

Michael J. Malone Douglas County Law Library E-Mail Newsletter



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Meeting and Event Announcements

The Defense Bar meets the second Friday of the month. This month the meeting is on the 10th.

The April Douglas County Bar Association Brown Bag CLE program will be on Thurs-

day, April 16, from 12:00 p.m. to 12:50 p.m. in the Jury Assembly Room in the Judicial and Law Enforcement Center. Sarah Warner will present *10 Civil Cases from 2015*. One hour of CLE credit is pending approval. Handout material can be downloaded from the [DCBA website](#).

Board of Trustees Election Update

Ballots in this spring's election to fill the five attorney member positions on the Michael J. Malone Douglas County Law Library Board of Trustees were mailed out on March 25th and must be in the Law Library no later than 5:00 p.m., Wednesday, April 8th. Ballots received later than the deadline will not be counted.

The candidates are:

Curtis G. Barnhill
Kyle Brittingham
Carolyn Craycraft Clark
Napoleon Crews
Sarah Warner
Charles E. Whitman

The results of the election will be in next month's Newsletter.

Current Art Gallery Exhibition

The April/May 2015 Law Library and Division III art gallery exhibitions are pastels by Cris Chapin.

The exhibitions will run through the end of May 2015.

The June/July 2015 exhibitions in the Michael J. Malone Douglas County Law Library Art Gallery and the Division III Art Gallery are scheduled to be oil paintings by Charlotte Neese. More information on these exhibitions will be in the June 2015 E-Mail Newsletter.

For more information on past, current, and future Art Gallery exhibitions, or for more information on the Art Galleries, please consult the Art Gallery page on the Law Library's website.

If you would like to exhibit your art in our galleries, or know of local artists who would like to show their original art here, contact the Law Library at 838-2477 or by e-mail at info@douglascolawlibrary.org.

New Acquisitions

Newly acquired material added to the Law Library's holdings:

AALL Spectrum, v. 19:5 (Mar. 2015).

ABA Child Law Practice: Helping Lawyers Help Kids, v. 34:3 (Mar. 2015).

ALM Experts, Litigators' Trusted Legal Resource: Midwestern Directory, 2015.

Advance sheets of the Kansas Supreme Court and the Kansas Court of Appeals, v.

300:2/v. 50:5 (Dec. 2014) and v. 300:3/v. 50:6 (Jan. 2015)..

Kansas Statutes Annotated, 2014 Supplements.

Search and Seizure Bulletin, v. 52:3 (Mar. 2015).

Savings from Using the Law Library

By taking advantage of the Law Library's free access to WestlawNext, library patrons saved the equivalent of \$9,765.00 for performing legal research in March 2015 that they otherwise would have had to pay themselves.

Did You Know?

Every month, a bit of Law Library trivia is posted in the Law Library and on the Law Library's website. The previous month's "Did You Know" tidbit is then published here in the Newsletter. The hope is for this to improve communication between the Law Library and its users.

March's entry was:

If assistance researching the WestlawNext database is needed and no Library staff is available, Thomson/West customer service can be contacted using instructions posted on the desktops of the four patron workstations in the Law Library.

This Month In Legal History

April 20, 1856 - For the second time in two days, Samuel N. Wood avoids being arrested by Sheriff Jones.

Samuel Newitt Wood was born on December 30, 1825, in Mount Gilead, Ohio, the fifth of eleven children of David Wood and Esther Ward Wood, née Mosher. Both his grandfathers were leaders in the Society of

Friends, and this Quaker upbringing, described as "an eminently rigid anti-slavery type" gave his parents a strong hatred of slavery, which they passed along to their son Samuel. This abhorrence of slavery led the family to become active abolitionists and conductors on the Underground Railroad. At risk to their own liberty, they helped many runaway slaves avoid slave catchers on the road to freedom. Even though he was not yet old enough to vote, during the presidential election campaign of 1844 eighteen-year-old Samuel was appointed chairman of the Liberty Party for his county. In 1848, he was a delegate from Ohio to the convention of the newly established Free Soil Party that, although it did not actively support abolitionism, had the motto of "Free Soil, Free Speech, Free Labor and Free Men" and opposed the expansion of slavery beyond where it already existed. The convention nominated Martin Van Buren for President and Charles Francis Adams, son of John Quincy Adams and grandson of John Adams, for Vice-President. Wood cast his first vote in an election for the Free Soil Party ticket, which was defeated at the polls. In 1849, during one of his many successful trips taking runaway slaves to freedom, Wood met Margaret Walker Lyon, the nineteen-year-old daughter of William Lyon and Elizabeth Lyon, née Sinkey, another family of Ohio abolitionists. Samuel and Margaret began courting. The following year, Congress passed the Compromise of 1850, which allowed California to join the Union as a free state, one that did not allow slavery. The Compromise consisted of five separate bills that favored the proslavery cause, enacted because a free state was to be allowed into the Union without a corresponding slave state to balance it in Congress. One of the acts, the Fugitive Slave Act of 1850, became notorious among abolitionists, as it dramatically increased the powers of masters to regain escaped slaves and made helping a fugitive slave a federal

crime. The Fugitive Slave Act was signed into law on September 18, 1850, which was likely a low point for the abolitionist Wood and Lyon families, but that would have been mitigated somewhat with the joy accompanying the marriage of Samuel and Margaret two weeks later on October 3, 1850. Margaret gave birth to a son on July 25, 1851, who was named David after Wood's father. Wood was teaching school to support himself and his family, but in 1852, he began reading law. Then on March 10, 1853, a second son was born, and named William Lyon after Margaret's father. During this time, the question of how slavery should be handled as new territories were created out West began to gain prominence in the nation. The Missouri Compromise of 1820 had set the line of latitude of the southern border of Missouri as the northern boundary for any new slave territory to be organized in the remainder of the Louisiana Purchase, but the proslavery powers in the nation did not like that restriction. There was also no clear indication of what would be the slavery status of new territories created from land that was not part of the Louisiana Purchase. That discussion became even more intense in early 1854 when Congress began moving toward opening up the remainder of the Louisiana Purchase to white settlement by creating new territories. Stephen Douglas, the senior senator from Illinois, introduced the Kansas-Nebraska Act to accomplish this. Two new territories would be created, the Territory of Kansas would be created directly west of Missouri and the Territory of Nebraska would consist of the remainder of the Louisiana Purchase land, with the intent that it would be subdivided into smaller territories as settlement progressed. There was dissent within the ranks of the proslavery members of Congress about creating several new territories that would eventually become states, above the boundary restricting new slave territories. It appeared that they would block the

creation of such new territories, so Douglas included "Popular Sovereignty" in his bill, which would allow the residents of the new territories to vote on whether they would be admitted to the Union as a free or slave state, in effect discarding the Missouri Compromise. The sudden prospect of allowing land that had been looked upon for more than thirty years as eventually becoming a free state to instead become a slave state riled up abolitionists. As the spring of 1854 progressed and it became more and more apparent that the bill with its drastic changes to controls on limiting slavery was moving towards being enacted, abolitionists began to organize and plan to oppose slavery in the territories. Because of its more northern location, it was assumed that Nebraska Territory would be free, but Kansas Territory, being directly west of the slave state of Missouri, was going to be a battleground over the issue. Wood was paying attention to all this, and decided that if the bill was passed, he would go to Kansas and work to make it a free state. Margaret's parents had decided to leave Ohio, but their intended destination was California. They left for there in early May 1854. As anticipated, the Kansas-Nebraska Act passed, and was signed into law by President Franklin Pierce on May 30, 1854. Six days later, on June 5th, Wood was admitted to the bar in Ohio, and just two days after that he and his family left for the new Kansas Territory. They landed in Independence, Missouri, in late June and discovered that Margaret's family was also there, waiting on passage for California. Without much trouble, Samuel and Margaret were able to convince them to abandon their goal of California and instead to settle in Kansas and help the Free State cause there. They found much opposition to Free State men, first in Missouri, and then when they ventured into Kansas. There was talk of driving them all back east or lynching them on the spot. On June 24th, Wood staked a claim along the California road,

west of what would become the site of Lawrence, Douglas County, Kansas Territory. A party of Free State settlers associated with the Massachusetts Emigrant Aid Company, later known as the New England Emigrant Aid Company, came to the Territory in late July. They arrived at the future site of Lawrence on August 1, 1854. Wood's father-in-law also staked a claim in the area of the newly forming town site and the two men went to work making homes for their two family groups. Wood had a wagon, and used it to help many of the settlers find claims of their own and build up their homesteads. He built the first frame house in Lawrence that autumn. The town was rapidly becoming the headquarters of the Free State movement in the territory. One of the early arrivals in Lawrence was Moses Pomeroy. He had come through Illinois, and by the time he got to town, he was sick with an "Illinois Fever." Samuel and Margaret took the young man into their brand new house and did everything they could for him, but he became the first person to die in Lawrence. That same autumn, Wood became associated with John Speer, another Free State man who had also come from Ohio, and helped him begin publishing the *Kansas Tribune* in January 1855 in Lawrence. During these early days, Wood's family did not have many material possessions, and clothing was especially in short supply. As such, he got the reputation for rarely changing his shirt. His dirty shirt became well known in the Territory, and one report has it that the mere mention of it would cause a particular newspaper reporter to want to scratch. Wood ran for office in the March 30, 1855, election to choose members of a territorial legislature that would pass the laws and write the constitution with which Kansas would be admitted to the Union. On that day, thousands of proslavery Missourians came into Kansas, took over many polling places, prevented Free State residents from voting, voted themselves, and then

went back to Missouri when the ballot boxes were all secured. With approximately 2,700 legal residents of the Territory, nearly 6,000 votes were cast. Only two Free State men were elected, and Wood was not one of them. There was pressure to declare the obviously fraudulent election void, but nothing came of it, and the proslavery men were allowed to form a legislature, which soon rid itself of its two Free State members, and the "Bogus Legislature, as the Free State men referred to it, proceeded to pass draconian laws to make Kansas a slave state. These actions increased the tension in the Territory, and Free State men were determined not to allow them to go unanswered. In an attempt to take back the governance of Kansas from what they saw as an illegal usurpation of power by the proslavery partisans, they began forming a Free State government. On August 27, 1855, Samuel Jones, a proslavery man, was appointed as sheriff of Douglas County, Kansas Territory by the Bogus Legislature. A convention was soon called to meet in Topeka, Kansas Territory, and write a Free State Constitution. Wood was chosen as a delegate to that convention. The delegates convened in Constitution Hall in Topeka on October 23, 1855, and met there until November 11th. On November 21, 1855, Charles Coleman, a proslavery supporter, shot Charles Dow, his Free State neighbor, in the back with a shotgun. Dow die of his injuries, and although the shooting was over a land dispute and not based on their opposing beliefs over slavery, it caused a sudden and significant increase in the tension between the two sides. Coleman quickly fled to Westport, Missouri, and Free State men complained that Sheriff Jones was doing nothing to get him back for trial. Free State men began talking publically that if Jones refused to do his duty, then they would do something about Coleman. One of these was Jacob Branson, a friend and roommate of Dow. A proslavery friend of Coleman swore out a warrant against Bran-

son, stating that he felt threatened by words that the Free State man had been saying. On the night of November 26th, Sheriff Jones organized a posse of around fifteen men and went to arrest Branson on the warrant. They accomplished their mission, and began escorting their prisoner to Lecompton, Kansas Territory, the headquarters of the proslavery movement in Kansas. Some of Branson's neighbors got wind of what was happening and got together a number of Free State men to stop Jones and his men from getting Branson to Lecompton. Wood was one of these men. The Free State men confronted Jones' posse about 1:00 a.m., and a standoff ensued. For over an hour, threats and insults were traded back and forth between the two groups of men. Sheriff Jones finally released Branson to the Free State men, and he was taken to Lawrence for safekeeping. Sheriff Jones issued a call for help to recapture Branson, and a force totaling around 1,500 Missourians came into Kansas and besieged Lawrence. The townspeople mobilized for defense, erecting a number of crude forts to repel any attacks made by the proslavery men. They were also able to smuggle a cannon into town. It was decided that the men who had participated in the rescue of Branson should leave town so that there would be no excuse for Lawrence to be attacked. Wood and the other men left and went to Topeka. When the proslavery force arrived, they realized that attacking the town would be difficult and costly, so instead of attacking, they surrounded the town and put it under siege. The siege lasted about a week, ending after a peace treaty was negotiated and signed by representatives of both sides in early December. Before the siege had ended, Wood and the other Branson rescuers heard a rumor that there had been an attack on Lawrence with many men having been killed, so they made their way back into town through the proslavery lines. Upon his arrival, wood discovered that the rumor was false. After the peace treaty was

signed, the besieging proslavery force disbanded, and most of the Missourians went home, thereby ending the incident that came to be known as the Wakarusa War. Wood was asked to smuggle a number of letters out of Kansas to Free State supporters back east. He was reluctant to leave his family, but he finally agreed and soon left the Territory. While back east, Wood became a delegate to the convention held in February 1856 in Philadelphia, Pennsylvania, that was called to organize the Republican Party. He was chosen to be one of the speakers to address the convention. Wood returned to Kansas Territory in March, conducting a party of Free State emigrants from Columbus, Ohio. Arriving back in Lawrence, he rejoined his family, and took up where he had left off. On April 19, 1856, Wood went to the law office of James Christian. As he stepped into the office, he encountered Sheriff Jones and two or three other men. Wood and Jones exchanged a few words, and then Jones put his hand on Wood's shoulder saying, "You are my prisoner." Jones was supposedly arresting Wood for his participation in the rescue of Branson the previous November 26th. Wood asked to see the writ for his arrest, which Jones refused to supply. Suspecting that Jones did not have a writ, Wood turned and walked out the door. Jones followed him out and grabbed onto him again. Wood was later quoted that he was "trying his [Jones'] strength and studying about the propriety of whipping him." At last, Wood told Jones that he would go no farther. Jones called out to some bystanders to help him, and went for his pistol. Wood had anticipated this, and got a hold of it first. He drew it and passed it behind his back to one or more unnamed individuals, thereby disarming the Sheriff. Just then, John Speer, Wood's newspaper partner who was serving as a justice of the peace in Lawrence, stepped in between the two men and pushed them apart. Wood left the scene, walking a block

or two to his house, where he waited inside until Jones and his men left town. Early the next day, Sunday, April 20th, Jones wrote to United State Marshal Israel B. Donaldson, requesting that he be sent a writ for the arrest of Wood. Later that day, Jones reappeared in Lawrence, armed with four warrants for the arrest of men who he said had helped Wood avoid arrest the previous day. He called on several men on their way to church services to help him serve the warrants on Wood and the other men, but his request was refused. Jones again left town without arresting Wood. Upon returning to Lecompton, Jones notified the Territorial Governor Wilson Shannon that the citizens of Lawrence had shown disrespect for him as sheriff. The Governor requested that Colonel Edwin Sumner, the commander of the United States Dragoons stationed near Lecompton, to send a troop of his men to Lawrence to help Jones enforce his authority there. Lieutenant McIntosh led six dragoons to Lawrence, and set up camp in the town. On April 23rd, Jones came to town and arrested six of the men for which he had warrants. Wood was not among them, so Jones decided to stay the night in Lieutenant McIntosh's camp, hoping to be able to get Wood the next day. That evening, Jones retired to his tent, pitched near the building housing the prisoners. His shadow was cast on the tent by light from the lamp inside, so his form was plainly visible from the outside. Someone out in the dark took advantage of this and shot Jones in the back, hitting him between the right shoulder and the spine. He fell, saying, "I am shot!" Although badly wounded, he received medical treatment and survived. A reward of \$500 was offered for the arrest of the shooter. No one was every identified, but many proslavery men accused Wood, because of his previous run-ins with Jones, of having been the one who did the shooting. He went into hiding. In early May, Wood and seven other Free State men were indicted for treason be-

cause of their resistance to the proslavery government in Kansas Territory. The actions that Wood and the other men had taken led to Marshal Donaldson bringing a large force of proslavery men to Lawrence on May 21, 1856, to serve warrants on Free State supporters there. Sheriff Jones accompanied them, and after Donaldson had completed his mission and left town, Jones took command of the proslavery men and proceeded to sack and burn the town. Under his orders, they burned the Free State Hotel, headquarters of the New England Emigrant Aid Company, and destroyed the offices and printing presses of the two Free State newspapers in town. Wood was not around to see this, as he had previously escaped Kansas through Iowa on his way to Ohio. His family soon left Kansas and joined him in Ohio. Wood attended the first Republican Party National Convention, held from June 17-19, 1856, in Philadelphia, Pennsylvania, and served as a delegate. John C. Frémont was chosen as the candidate for President. Wood became an active supporter of Frémont, and campaigned extensively for him throughout the summer and fall. The family planned to come back to Kansas early in 1857, but Margaret gave birth on January 20, 1857, to a daughter who they named Florence Sarah, which delayed them. They eventually made it back to Kansas in the spring. Wood worked to increase the political power of the Free State cause in the Territorial government, and in the October 5, 1857 election for the Territorial Legislature, Free State men won the majority. Wood himself was elected justice of the peace for Lecompton Township. In early 1858, the new legislature passed an act to organize a constitutional convention. There had been two previous attempts at getting a constitution, the Topeka Constitution, written by Free State men, and the Lecompton Constitution, written by proslavery men. The new convention was set for Leavenworth, and Wood was elected as a delegate to it from Douglas

County. The resulting Leavenworth Constitution was an extremely liberal document for the time, granting voting rights to all men regardless of their race, ending slavery, and setting up a framework for women's rights. Like the two previous constitution attempts, it failed to gain approval in Congress. In early 1859, Wood moved his family to Cottonwood Falls in Chase County, Kansas Territory and opened a newspaper, the *Kansas Press*, there. He realized that the prospects for economic development there were severely limited, so within months, he moved his family and the newspaper to Council Grove in Morris County. Wood was elected to the Territorial Legislature in December 1859, and reelected in 1860. That year he helped organize the Atchison, Topeka, and Santa Fe Railroad. Near the end of the 1861 legislative session, newly inaugurated President Abraham Lincoln offered Wood the position of Collector of Customs at El Paso del Norte in Texas. He initially accepted, but the outbreak of the Civil War caused him to change his mind. Wood declined the appointment and went about raising a company of cavalry, known as the "Kansas Rangers," for which he was appointed captain. His cavalry company was organized in Lawrence, mustered into service in Kansas City, Missouri, on June 20, 1861, and attached to the 2nd Regiment of the Kansas Volunteer Infantry. Wood's regiment was assigned to the Army of the West, whose overall commander was Brigadier General Nathaniel Lyon. Wood and Lyon were reported to be friends. When and how they first met is unknown, but the fact that Wood's son William had been given the middle name of Lyon when he was born in 1853 would tend to indicate that it was before then. Lyon took the Army of the West, including his friend Wood, to southwest Missouri pursuing a Confederate force. The Union and Confederate armies met on August 10, 1861, southwest of Springfield. In the ensuing battle, known as Wilson's Creek,

Lyon was killed, becoming the first Union general to die in the Civil War. Wood and the Kansas Rangers saw much combat during the battle. Wood was then allowed to recruit Missouri men into a new battalion to be part of the 6th Missouri Cavalry. He was reassigned with the rank of Major to the Missouri battalion known as "Frémont's Battalion." Wood served with them in the Battle of Salem, Missouri, on December 3, 1861. Afterwards, he spent time hunting for Confederate guerrillas in Missouri, and then joined Major General Samuel Curtis' Army of the Southwest in its campaign into Arkansas. During his time with the 6th Missouri, he was promoted to Lieutenant Colonel. This military service earned him the nickname of "The Fighting Quaker." In August 1863, Wood resigned his commission and returned to Morris County, Kansas. He was elected to the Kansas House for the 1864 biennial session. That same year he was appointed Brigadier General of the Kansas State Militia. On July 7, 1865, Margaret gave birth to the couple's fourth and final child, a daughter they named Mary Elizabeth, and whom they always called Dearie. Wood was elected to the Kansas Senate for the 1866 session, where he introduced the first resolution in favor of women's suffrage. He was appointed a state judge, served for several years before he resigned to spend two years in Texas cattle ranching. Wood came back to Kansas and served several more terms in the Kansas House. His progressive views caused him to break with the mainstream Republican Party, leading him to membership in the Greenback, Labor, and finally the Populist Party. Wood's younger daughter, Mary Elizabeth, died on July 12, 1879. In 1885, Wood became a partner in a company to establish a new town in Stevens County, Kansas, which was on the southern border in the far southwestern part of the state. The new town was named Woodsdale, and Wood became the mayor. Woodsdale became a rival

to Hugoton, the only other settlement of any size in the county, to be the county seat of Stevens County. Both towns wanted the honor and economic benefits of being the county seat of Stevens County, and the rivalry between the two became intense, and eventually devolving into violence and bloodshed in one of Kansas' "County Seat Wars"¹. Men from Hugoton devised a plan to get Wood out of the way. He was arrested in August 1886 on a trumped up charge of libel, bail was denied, and he was put in the custody of several men who took him into No Man's Land² south of the Kansas Border. The story was circulated that Wood had been given a sum of money to abandon his plans. His friends did not believe it and began to search for him. They discovered a note that Wood had dropped along the trail that he and his captors had taken. They continued on and overtook the men, freeing Wood, and taking the men to Garden City, Kansas, where civil and criminal proceedings were brought against the Hugoton men. Nothing came of the charges and they were eventually dismissed. Animosity between men of the two towns continued to grow, and open warfare nearly erupted on several occasions. During a meeting in May of 1888, Sam Robinson, the marshal of Hugoton, struck the undersheriff of Stevens County, a Woodsdale supporter, with his revolver. A warrant for the arrest of Robinson was issued to Ed Short, the marshal of Woodsdale. Short went to Hugoton. The two men had a gunfight in which both emptied their revolvers at each other without either man being injured. Short failed to arrest Robinson, and the tension between the two towns increased. On July 22, Short got word that Robinson was with a party picnicking in No Man's Land. Short got a few friends together and went into No Man's Land to arrest Robinson, who got word that they were coming for him and tried to escape. The posse supposedly surrounded Robinson, but felt the need for support to

effect the capture. Short sent word back to Woodsdale for reinforcements. Sheriff John M. Cross assembled another posse of four men and went into No Man's Land. They failed to find Short and his men, and stopped to at a camp of men who were making hay in a meadow near Wild Horse Lake. In the meantime, Robinson's friends had made it back to Hugoton. They organized a rescue party and went back into No Man's Land. Robinson has slipped away from Short's men and joined his rescue party. On July 25, 1888, they came across Sheriff Cross' men asleep in their camp and killed four of the five in what became known as the Hay Meadow Massacre. Robinson and his friends went back to Hugoton, and thinking that they had killed all five men, reported that the men had been killed in a shootout. The surviving Woodsdale man and a group of haymakers who had witnessed the shootings gave a different story. They said that the Woodsdale men had been captured, disarmed, and then executed. The state militia was called out and the Hugoton men were arrested, but it soon became apparent that no court had jurisdiction in the case. Samuel Wood decided that he would see to it that the killers would be brought to trial. After much wrangling, the men were put on trial in the United States Court for the Eastern District of Texas, at Paris for the Hay Meadow killings. Wood served as lead prosecutor. A man named Jim Brennan testified for the defense in the trial, and "his evidence had been sharply criticized by Wood in his argument to the jury... ." Seven of the men were convicted of murder and sentenced to death. In 1889, Kansas Governor Lyman U. Humphrey appointed Theodosius Botkin judge in a newly established judicial district in the far southwestern corner of the state. Botkin was known to be intolerant of any opposition, and instead of remaining neutral on issues, would take sides on issues that came before him. His actions on and off the bench did nothing to

lessen the conflict between Woodsdale and Hugoton. He had run-ins with Wood, who would not shrink from a fight if the cause was just, in both political and legal matters. Wood gradually came to be regarded as the anti-Botkin leader, and he began suffering the wrath of Botkin and the interests he controlled. Wood was serving as the clerk of the Kansas House Judiciary Committee, and attempts were made to have him arrested in Topeka on trumped-up charges. The men convicted of the Hay Meadow Massacre had appealed their convictions to the United States Supreme Court, who, ruled on January 26, 1891, that the United States Court for the Eastern District of Texas had erred in trying the case, as they had no jurisdiction. The convictions and death sentences were overturned, and the men all went free, never again to be tried for the deaths they caused. The Kansas House Judiciary Committee brought impeachment proceedings against Judge Botkin, and the full House impeached him. He was then tried in the Senate, and although a majority voted for conviction, the needed two-thirds majority was not reached and Botkin was acquitted. Botkin and his supporters blamed Wood for having instigated the impeachment attempt. They tried again to get Wood arrested, this time on a charge of bribery, and were successful. He was released on a bond to appear in court in Stevens County in the next term of court, which was to begin on June 23, 1891. Wood, his wife Margaret, and a Mrs. Carpenter drove in a buggy from Woodsdale to Hugoton the morning of the 23rd. They arrived at the church where Judge Botkin was holding court. As they arrived, court was adjourned until two in the afternoon. As Wood entered the building to look at some records, Botkin and most of the other people inside, including Jim Brennan, who had testified at the Hay Meadow trial and been criticized by Wood, exited the building. He stood waiting outside the door until Wood exited the building, and as Wood

took hold of the buggy to get back in, Brennan pulled out a revolver and shot Wood in the back. Wood screamed and began to run away, when Brennan shot again, striking Wood in the right hip. Margaret jumped out of the buggy and tried to interfere. Brennan pulled a second pistol out and shot a third time, missing Wood. He looked back at his attacker, and as he did, Brennan shot a fourth time, the bullet striking Wood below the right eye and coming out behind the left ear. Wood was carried to the church where he died in Margaret's arms a half hour later. Brennan was taken into custody, charged with murder, and held without bond. Wood was buried in Prairie Grove Cemetery in Cottonwood Falls, where his family had first settled in 1859 after leaving Douglas County. The authorities began to prepare for a trial, and the prosecution in the case was to include Charles Curtis, a thirty-one year old attorney who would later become Vice President of the United State under Franklin D. Roosevelt in his first term as President, but due to the fact that nearly every person qualified to serve on a jury in Stevens County had been a partisan on one or the other side in the county seat conflict, it was determined that an unbiased jury could not be assembled. Under Kansas law at the time, only the defense could request a change of venue, so the prosecution was stymied. Another Kansas law provided that if someone was held without bond and had not been tried during two regular sessions of a court, that person should be released from custody, so knowing that a trial could not be held in Stevens County, the defense sat tight. After two regular sessions of the court went by with no trial, Brennan was released from custody and moved to the newly opened Oklahoma Territory "where he became a prominent and prosperous rancher." One unconfirmed account reported that he was even elected sheriff of Kiowa County, Oklahoma. On November 6, 1894, an election was held in M County in the Cherokee

Outlet³ that renamed the county Woods County in honor of Wood. In the late winter of 1911, David William Wood, Samuel Wood's grandson, traveled to Gotebo, Oklahoma, in an attempt to get Brennan sent back to Kansas to be tried for his grandfather's murder. It was reported that Brennan was in jail there, but was too sick to be taken away. The younger Wood also visited Oklahoma Governor Lee Cruce, who assured him that Brennan would be returned to Kansas when he had recovered sufficiently. For whatever reason, that never happened, and Brennan died in Gotebo on October 31, 1916, never having been brought to justice for having murdered The Fighting Quaker, Samuel Newitt Wood.

¹ County seat wars were an off times violent confrontation between two or more towns over which would become the county seat of a particular county. They occurred in a number of western states including Kansas.

² In the 1880s and 1890s, the area that would become the panhandle of Oklahoma when it became a state in 1907 was not part of Colorado, Kansas, Texas, New Mexico Territory or Indian Territory. Since it was not part of any state or organized territory, its status as far as who controlled it and whose laws were enforceable there was unclear at best. As such, it was known as the Neutral Strip or No Man's Land, a place where there was no law.

³ In 1836, the Treaty of Echola assigned land in what would eventually become Oklahoma to the Cherokee Nation, as part of their forced removal from the eastern United States. Around 1890, the United States Government was able to coerce a part of the land lying just south of the Kansas Border and east of "No Man's Land", known as the Cherokee Outlet, away from the Cherokee Nation. Prior to opening that land to white settlement, the Government organized the land into counties designated by letters of the alphabet. One of these counties that lay directly south of Comanche County, Kansas, was designated "M County."

From: [Memorial of Samuel N. Wood](#), by Margaret L. Wood, Hudson-Kimberley Publishing Company, Kansas City, 1892; [Col Samuel Newitt Wood](#), Find-A-Grave website; [Esther Ward Mosher Wood](#), Find-A-Grave website; [David Wood](#), Find-A-Grave web-

site; [Samuel Newitt Wood](#), Wikipedia website; [Free Soil Party](#), Wikipedia website; [Samuel N. Wood](#), Kansapedia website; [Margaret Walker Lyon Wood](#), Find-A-Grave website; [Samuel N. Wood](#), KansasBogusLegislature website; [Nathaniel Lyon](#), Wikipedia website; County Seat Controversies in Southwestern Kansas, by Henry F. Mason, Kansas Historical Quarterly, Vol. 2, No. 1, (February, 1933), [pp. 45-65](#); [No Man's Land, Oklahoma Territory](#), rootsweb.ancestry.com website; Woodsdale Sentinel, Vol. 5, no. 16 (June 26, 1891), [p. 1](#); [Woods County, Oklahoma](#), Wikipedia website; Salina Evening Journal, Vol. 26, no. 54 (March 4, 1911), p. 6; and, More Oklahoma Renegades, by Ken Butler, Pelican Publishing Company, Inc., Gretna, Louisiana, 2007, [pp. 47-59](#).

Each month, an event from "This Month In Legal History," the history of law and jurisprudence of Douglas County that occurred during that month, is included in the Newsletter. The current entry is also posted for the month on the Law Library's website. Entries from past months are [archived](#) on the website. Submissions from readers are welcome and encouraged.

Law Library Volunteer Opportunities

The Law Library Volunteer Program provides a capable and dependable volunteer work force to assist with the day-to-day operations of the Law Library and with its special projects. This work force supplements the paid Library staff and allows the Library to provide the best possible service to attorneys, local judges, and the public.

The Volunteer Program is instrumental in linking a valuable community resource - the citizens - with a valuable community institution - the Michael J. Malone Douglas County Law Library - for the benefit, growth, and enrichment of both.

If you or someone you know might be interested in volunteering for one of them, or if you would like more information on our program and/or the positions we have open,

please contact the Library or visit the "Volunteers" page on the Law Library's website.

Feedback

This Newsletter is intended to be useful to its readers. As in any enterprise, feedback on how the Newsletter is fulfilling this goal is crucial to our achieving it. If our articles are helpful, let us know. If they are not, let us know. If you have suggestions on how to improve the Newsletter, or comments and suggestions on the Law Library itself, please let us know. For your convenience, there is a link to a [feedback form](#) available on most pages of the Law Library's website. Thank you.

Submitting Articles for Newsletter

The Editor encourages readers to submit articles for publication and/or make suggestions on material to be included in future issues of the Newsletter.

To Subscribe

Contact the Law Library by mail, e-mail, or telephone and request a free subscription to the Newsletter. It will be sent to you as a PDF attachment to an e-mail. The Library's mailing address is: Michael J. Malone Douglas County Law Library, Judicial and Law Enforcement Center, 111 East 11th Street, Lawrence, Kansas, 66044. The Law Library's telephone number is: 785-838-2477. The Library's e-mail address is: info@douglascolawlibrary.org.

Back Issues

Back issues of the Newsletter are [archived](#) on the Library's website.

Classified Ads

Free classified ads may be placed in the Newsletter by contacting the Law Library. The Editor reserves

the right to refuse anything deemed inappropriate and to add restrictions as the need arises.

No Ads this Month.



Michael J. Malone Douglas County Law Library

E-Mail Newsletter

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