The Election

Election day! The location of the county seat was undoubtedly the most talked about issue of the day in Logan County. Interested crowds mingled at the various polling places. Although township and county officers were also being elected, the big question was the location of the county seat. Only four of all the sites in contention received votes. On the ballot, as provided by law, would be written the words "For the county seat," followed by the name of the place voted for. The place receiving a majority of all the votes cast would be declared the permanent county seat.\(^1\)

The law further provided for the procedure when no one town received a majority of votes. The legislature had provided:

\[\ldots\text{That in case no place shall receive a majority of the votes cast, the sheriff shall at once issue his proclamation for another election for the permanent location of the county seat, to be held in not less than thirty nor more than forty days thereafter, \ldots.}\]

This procedure would be followed over and over if necessary

\(^{16}\text{Kansas. Session Laws of 1887, Ch. 128, Sec. 8 (Topeka, Kansas: Kansas Publishing House, T. D. Thacher, State Printer, 1887).}\)

\(^{17}\text{Ibid.}\)
until one place received a majority of the votes.\textsuperscript{18}

On December 23, 1887, the returns from the various precincts were not all in. The next day, the Board of County Commissioners canvassed the vote of the election. The vote on the choice of the permanent county seat site was counted first. It was found that the total number of votes cast was 1022, of which number Russell Springs received 520, Oakley 217, Logansport 169 and Winona 116. Russell Springs received a majority of eighteen over all other towns combined and was proclaimed by the County Commissioners to be the permanent county seat of Logan County.\textsuperscript{19}

Administration

On January 3, 1888, the County Commissioners legally accepted the transfer of Block 32 in Russell Springs from the Pioneer Town Company as trustees to the deed. They re-deeded the property to Logan County with all the rights, title and interest to the new courthouse going to the county.\textsuperscript{20} The next day, in the wake of an exciting election, the appointed commissioners resigned

\textsuperscript{18}Ibid.

\textsuperscript{19}Commissioner’s Journal, Logan County, op. cit., December 24, 1887, p. 12.

\textsuperscript{20}Ibid., January 3, 1888, p. 19.
to make room for the newly elected officials.\textsuperscript{21}

The following week the new board, consisting of A. C. Sims, J. H. Morgan and James Dermott, held its first meeting. Sims was selected as the chairman. For unknown reasons, the first topic of business was to postpone the acceptance of Block 32 of Warden's Addition for an indefinite period.\textsuperscript{22} The next day the County Commissioners accepted for the County of Logan the title and abstract of this same property.\textsuperscript{23}

Five newspapers desiring to be the official county paper and thus publish all official and legal notices for the county submitted their bids to the County Commissioners. The names of these newspapers were the Winona Clipper, Winona Messenger [sic], Oakley Republican, Logan County Leader and the Logan County Times. The Logan County Times was accepted as the official paper. All official printing was to be done at forty-five percent of the legal rates.\textsuperscript{24}

Three months later the Logan County Republican, successor to the Russell Springs Record and the Logan

\begin{itemize}
 \item \textsuperscript{21} Ibid., January 4, 1888, p. 20.
 \item \textsuperscript{22} Ibid., January 9, 1888, p. 21.
 \item \textsuperscript{23} Ibid., January 10, 1888, p. 21.
 \item \textsuperscript{24} Ibid., January 11, 1888, p. 22.
\end{itemize}
County Times, was selected as the official paper provided it would do the county printing at the same rate as its predecessor. During 1888 and 1889, there were as many as eight newspapers published in the county with a number of them changing names and ceasing publication.

The interior of the new courthouse was not completely finished at the time of transfer of title. The County Commissioners declared that it would accept bids for the completion of the building until February 17, 1888.25 On December 28, 1888, a contract was awarded to C. W. Bickell for $325.00 to construct a frame jail building.26 On January 14, 1889, the County Commissioners inspected the newly purchased jail cells to be situated in the jail building and issued warrants in the amount of $4,000.00 in payment.27 They accepted the frame building and the new county bastile was completed and ready for occupancy.

On April 2, 1888, Russell Springs citizens presented a petition to the County Commissioners stating that it had fulfilled all the necessary requirements for

25Ibid.
26Ibid., December 28, 1888, p. 84.
27Ibid., January 14, 1889, p. 88.
incorporation and was therefore proclaimed a city of the third class. Affairs of the county soon settled into a routine. The location of the county seat was not overtly disputed by any of the contestants immediately following the first election.

28Ibid., April 12, 1888, p. 36.
CHAPTER IV

THE 1937 RELOCATION ELECTION

This chapter concerns the special election in 1937 to have the county seat moved from the City of Russell Springs to Oakley. To facilitate the process of gaining the county seat, some Oakley citizens sought to promote changes in the law. In this chapter, the 1937 election campaign process along with election results is presented.

The Year 1911

Russell Springs has never recorded a population of over two hundred inhabitants. The 1889 census reveals 139 inhabitants.\(^1\) By 1901, the population fell to 43.\(^2\) In 1911, the population grew to 91.\(^3\) A new railroad was routed from Scott City, Kansas, to Winona by way of Russell Springs in 1911. This line, the Colorado, Kansas

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\(^{2}\)Biennial Report of the Kansas State Board of Agriculture, 1901-02 (Topeka, Kansas: Kansas Department of Agriculture, 1903), p. 937.

\(^{3}\)Biennial Report of the Kansas State Board of Agriculture, 1911-12 (Topeka, Kansas: Kansas Department of Agriculture, 1913), p. 894.
and Oklahoma, gave impetus to Russell Springs' hope of prosperity and increased population. These aspirations, however, failed to materialize, and the railroad ceased operating in 1917.⁴

Oakley's population reached 676 inhabitants in 1911.⁵ Some of Oakley's leading citizens decided in that year to attempt relocation of the Logan County seat from Russell Springs to Oakley. After familiarizing themselves with the procedure for removal of a county seat, the pro-Oakley forces undertook the task of obtaining the necessary signatures to a petition that would bring the proposition to a vote. The statutes in 1911 required for the removal of a county seat that a petition containing two-thirds of all legal electors as listed on the assessment rolls be presented to the county commissioners before an election for relocation could be called. Unable to secure the number of signatures required, the proposition did not come to a vote in 1911.⁶

**Maneuvering in Topeka**

In 1937, interest was again aroused to have the county

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⁴Russell Springs Leader, October 26, 1917, p. 1. (Located in the office of the Oakley Graphic, Oakley, Kansas.)

⁵Biennial Report of the Kansas State Board of Agriculture, 1911-12, loc. cit.

⁶The Oakley Graphic, Oakley, Kansas, September 15, 1960, p. 1.
seat removed from Russell Springs to Oakley. Some of Oakley's leading citizens went beyond the provisions of the statutes in this attempt. These energetic leaders actually set out to change the statutory requirements to make it easier to obtain the county seat of government.  

Corwin Spencer, R. B. Medlin, Don Delaney, Frank Pierson and others secured the introduction of a bill in the Kansas Legislature. The leaders prepared to appear before the legislative Committee on State Affairs in the House of Representatives and the Committee on Elections in the Senate. Mr. Pierson relates that a parliamentarian advised them that when it came their time to speak before the legislative committees, "to be brief and to the point."  

Conjecture was that the Russell Springs faction would talk too long and say too little and end up by irritating the legislative committee members. Both committees reported the bill to their respective houses and recommended passage of the proposed amendment to the existing statutory procedure. The House and Senate approved the amendment and G. S. 1935, 19-1602 was changed to provide:

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7Interview with Frank Pierson, Oakley, Kansas, April 17, 1962.
8Ibid.
9Ibid.
... That in counties of the state having a population of more than 3,850 and less than 5,000 and having an assessed valuation of tangible property of not more than $7,000,000, the board of county commissioners shall upon the petition of fifty-one percent of the legal electors of such county order an election for the relocation of the county seat of such county and it shall require fifty-five percent of the voters at such election to relocate the county seat: ... 10

Petition and Campaign Process

With this complicated legislative battle won, the Oakley faction began circulating petitions. Under the new law only fifty-one percent of the legal electors were required to sign these petitions. Oakley had 1,131 inhabitants and support could be counted on from the nearby townships that also favored moving the county seat from Russell Springs to Oakley. The county had a population of 3,835. 11

Logan County had an assessed valuation of tangible property of less than $7,000,000 in 1937 as required by law but the county population was only 3,835, whereas the law required that a county could not have less than 3,850 nor more than 5,000 inhabitants before it could hold an election to relocate the county seat. Logan County

10 Kansas. Session Laws of 1937, Ch. 184, Sec. 1 (Topeka, Kansas: W. C. Austin, State Printer, 1937).

residents when questioned about this disqualifying factor could not explain why the lack of population was not disputed during the campaign to being the relocation issue to a vote. It is possible that the Russell Springs faction may have been awaiting the outcome of the relocation election, and had they lost the election the Russell Springs forces might have been able to set aside the relocation on this legal requirement. This is mere conjecture since the legal question was never raised. None of the individuals interviewed in 1962 were aware of this deficiency.

The procedure followed was very similar to the 1960 procedure which is outlined in detail in chapter five.

In September of 1937, after weeks of hard work involving hundreds of people, it seemed certain to the relocation leaders that the petitions contained enough valid signatures to inaugurate relocation. An advance survey made by the relocation faction indicated that when and if relocation came to a vote the proposal would gain enough support at the polls to move the county seat to Oakley. Mr. Don Delaney and Frank Pierson appeared before the Board of County Commissioners, sitting in regular session on September 20, 1937, and presented to them the properly signed petitions. The petition read:

12 Interview with Frank Pierson, loc. cit.
We, the undersigned legal electors of Logan County, Kansas, Do Hereby petition the Board of County Commissioners of the County of Logan and State of Kansas to order an election for the removal and relocation of the County Seat of Logan County, Kansas, from Russell Springs to Oakley, Kansas.\(^{13}\)

The board decided to wait a week before taking action on the petitions. On September 27, the board commenced the prodigious task of determining that the petition signers were legal electors of Logan County. The board worked for nine days before completing their task. On the last day, they determined that the assessment rolls contained 2,169 legal electors and that the petitions contained more than fifty-one percent of the legal electors of the county. The board ordered that an election be held on November 8, 1937, at which time the electors of the county would decide the issue.\(^{14}\)

Following the determination by the board that the petitions were sufficient to call an election to relocate the county seat, the Oakley faction vigorously campaigned to rally support for the proposition at the polls. The Oakley City Council spelled out some benefits in *The Oakley Graphic* that would accrue to the county if relocation was effected. The advertisement read as follows:

\(^{13}\) *Commissioner's Journal, Logan County, Kansas, Vol. IV, September 20, 1937, p. 253.* (Located in the Office of the County Clerk, Logan County Courthouse, Russell Springs, Kansas.)

\(^{14}\) *Ibid.*, September 27, 28, 29, 30 and October 1, 2, 4, 5, 6, p. 254.
If the election favors Oakley:

The city of Oakley will lease property for a temporary courthouse commonly known as the "Moore Building" which has the dimensions of 37½ X 110 feet, with full basement and additional basement space is available if necessary. The lease will be for a period of 1 to 10 years, the length of time to be determined at the option of Logan County.

The City will properly subdivide and partition the building into offices for suitable occupancy. The City will equip the building with vault facilities if the County will furnish the doors and these doors will remain the personal property of the County. The building will be arranged and equipped according to requirements of the County Commissioners.

The County is to have the right to use the City Jail for County prisoners.

The City agrees to pay all expenses for moving the offices, records, equipment and all other things from Russell Springs to Oakley.

For and in consideration, the County is to pay the city of Oakley $1.00 per year for as long as the building is used as a courthouse.

If the County accepts the offer, the City agrees to put the above into a written contract and the County will have a reasonable time to accept the offer after the election.¹⁵

¹⁵The Oakley Graphic, October 15, 1937, p. 5.
The advertisement also set forth the terms of an agreement between the Oakley Chamber of Commerce and the City of Oakley whereby the Chamber of Commerce would repay the City of Oakley if the county accepted the above offer. A phrase indicating that it would cost the taxpayers nothing was apparently intended to allay the fears of county taxpayers with regard to increased taxation.

The following week another full page pro-Oakley advertisement appeared. The advertisement stressed the same points as the preceding advertisement although added emphasis was given to the idea that it would be free of cost to the taxpayers in both the county and the City of Oakley. This point assumed particular importance because the nation was still in the grip of a long and devastating depression. This prompted the relocation leaders to explain how the County Commissioners would go about having a new courthouse erected. The relocation leaders stated they did not favor a bond issue and the county did not have the necessary $25,000.00 as required by statute. The statutory provisions were reprinted to show the voters

16 *The Oakley Graphic*, Oakley, Kansas, October 15, 1937, p. 5.
what was required before county buildings could be erected.19

W. P. Kirkham, a farmer from western Logan County, summed up the opinions of those who did not favor the relocation of the courthouse. In his letter to the editor of The Oakley Graphic, Kirkham stated that sooner or later the county would want an up-to-date courthouse which would mean an additional two or three dollars on every one thousand dollar valuation for at least ten years. Mr. Kirkham felt that it was no worse for Oakley people to go to Russell Springs to transact business than to have it the other way around. He also objected to moving the county seat because many of the county citizens could not pay their taxes. He noted that this was an emotion-charged issue by stating that "this move affects three-fourths of the area of Logan County and is bound to cause hard feelings."20

The battle of words continued until the day of the election. A few battles of a physical nature were reported but little damage was done.21 The determination of the vital issue was to be settled ultimately at the polls.


20 The Oakley Graphic, Oakley, Kansas, November 5, 1937, p. 2.

The Election Results

The election was held on November 8, 1937, and the Board of County Commissioners met on November 13, 1937, as required by law to perform its function as a canvassing board. The results according to townships are set forth in Table I, page 35.

Oakley had lost the election. The vote was 1,088 for relocation and 1,084 against relocation of the county seat from Russell Springs to Oakley with twelve ballots voided. The statute required fifty-five percent of the voters to relocate the county seat.

If Oakley had received fifty-five percent of the votes cast in the 1937 relocation election, the issue would probably have arisen as to the legislative intent of the statutory phrase in that part of the law which required "fifty-five percent of the voters."
The court would have had to distinguish between voters and legal electors in determining how many votes would have been needed to relocate the county seat. It is questionable as to how the Kansas Supreme Court would have ruled. The law enacted

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23 Ibid.
24 Kansas. Session Laws of 1937, Ch. 184, Sec. 1 (Topeka, Kansas: W. C. Austin, State Printer, 1937).
25 Ibid.
### TABLE II

THE 1937 ELECTION RESULTS BY TOWNSHIPS*

<table>
<thead>
<tr>
<th>Township</th>
<th>Oakley</th>
<th>Monument</th>
<th>Winona</th>
<th>McAllaster</th>
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<td>140</td>
<td>322</td>
<td>66</td>
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<table>
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<th>Augustine</th>
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<td>0</td>
<td>0</td>
<td>1088</td>
</tr>
<tr>
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<td>47</td>
<td>53</td>
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</tr>
<tr>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total votes cast: 2,184

in 1937 under which the 1937 relocation election was held in Logan County has never been before the Supreme Court for consideration. In Dunn v. Board of County Commissioners of Morton County, 165 Kan. 318(1948), the Supreme Court stated that "electors means persons entitled to vote while voters means persons entitled to vote and persons actually voting."

If this same distinction existed in 1937, and Oakley had received over fifty-five percent of the votes cast, the Supreme Court on the rationale of the Dunn Case, supra, might have ruled that the statutes had been complied with and ordered relocation of the county seat.

A great amount of time and work went into this project to relocate the county seat. The law was changed to aid in the accomplishment of relocation, but the attempt failed. The relocation leaders knew that this law would only allow them to make one attempt under its provisions because the tangible property valuation of Logan County would exceed $7,000,000.00 within a few years.26

26 Interview with C. A. Spencer, Oakley, Kansas, July 18, 1962.
CHAPTER V

THE 1960 RELOCATION ELECTION

This chapter is devoted to the 1960 election to relocate the county seat from Russell Springs to Oakley. The election procedure to bring the proposition to a vote involved creating public interest, setting forth the duties of the workers on the project, the ideas and tactics to be utilized, and the maneuvers of the opposing factions. Since a controversy arose over the election results which determined that the county seat should be removed to Oakley, a summary is presented of what has thus far developed in the District and Supreme Courts of Kansas to resolve the issue.

The Petition Procedure

The General Statutes of the State of Kansas provide:

... That in all cases where the county seat of any county in this state has been or shall hereafter be located by a vote of the electors of such county, ... Provided, That in all counties having a population of more than two thousand people, in which buildings shall have been erected at any such county seat for county purposes, the cost of which shall have been at least ten thousand dollars ($10,000), or in which the county seat has been located for eight years or more consecutively at any one place by vote of the electors of such county, it shall require a vote of three-fifths of the legal electors of such county to relocate the county seat and to remove it from such place, and the board of county commissioners shall only upon the petition of two-thirds of the legal electors of such county order an
election for the relocation of any county seat; ... And provided further, That when the county seat of any county has been located by a vote of the electors of the county, the place to which it is proposed to remove the county seat shall be designated in the petition and the balloting at the election shall be for or against a removal of the county seat to the place so designated, and no election for the relocation of any county seat shall be ordered or had within five years from the last preceding legal election touching the location or relocation of any such county seat: ... Underlining added

The Kansas Supreme Court in determining what the legislature intended by requiring a vote of three-fifths of the legal electors to relocate the county seat ruled in Dunn v. Board of County Commissioners of Morton County.

1 Franklin Corrick, Reviser of Statutes, (ed.), General Statutes of the State of Kansas, 1949, Ch. 19, Sec. 1602 (Topeka, Kansas: Ferd Voiland, Jr., State Printer, 1950) (hereinafter cited: e.g., G. S. 1949, 19-1602 or G. S. 1961 Supp., 19-1602. This is the required citation form as set forth in the rules of the Kansas Supreme Court.) (It should be noted that this statute has two additional categories under which a relocation election may be held: 1) a county with a population between 3,850 and 5,000 and an assessed valuation of less than $7,000,000 the County Commissioners under petition of fifty-one percent of the legal electors will call an election in which it will require fifty-five percent of the voters at such election to relocate the county seat. 2) a county with a population between 3,000 and 3,450 the County Commissioners upon petition of one-half of the legal electors will call an election in which it will require three-fifths of the votes of legal electors cast at such election to relocate the county seat.) Logan County could not qualify under either of these provisions because in the first mentioned provision the valuation of tangible property was in excess of $7,000,000. In the second mentioned provision, the population was in excess of 3,450.
165 Kan. 318 (1948) that where a vote of three-fifths of the legal electors was needed to relocate the county seat, this was intended to mean three-fifths, not of the votes cast at the election, but of those legal electors qualified to vote at the election.

A few citizens of Oakley began looking into the possibilities of winning the county seat in June, 1960. These leading citizens debated whether sufficient favorable interest could be generated for the proposition. Oakley had a population of 2,250 as compared to 93 in Russell Springs in 1960. Over two-thirds of the county’s 4,158 inhabitants lived in the two northeast townships of the county.  

The people of Oakley were certainly not over-confident. Recollection of an attempt to relocate the county seat in 1947 was still fresh in the minds of many. In that year, interested persons in Oakley and the contiguous rural area circulated petitions calling for an election to have the county seat moved to Oakley. Some weeks later it was determined that sufficient signatures could not be obtained. Then, as in 1960, the statutes provided that two-thirds of the legal electors must sign a petition.

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2Abstract of Agriculture, Horticulture and other Statistics for Logan County, 1960, p. 9. (On file in the office of the County Clerk, Logan County Courthouse, Russell Springs, Kansas.)
requesting the removal before it could be brought to a vote.³

The Oakley Chamber of Commerce favored removal of the county seat to Oakley, but the organization did not want to sponsor the move because of the antagonism it would create against Oakley businesses. The Chamber of Commerce was willing, however, to lend its support to any effort that was made.⁴ Meetings of small groups to discuss the proposed undertaking occurred through most of the month of June, 1960. Later in the same month a select group of approximately thirty citizens met and created a four member committee which came to be known as the "Logan County Committee for Re-location of the Courthouse."⁵ The duties of the committee were to develop the issues and mobilize workers on the relocation project. A. B. "Bridge" Kruse, an insurance and real estate agent, was chosen as the chairman. Dean Caswell, a feed salesman, became vice-chairman. The committee determined that a large force of workers would be available to carry petitions and solicit signatures.⁶

³The Oakley Graphic, Oakley, Kansas, September 15, 1960, p. 1.

⁴Interview with C. D. Clark, President of the Chamber of Commerce in 1960, Oakley, Kansas, April 17, 1962.

⁵The use of the term courthouse in this title is a misnomer. As required by law, the courthouse is to be located at the county seat which means the county seat must be relocated first. This committee will hereinafter be referred to as the Relocation Committee.

⁶Interview with A. B. Kruse, Oakley, Kansas, April 10, 1962. (Reference to this interview will hereinafter be cited as: Kruse interview.)
In questioning several people in Oakley as to why Mr. Kruse was selected as the committee chairman, the replies varied but one personal attribute was consistently given. He possessed the rare quality of being able to get along with everyone. As a businessman, he was relatively free to devote considerable time to the project and, above all, he was willing to take the job. To say that Mr. Kruse was the most important member of the Relocation Committee may be an overstatement, but admittedly, as the chairman of the committee, he served as a central clearing house for the ideas as to how the relocation campaign should be conducted.

The Relocation Committee recognized the need for strictly following the statutory procedures to insure that at some point in the process they would not be defeated on a legal technicality. Attorneys that were interested in the relocation proposition actually formulated the format to be followed.7

In determining who may sign relocation petitions, the Kansas Statutes provide that:

For the purposes of this act, the county commissioners shall be governed by the last assessment rolls of the several township and city assessors of the county, and no petitioner shall be deemed a legal elector unless he be an elector and his name appears on said rolls.8

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7Ibid.

8G.S. 1942, 19-1604.
Before the circulation of petitions was begun, the committee had to determine who were legal electors. The relocation chairman and five assistants appeared at the courthouse in Russell Springs on July 7, 1960, to prepare a master list of legal electors in the county from the assessment rolls. This list, although not complete or official, was used as the basis for securing signatures on the petitions for relocation.

A few days before beginning the circulation of petitions, J. Ernest Bertrand, the county's largest resident taxpayer, offered to give the county a square block of property in the Bertrand subdivision of Oakley on which a courthouse could be built. This property is situated close to the business district of the city. The Oakley Chamber of Commerce at its meeting held on August 4, offered to provide space for county offices rent free for a period of one year if the county voters should ultimately decide to move the county seat to Oakley.

The Relocation Committee decided that petitions would be circulated for signatures in the City of Oakley.

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9This date cannot be verified by official or unofficial records. Mr. Kruse, the relocation chairman, supplied the above date.

10Kruse interview, loc. cit.

11The Oakley Graphic, Oakley, Kansas, August 11, 1960, p. 1.

12Ibid.
first. Block leaders, usually residents of their assigned area, were designated to circulate these petitions. Each block leader selected an assistant to aid him in convincing residents in his block that they should sign the petition for relocation. A brochure, presented by the petition carriers on the first contact, explained the issue and the petition carriers were to answer any further questions that might arise. As might be expected it was difficult to find both the husband and wife at home so several contacts with each family were often necessary. The Relocation Committee stressed that petition carriers should not exert extreme pressure on prospective petitioners.

The average city residential block contained twenty to twenty-five legal electors. If the petition carriers were unable to obtain a signature for some reason, another relocation worker with friendship ties or relationship with the reluctant elector was selected to make a contact in hopes the elector would be persuaded to sign the petition. Legal electors living in the less populated areas of the city were singled out by friends and contacted for signatures. The proposal was explained to every known legal

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13 See Appendix for copy of the brochure circulated in the 1960 Relocation Election in Logan County, Kansas.

14 Kruse interview, loc. cit.
elector during the Oakley canvass for signatures.\textsuperscript{15}

A countywide meeting was called by the Relocation Committee for August 23, 1960. The meeting was held to allow a full and complete discussion of the proposal by all interested citizens. Mr. Kruse, the relocation chairman, urged all county residents to attend the meeting. He also invited all interested parties to bring their questions to the relocation headquarters at 220 Center Street, Mr. Kruse's office.\textsuperscript{16}

The petition procedure outside the City of Oakley was to select two or more influential township inhabitants that favored the county seat relocation and have them urge their rural neighbors to sign the relocation petitions. Usually three or four Oakley people would go with them to contact each township resident and answer questions and clarify the issue. The Relocation Committee believed that the use of relocation workers that lived in the various townships was the best way to gain support for the proposition. The townships near Oakley gave a great deal of support and even leadership to the petition project. In the townships farthest from Oakley, relocation workers became hard to find and in some townships no workers could

\textsuperscript{15}Kruse interview, loc. cit.
\textsuperscript{16}The Oakley Graphic, loc. cit.
be obtained at all. If a resident in these townships favored county seat relocation, he would not be likely to aid the Oakley forces when his neighbors and friends were opposed to relocation of the county seat.

By September, the Relocation Committee estimated that only seventy-three electors from the City of Oakley had not signed the relocation petitions. A last canvass for signatures was begun in the first week of September at which time an informal census was taken to determine if the people would actually vote for the proposition to relocate the county seat if it came to a vote. The Relocation Committee Chairman, Mr. Kruse, declared that approximately fifty electors stated that they would not vote for the proposition.

Mr. Kruse objected to the newspapers over the state attempting to build the issue into a modern day county seat "fight." He stated that the term "fight" was misleading and that all the petition carriers were treated courteously with only one exception. One irate elector

17 Kruse interview, loc. cit.
18 Interview with Frankie Lee Nichols, Winona, Kansas, April 17, 1962.
19 The Oakley Graphic, Oakley, Kansas, September 1, 1960, p. 1.
20 Kruse interview, loc. cit.
21 Ibid.
slammed a door in a petition carrier's face.22

The Relocation Committee decided to wait until the County Commissioners were in regular session before submitting the relocation petitions. The next regular meeting was Tuesday, September 6, 1960.23

The people favoring the status quo were well aware that relocation petitions were being circulated, but they were not sure if enough signatures could be secured to bring the proposition to a vote. On Labor Day, September 5, a group of Oakley citizens, two of the three County Commissioners and other county officials began the tedious task at the courthouse in Russell Springs of compiling an accurate and official list of legal electors.24

This action prompted Margie Wright, Richard and Raymond Wycoff and others to provide leadership to a hastily organized group of taxpayers that opposed relocating the county seat. These taxpayers came to be known as "The Citizens Committee."25 This committee was not an organization in the sense that it had a formal membership and

22 Ibid.
23 Ibid.
24 Interview with Margie Wright, Russell Springs, Kansas, May 8, 1962.
25 Ibid. (The name Citizens Committee will herein-after be used when making reference to this group.)
hierarchy but was loosely composed of all the taxpayers who were opposed to relocating the county seat.26

The Citizens Committee, faced with the realization that petitions would soon be submitted by the Oakley faction, began circulating counter petitions.27 The effect of signing a counter petition was that an elector who had signed a relocation petition could have his name struck from that petition by signing the counter petition which requested the cancellation. Counter petitions were deemed legal in an opinion by Attorney General Anderson.28

The editor of The Oakley Graphic, Larry Funk, pointed up the less serious events of the unofficial meeting held at the courthouse on Labor Day by editorializing in his newspaper that the day was made more hectic by failure of the water pump serving the courthouse. Not only was there no water to drink, but the toilets were out of operation. At one time during the day, one of the "courthouse bats" flew into the meeting room, stayed awhile, then apparently flew back to its quarters in the attic.29

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26 Ibid.
27 Ibid.
28 Opinions of the Attorney General of Kansas. (John Anderson, Jr.) A letter to Mr. Harry Phelps, County Attorney of Logan County, Kansas. (This written opinion was not available to the author, but Mr. Phelps stated that the above was the essence of the Attorney General's ruling.)
29 The Oakley Graphic, Oakley, Kansas, September 8, 1960, p. 1.
On Tuesday, September 6, 1960, the Board of County Commissioners opened their official monthly meeting and continued preparing the list of legal electors. This consumed most of the day. If the Relocation Committee had requested an all night session to determine if two-thirds of the electors signed the relocation petitions, the request very likely would have been granted since two of the three commissioners lived in the City of Oakley. However, the Relocation Committee decided to wait until the next day to present the petitions.30 If the petitions were presented on September 6, and an all night session were not called, the names on the relocation petitions would have become available to the public and accessible to the Citizens Committee. A list of electors that had signed relocation petitions would have made the circulation of counter petitions more effective.31 Since the Citizens Committee did not know exactly who had signed the relocation petitions, it was a trial and error procedure for them to contact electors to sign a counter petition.32

On September 7, 1960, the petitions requesting the relocation election and the counter petitions were presented

30Kruse interview, loc. cit.
31 Ibid.
32 Interview with Margie Wright, loc. cit.
to the County Commissioners. The meeting was held in the district court rooms which was the only place in the courthouse large enough to seat all the interested persons.33 Commissioner Newcom from the third district, in ill health and in the hospital at this time, tendered his written resignation on September 6. His resignation was accepted by the two remaining board members on September 7. Roy Kronvall from Winona, the winner in the primary election on the Republican ticket for commissioner of the third district and apparently unopposed in the general election, was appointed to fill the vacancy.34

The meeting held on September 7, to determine if the relocation petitions contained enough valid signatures to call an election progressed without harsh words between the two opposing factions. The Citizens Committee attempted to show cause why certain petitioners were not qualified to sign the relocation petitions and should therefore be stricken from these petitions. The Relocation Committee submitted argument and evidence for keeping the challenged names on the relocation petitions.35 Late that afternoon, the County Commissioners determined that 2,177 electors

33Kruse interview, loc. cit.
35The Oakley Graphic, loc. cit.
were qualified to sign the relocation petitions and the statutory two-thirds would be 1,451. The final count revealed that 1,542 valid signatures were on the relocation petitions. Sixty-six of these names were cancelled by the counter petitions which were presented by the Citizens Committee. Working to the very end, the Oakley forces had four names returned to the relocation petitions by submitting "Petitions for Reinstatement." The purpose of a petition for reinstatement was that if an elector had signed a counter petition he could cancel his name on that petition and have it returned to the relocation petition.

The County Commissioners determined that the relocation petitions carried 1,480 valid signatures. This was a margin of twenty-nine signatures over that required by law. The County Commissioners at 5:30, P.M., September 7, 1960, declared that the relocation petitions were sufficient to call an election. The meeting was adjourned until the following Monday at which time a date for the special election would be set.

Selection of an election day is governed by the General Statutes of Kansas which provide that the election

36 Commissioner's Journal, loc. cit.
37 Commissioner's Journal, loc. cit.
should be held within fifty days after the petitions are presented and the County Commissioners should give thirty days notice of the election by publication.\textsuperscript{38}

The Statutes further provide that no election under this act could be held on the day of any general election.\textsuperscript{39}

The County Commissioners met on September 12, and proclaimed October 18, 1960, as the date for the special election to determine if the Logan County seat would be moved from its present location at Russell Springs to Oakley, Kansas.\textsuperscript{40}

**The Election Procedure**

The Kansas Constitutional provisions pertaining to suffrage and qualifications of electors provide that:

> Every citizen of the United States of the age of twenty-one years and upwards - who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he or she offers to vote, at least thirty days next preceding such election - shall be deemed a qualified elector.\textsuperscript{41}

The Kansas Constitution further provides that:

> No person under guardianship, non compos mentis, or insane; no person convicted of felony, unless

\textsuperscript{38}\textit{Kansas Stat.} 1949, 19-1605.

\textsuperscript{39}\textit{Ibid.}, 19-1611.

\textsuperscript{40}\textit{Commissioner's Journal}, Logan County, \textit{op. cit.}, September 12, 1960, p. 192.

\textsuperscript{41}\textit{Constitution of the State of Kansas}, 1859, Art. 5, Sec. 1.
restored to civil rights; no person who has been dishonorably discharged from the service of the United States, unless reinstated; ... no person guilty of giving or receiving a bribe, or offering to give or receive a bribe; ... shall be qualified to vote or hold office in this state, until such disability shall be removed ...  

The assessment rolls do not govern the determination of legal electors in a county seat election but do determine who may sign petitions calling for the election. The General Statutes of Kansas provide the method of determining legal electors for voting purposes. The statutes provide that boards of Registry in the voting precincts will meet on Tuesday, three weeks preceding any election for the permanent location or relocation of the county seat, to draw up a list of persons qualified and entitled to vote at the ensuing election in that precinct. Within two days after the Board of Registry's meeting, a copy of the voting list is to be posted in some conspicuous place in the precinct where it will be accessible to any electors who may desire to examine it.

The assessment rolls used at the time of presentation of the petitions did not include all the qualified electors in Logan County. Names of new residents or

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42Ibid., Sec. 2.
43G. L. 1949, 19-1613.
44Ibid., 19-1614.
residents that were otherwise qualified to vote but not on the assessment rolls were added by the Boards of Registry in each precinct. Names should be deleted if a person no longer lived in the precinct or was not otherwise qualified to vote in the precinct.45

The Boards of Registry were required to meet a second time on Tuesday of the week preceding the election for the purpose of revising, correcting and completing the lists.46 The proceedings of the boards must be open and all persons residing and qualified as voters in the voting precinct shall be entitled to be heard by the board in relation to corrections or additions to the voting register.47 A name could be taken off the voting register by the board if it were proven by the oath of two legal voters of the voting precinct that the person's name challenged was a nonresident or not otherwise entitled to vote in the precinct.48

It is the duty of one of the precinct judges to check the name of every voter on the voting register. If a person's name for some reason is not on the register, and

46 Ibid., 19-1616.
47 Ibid., 19-1617.
48 Ibid., 19-1618.
he offers to vote at the election he must:

... furnish to the judges of the election his affidavit, in writing, stating therein that he is an inhabitant of said precinct, and entitled to vote therein at such election, and prove by the affidavit of a householder and registered voter of the precinct in which he offers to vote, that he knows such person to be an inhabitant of the precinct, giving the residence of such person within said precinct ... 49

The statutes further require that elections provided for in this act shall all be conducted in all respects as provided for by the general election laws of the state. 50

In an election of this kind, an individual's name left on the voting register, although the individual is, for example, not living in the county and not legally entitled to vote is counted as a legal elector and this is in effect counted as a negative vote. In this case it would be to the advantage of the status quo faction to have as many names left on the register as possible even though the persons named on the register were not qualified to vote. The relocation faction would benefit for having certain individuals left off the register when it could be certain that the individuals would not cast their vote. 51

49 Ibid., 19-1619.
50 Ibid., 19-1610.
51 If a person's name was on the voting register and not qualified to vote, it would require three-fifths of a greater number of electors than were legally qualified to vote.
A humorous incident and accepted as such by both factions occurred when the name of T. C. Avery appeared on the voting register of the Russell Springs voting precinct. When confronted by the Relocation Committee with the fact that this person, a school teacher, had been living in another community outside the county for the past few years and should not be on the voting register, it was good naturedly replied that his name could not be removed, since "he is still our mayor." The Board of Registry of the Russell Springs precinct removed his name.52

In an opinion of the Kansas Attorney General requested by Harry B. Phelps, the Logan County Attorney, it was the Attorney General's ruling that absentee ballots could not be allowed in this special election.53 This was a disadvantage to the relocation workers. If a person was entitled to vote and was listed on one of the precincts voting registers and did not vote, the effect was an automatic negative vote. Servicemen, unable to return for the election fell into this category.54

52Interview with Helen Lundsford, Oakley, Kansas, April 10, 1962.

53Opinions of the Attorney General of Kansas. (John Anderson, Jr.) A letter to Mr. Harry Phelps, County Attorney of Logan County, Kansas. (This written opinion was not available to the author but Mr. Phelps stated that the above was the essence of the Attorney General's ruling.)

54Kruse interview, loc. cit.
Another instance of "negative votes" by default existed in the eight adult members of the local congregation of Jehovah's Witness, carried on the register as legal electors, who would not, because of their religious convictions, sign petitions or vote. The Relocation Committee estimated that seven of these eight electors were sympathetic to relocation.55

In the period preceding the election, both factions bought space in the two county newspapers. The Oakley Graphic was utilized primarily by the Relocation Committee while The Winona Leader carried most of the advertisements for the Citizens Committee. Both newspaper editors allowed space for letters, either for or against the relocation of the county seat.

During the week preceding the election, both factions bought radio time for spot announcements to plead their cause. The night before the election the Citizens Committee made arrangements with the television station in Goodland, Kansas, for several of the pro-Russell Springs leaders to present their views on the issue. The Relocation Committee was informed of this action and obtained fifteen minutes time to follow the half-hour program given by the leaders for status quo.56

55 Ibid.
56 Ibid.
The Relocation Committee could not determine how
some of the electors would cast their ballots, but it was
hoped that by getting as many of the electors to the polls
as possible, a few of the votes cast would favor Oakley.57

Arrangements had been made prior to the election to
move the relocation headquarters to the Crownover Insurance
Agency because of larger facilities and the availability of
more telephones. An airplane service to fly senior citizens
from area nursing homes and students from nearby colleges
to their precincts to vote was established. Transportation
and baby sitting services were offered to all voters wishing
to attend the polls.58

Election day was filled with quiet excitement. Rain
had begun to pour down dampening the spirit of the reloca-
tion workers who feared this would decrease the vote. A
sense of exhilaration ran through the crowds as they
gathered at the polling places. People were talking about
the plans to fly senior citizens and college students
in so they could vote.

The weather prohibited the use of airplanes so
ambulances and automobiles were sent to accomplish the
same end. Only automobiles with chains and Jeep vehicles

57Ibid.
58Ibid.
were used when transportation over dirt roads proved necessary.59 Some of Oakley's older citizens walked blocks in the rain to gain access to the polls rather than request transportation. If all the legal electors in the various voting precincts had not voted by 2:00 p.m., relocation workers were to locate and attempt to persuade them to vote. Often pairs of relocation workers would go to a home and find a mother unable to leave her small children. One worker would offer his services as a babysitter while the other drove the mother to the polls and brought her home again.60

As provided by law, the County Commissioners, sitting as a Board of Canvassers, met on Saturday, October 22, 1960, to determine the outcome of the election.61 Heated debates occurred at this meeting when some votes were challenged. If it could be shown to the satisfaction of the board why certain names should be stricken from the voting registers, the board did so and the vote was cancelled. Eleven votes were "thrown out" on the grounds that the voters were nonresidents, of insufficient age, or non compos mentis, as shown on Table II, page 60.62

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59Ibid.
60Ibid.
61I. C. 5. 1949, 19-1606.
### TABLE III

THE 1960 FINAL COUNT OF QUALIFIED ELECTORS AND VOTES CAST BY VOTING PRECINCTS FOR THE COUNTY SEAT OF LOGAN COUNTY*  

<table>
<thead>
<tr>
<th>Precinct</th>
<th>Legal Electors</th>
<th>Yes</th>
<th>No</th>
<th>Void or Blank</th>
<th>Not Voting</th>
<th>Removals under Challenge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Augustine</td>
<td>37</td>
<td>2</td>
<td>30</td>
<td>0</td>
<td>5</td>
<td>None</td>
</tr>
<tr>
<td>Paxton</td>
<td>30</td>
<td>12</td>
<td>14</td>
<td>1</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Lees</td>
<td>37</td>
<td>20</td>
<td>12</td>
<td>0</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Elkader</td>
<td>25</td>
<td>15</td>
<td>8</td>
<td>2</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Logansport</td>
<td>21</td>
<td>6</td>
<td>15</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Russell Springs</td>
<td>132</td>
<td>2</td>
<td>111</td>
<td>0</td>
<td>19</td>
<td></td>
</tr>
<tr>
<td>Western</td>
<td>51</td>
<td>0</td>
<td>51</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>McAllaster</td>
<td>42</td>
<td>0</td>
<td>38</td>
<td>0</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Winona</td>
<td>378</td>
<td>27</td>
<td>314</td>
<td>5</td>
<td>32</td>
<td>3</td>
</tr>
<tr>
<td>Monument</td>
<td>159</td>
<td>84</td>
<td>61</td>
<td>1</td>
<td>13</td>
<td>1</td>
</tr>
<tr>
<td>Oakley #2</td>
<td>629</td>
<td>529</td>
<td>54</td>
<td>7</td>
<td>39</td>
<td>2</td>
</tr>
<tr>
<td>Oakley #1</td>
<td>857</td>
<td>744</td>
<td>75</td>
<td>8</td>
<td>30</td>
<td>5</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>2,398</strong></td>
<td><strong>1,441</strong></td>
<td><strong>783</strong></td>
<td><strong>24</strong></td>
<td><strong>150</strong></td>
<td><strong>11</strong></td>
</tr>
</tbody>
</table>

The relocation forces had secured 60.09 percent of the vote which was a margin of 2.2 votes over the necessary statutory requirement of sixty percent of the qualified electors. The vote indicated that over ninety-three percent of the 2,398 qualified electors cast a ballot at this election.

Claude Fulton, Chairman of the Board of County Commissioners, moved that the following resolution be adopted:

We, the Board of County Commissioners of Logan County Kansas, find that there were 2,398 legal electors on October 18, 1960; that 1,441 votes were cast in favor of changing the county seat from Russell Springs, Kansas to Oakley, Kansas; that having received votes of more than sixty percent of the legal electors of said county in favor of such change, we, the Board of County Commissioners of Logan County, Kansas, do hereby declare that the City of Oakley, Logan County, Kansas, is the duly elected and selected county seat of Logan County Kansas, by virtue of election held on October 18, 1960.

The commissioners voted two to one to accept the resolution with the commissioner from the third district, Roy Kronvall, voting in the negative.

Unless the Citizens Committee or some other interested party desired to contest the election in the courts, Oakley would become the new county seat of Logan County.

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63Ibid.

64Ibid.
Resort to the Courts

Since the election favored Oakley, Russell Springs' residents had little recourse except to continue the struggle in the courts. According to law the county officials had twenty days to move the county offices and records to the new county seat.65 Richard and Raymond Wycoff, the leaders in keeping Russell Springs the county seat, filed an application for a temporary injunction in the District Court of Logan County on November 16, 1960, seeking to enjoin the removal of the county seat to Oakley. District Judge Benedict P. Cruise approved the application and issued a temporary injunction on the same day enjoining the County Commissioners and other county officials from moving their offices and records from Russell Springs.66

In this case there was no controversy over the percentage of votes needed by statute to relocate the county seat. The controlling question before the court was to determine which boards, the Boards of Registry or the Board of Canvassers, should determine who the legal and qualified electors were in the various voting precincts. This question arose because the County Commissioners, 

65 G. S. 1949, 19-1609.

66 Wycoff v. Board of County Commissioners of the County of Logan, Kansas, et. al. Case No. 4944. Filed November 16, 1960 in the Clerk of the District Court's Office, Logan County Courthouse, Russell Springs, Kansas. (hereinafter cited Wycoff v. Board of County Commissioners.)
sitting as the Board of Canvassers, had removed eleven names from the lists of qualified voters as compiled by the Board of Registry. Also, the commissioners did not count one vote which was cast under affadavit.

This question, whether the county commissioners sitting as the Board of Canvassers had any right to alter the voting registers as prepared by the Board of Registry, came before the District Court in a "Motion for Findings of Law" in advance of trial. In answering the question, District Judge Cruise, on March 6, 1961, presented the following findings in law:

(4) The names of persons appearing on the register of election who are not qualified electors of Logan County, Kansas, under the constitution and laws of the State of Kansas, on October 18, 1960, the date of the election, shall not be counted in determining the number of eligible voters or "legal electors" for such election of said county on said date. The board of county commissioners as the board of canvassers had the right to make such determination subject to the duties of this court in this contest proceedings. Not to permit this by the board of county commissioners would in effect require such board of county commissioners and this court to recognize as legal, and count as such an illegal negative vote. [Underlining added] 

(5) The names of persons who may otherwise have been qualified electors of Logan County, Kansas, on October 18, 1960, the date of said election, but whose names did not appear on the register of election and did not qualify themselves and vote by affidavit pursuant to 19-1619, shall not be counted in determining the number of eligible or "legal electors" of said county. To permit this
would in effect permit the addition of what would be tantamount to negative votes subsequent to the election. 67

In the course of this case the Wycott brothers had filed a "Motion for Judgment on the Pleadings." After Judge Cruise had ruled adversely to their legal claim, Raymond and Richard Wycoff appealed to the Supreme Court of Kansas the trial court's judgment in overruling the "Motion for Judgment on the Pleadings." 68 The Supreme Court held that the "Motion for Judgment on the Pleadings" in this case was not appealable to the Supreme Court inasmuch as there were controversial facts in the case. Mr. Justice Schroeder writing the opinion for the court dismissed the appeal 69 which automatically remanded the case to the trial court for further proceedings.

In the subsequent hearings of issues, District Judge Cruise reversed his previous decision that the Board of Canvassers had a legal right to strike names from the lists of qualified electors and ruled that:

67 Ibid., filed March 6, 1961.

68 "Wycoff v. Board of County Commissioners of the County of Logan, Kansas, et. al. Case No. 42,650. Filed April 7, 1962 in the Clerk of the Supreme Court's Office, Topeka, Kansas.

69 Ibid.
11. The board of county commissioners had no statutory or constitutional authority at any time before or after the election to determine the names or the eligibility of electors on the registers in the various precincts. That authority belonged in the boards of registry in the various precincts by statute. The board of county commissioners had no legal power of appointment and no supervisory power over the precinct boards of registry.70

The judge then restored the names which were removed by the County Commissioners back on the voting registers and counted the votes cast. The results as determined by the court was as follows:

20. If the board of county commissioners, as the board of canvassers on October 22, 1960 had limited their action simply to their statutory duty, the proclaimed result as shown by the evidence would have been as follows:

Total legal electors as shown by the various precinct registers and electors voting by affidavit under G. S. 19-1619 2410

Sixty percent or 3/5ths thereof required 1446
Total "Yes" votes in all precincts 1441
Total "No" votes in all precincts 783
Void and blank ballots as certified 22

Total ballots cast 2246

The affirmative vote on the proposition "Shall the county seat of Logan County, Kansas, be removed to the City of Oakley, Kansas?" was short the required sixty percent by five votes.71

70 Wycoff v. Board of County Commissioners. Case No. 4944, "Findings, Conclusions, Rulings and Judgment by The Court" made on the 11th day of July, 1962.
71 Ibid.
The court then found from the evidence that the tally *supra* was incorrect and after striking certain unqualified voters found the results of the special election of October 18, 1960 to be as follows:

27. The court now calls attention to the court's finding of correct canvass as set out in paragraph 20, and the court's findings regarding specific challenges as shown by paragraph 23 and subdivisions thereof, above, and the court will now state the application and effect of the findings and conclusions herein, and determine the result of the special election of October 18, 1960, as follows:

Total legal electors in Logan County on October 18, 1960 (2410 less 14) 2396

Sixty percent of 3/5ths thereof 1437.6

Total "Yes" votes (1441 less 1) 1440

Total ballots cast 2246

The court finds that the total "Yes" votes exceeded the required three-fifths of legal electors by 2.4 and the court finds the affirmative of the proposition.

JUDGMENT IS ENTERED and the county seat of Logan County, Kansas is hereby ordered removed to the city of Oakley, Kansas.72

The author interviewed one of the plaintiffs in this case to ascertain if an appeal would be made to the Supreme Court of Kansas. He indicated that all those opposed to

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72 Ibid.
the relocation of the county seat felt that Judge Cruise's decision was wrong and that in all probability an appeal to his decision would be made.73

CHAPTER VI

CONCLUSION

The factors contributing to the 1960 Logan County controversy over relocation of the county seat reflect changing social and political thought in western Kansas. The shift in county population from rural to town residency has fostered town control over county matters. These changes show a disappearance of the old order of rural-family farm dominance in local Kansas politics. The past American tradition of vilification and recrimination in local politics has been to a large extent replaced by a willingness to rely on legalistic formulas for political solutions.

Russell Springs originally gained the Logan County seat because county governments were by Kansas tradition generally located near the center of the county. Since most of the local inhabitants in 1887 were settled on farm land and the means of transportation were slow and inadequate, this method of locating the county seat enabled county inhabitants to reach the courthouse, transact necessary business and return home in the same day. The gift of a building for a courthouse influenced voters in choosing Russell Springs as the county seat since Logansport offered only to build a temporary courthouse.
availability of a permanent structure to house the official offices and keep the county records probably explains why a county seat "fight" did not occur in Logan County after the first election located the county seat at Russell Springs.

In 1937, Oakley was the only city in the county that had shown significant gains in population. Russell Springs had gained in population but still possessed only a small fraction of the total number of county inhabitants. Fewer family size farms and Oakley's population gains indicated that farm inhabitants were moving from the farms to the towns.

The 1960 relocation attempt differed from previous attempts because Oakley alone possessed over fifty percent of the county's population. Over two-thirds of the population in the county was in the two northeast townships. The City of Russell Springs had failed to grow in population and in 1960 contained only two percent of the total population.

The Chairman of the Relocation Committee suggested that the greatest mistake made by relocation forces in the 1960 campaign was in their failure to displace and weaken the opposition by electing Oakley citizens to county offices. Only the sheriff, the county attorney, and two county commissioners in this election were
from Oakley. The county officials could in most instances have been elected from Oakley, but it would not have been easy to get people from Oakley to run for the low paying county offices and if elected to be required to travel approximately sixty miles a day until the relocation could be effected.

In the American tradition of compromise and majority rule, Elkader Township, with nearly all its inhabitants living equal distances from Russell Springs and Oakley, found a solution to the problem by calling a meeting to decide how the township residents felt about relocating the county seat. They decided that all voters would cast their ballots as the majority decided and in compliance with this decision every legal elector in the township voted against relocating the county seat. These voters were not legally bound by the decision but it indicated how a rural dominated area of the county reacts to change when no direct benefits go to them as a township unit or as individuals.

As an opposition measure, many residents opposed to relocation refused to patronize Oakley merchants. The boycott was not as extensive as the anti-Oakley forces would have liked others to believe. Many of the people in the county actually lived as close or closer to a
major shopping center in another county. The county seat issue merely justified their purchases outside the county. Admittedly some who had previously traded in Oakley did take their business elsewhere, but these economic sanctions were of little or no influence and did not deter the Oakley merchants from backing relocation.

It was claimed that in and around Russell Springs the electors were better informed on the issue of relocation and the election procedure than they had been in the past. No doubt this was true of both factions. In Oakley precincts one and two, fifteen ballots were voided. Overzealous voters, in order to place emphasis on their positive votes, made identifying marks on their ballots which voided them—the result being tantamount to negative votes. These much needed "yes" votes would have given Oakley a larger margin and helped sustain their victory in the courts. This failure by the Relocation Committee to completely inform the electorate proved an expensive error.

Oakley received a narrow margin of 2.4 votes at the polls according to the decision of Judge Cruise, a mere fraction over sixty percent of the qualified electors. Ninety-three percent of the electors voted on the proposition. This is highly significant when compared with the nationwide average vote of less than sixty-five percent in
most general elections. A relocation election was admittedly different than regular elections, but the present case seems to prove that organization can overcome political apathy. Political inertia on the local level can be overcome when political issues are forcefully presented by a disciplined organization with a cause.

It is impossible to determine how the present matter will be resolved by the courts. The District Court ruled that the county seat should be moved to Oakley. If this decision is appealed to the Supreme Court of Kansas, the decision may be affirmed as correct or it may be overruled which would change the end result. If the move is not effected in the present conflict, another generation will most certainly subject the county to another political upheaval in which the question will again be asked: "Shall the county seat be removed from its present location to the City of Oakley?"
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PREPARED IN THE INTERESTS
OF COUNTY GOVERNMENT

PLEASE READ THIS MESSAGE CAREFULLY

Sponsored by Logan County Committee for Re-location
of Courthouse

Population 93