

Michael J. Malone

Douglas County Law Library

E-Mail Newsletter



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Contents

- Meeting and Event Announcements
- Change in County Law Library Statute
- E-Mailing Scanned Documents Available
- Current Art Gallery Exhibition
- New Acquisitions
- Did You Know?
- This Month In Legal History
- Law Library Volunteer Opportunities
- Feedback
- Submitting Articles for Newsletter
- To Subscribe
- Back Issues
- Classified Ads

Meeting and Event Announcements

The Defense Bar meets the second Friday of the month. This month the meeting is on the 14th.

The August Douglas County Bar Association Brown Bag CLE program will be on Thursday, August 20, from 12:00 p.m. to 12:50 p.m. in the Jury Assembly Room in

the Judicial and Law Enforcement Center. Curtis Barnhill will present *Isn't 50-50 Good Enough? – Considerations for a Divorce Property Settlement Agreement Concerning Division of Retirement Accounts and Pensions*. One hour of CLE credit is pending approval. When available, handout material can be downloaded from the [DCBA website](#).

Change in County Law Library Statute

On July 1st, a change to one of the statutes governing county law libraries in Kansas took effect. K.S.A 20-3127 was amended to add a new section (f) containing subsections (1) and (2). Their text is included in full at the end of this article.

Subsection (f) (1) authorizes county law library boards to authorize the chief judge of their judicial district to use fees collected under K.S.A. 20-3126 "for the purpose of facilitating and enhancing functions of the district court of the county." The fees collected pursuant to K.S.A. 20-3126 are the law library registration fees that all registered attorneys are required to pay. That is, law library boards may now authorize the

fees paid by attorneys for the use of the county law library to instead be used by the local court for its purposes. Another stipulation of the change is that the local district court judges are prohibited from participating in the decision made by the board of trustees.

The likelihood that the Michael J. Malone Douglas County Law Library Board of Trustees would ever authorize such transfers of library funds is so low as to be nonexistent, but the same cannot be said of other county law libraries in Kansas. This unfortunate legislation has weakened the concept of a self-funded county law library system, and in the current legislative climate in Kansas, could expose the rest of law library funding to redirection, thereby dooming county law libraries in Kansas.

Subsection (f) (2) specifically prohibits the Johnson and Sedgwick County law library boards from being able to take advantage of the terms of subsection (f) (1). This appears to be an attempt to keep their law library boards from being tempted to redirect the fees collected from their much larger attorney populations.

The county law librarians in Kansas worked diligently during the 2014 and 2015 legislative sessions to oppose or mitigate several bills before the legislature attempting to make the change. The measures failed to advance last year, and seemed to be stopped for this year too, but during the extended session, the change was added at the last minute to another bill that passed both houses without any hearings or public comment.

The changes to K.S.A. 20-3127 read: "(f) (1) Except as provided by subsection (f)(2), the board of trustees of a county law library established pursuant to this section may authorize the chief judge of the judicial district

to use fees collected pursuant to K.S.A. 20-3126, and amendments thereto, for the purpose of facilitating and enhancing functions of the district court of the county. No judge shall participate in any decision made by the board of trustees of a county law library pursuant to this paragraph to authorize the chief judge of the judicial district to use fees collected pursuant to K.S.A. 20-3126, and amendments thereto.

(2) The provisions of subsection (f)(1) shall not apply to the board of trustees of any law library established in Johnson and Sedgwick counties.

E-Mailing Scanned Documents Available

Law Library patrons are now able to e-mail documents directly from the library's printer/copier/scanner to any address they choose without first needing to attach them to an e-mail. Instructions for doing so are in the *Instructions for Copying, Scanning, E-Mailing, and Paying for Printing* manual that is kept on the table to the left of the device.

E-mails sent through the library's printer/copier/scanner are not encrypted, so attorneys should keep this in mind when deciding what materials should and should not be sent using this service.

Frank Siler assisted Law Library staff in setting up this feature. Thank you, Frank.

Current Art Gallery Exhibition

The August/September 2015 Law Library and Division III art gallery exhibitions are paintings by Alice Ming Hsiang Kuo.

The exhibitions will run through the end of September 2015.

The October/November 2015 exhibitions in the Michael J. Malone Douglas County Law

Library Art Gallery and the Division III Art Gallery are scheduled to be artwork by Cynthia O'Kelly. More information on these exhibitions will be in the October 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. 19:9 (July 2015).

ABA Child Law Practice: Helping Lawyers Help Kids, v. 34:7 (July 2015).

Advance sheets of the Kansas Supreme Court and the Kansas Court of Appeals, v. 301:3/v. 51:3 (May 2015).

Juvenile Justice Update, v. 21:3 (June/July 2015).

Kansas Court of Appeals Reports. Second Series, v. 45.

Kansas Court Rules and Procedure, Volume I - State, 2014.

Kansas Court Rules and Procedure, Volume II - Federal, 2014.

Kansas Court Rules and Procedure: KeyRules, Volume IIA - Federal, 2014.

Kansas Sentencing Guidelines, Desk Reference Manual, 2014.

Kansas Sentencing Guidelines, Desk Reference Manual, CD-ROM ed., 2014.

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.

July's entry was:

Search and Seizure Checklists has been made available to patrons of the Law Library on Library workstations by subscribing to WestlawNext. It is in "All Criminal Law Texts & Treatises", accessed through "Criminal Law" under the "Secondary Sources" on the WestlawNext search home page.

This Month In Legal History

August 11, 1895 - Judge Solon Otis Thacher dies.

Solon Otis Thacher was born on August 31, 1830, in Hornellsville, Steuben Co., New York, the third child of Otis Thacher and Hannah Kennedy Thacher, née Graves. Thacher was a farmer, but eventually read law and was admitted to the bar. Hannah and he were abolitionists, and with the aid of relatives, operated a safe house in Hornellsville for escaped slaves fleeing along the Underground Railroad to freedom in Canada. In 1840, Thacher was appointed county judge of Steuben County. As Solon grew, his early education was in the common schools of Steuben County. When he was old enough, he attended Alfred Academy in Alfred, New York, approximately ten miles

southwest of Hornellsville. After graduating from the Academy, Solon enrolled at Union College in Schenectady, New York. In 1850, the Fugitive Slave Act was passed and signed into law. Its strict enforcement of the rights of slaveholders caused problems for those helping escaped slaves, but it caused more problems than average for Solon's father, Judge Thacher, as sometime after its passage, the elder Thacher was appointed as a deputy United States Marshal. The Act required all government officials to actively seek out, capture, and return escaped slaves to their masters, which put Judge Thacher's duties as marshal in direct conflict with his beliefs and previous actions. How he handled this conflict is unknown. Solon graduated from Union College with a degree in classics, and then enrolled in Albany Law School in Albany, New York. He not only followed in his father's footsteps in the law, he was also a strong opponent of slavery. Solon was a delegate from his county to the 1855 New York convention held to organize the Republican Party in that state. The party was being organized to oppose the extension of slavery to the new territories that had been made possible by the passage and signing into law of the Kansas-Nebraska Act on May 30, 1854. 1856 proved to be a busy year for Solon Thacher. In the spring he was awarded a diploma by the law school and was admitted to the bar to practice law. Then on September 10, he married a woman he had been courting named Sarah Gilmore¹. He took an active role in the election that fall, making speeches in support of the campaign of John C. Fremont, the first Republican Party candidate for President. If that was not enough, Thacher also ran for the state legislature and was elected as a representative from his district. He served in the legislature over the winter of 1857, but moved to Chicago in the spring of that year to open a law office there with his uncle, Andrew Akin. Sarah apparently did not accompany Thacher on his journey to Chi-

cago, as she was pregnant with their first child, and likely remained with family in New York until the birth on September 11, 1857, when a daughter named Mary Hannah came into the world. Ever since Kansas Territory had been opened to white settlement by the Kansas-Nebraska Act, there had been significant trouble there between the forces wanting Kansas to be a free state and those who wanted it to be a slave state. That trouble had often centered on the attempts by one side or the other to write a constitution for the territory that would bring it into the Union as a state. By the summer of 1858, there had been three separate constitutions proposed, two of which were still under consideration, the proslavery Lecompton Constitution and the anti-slavery Leavenworth Constitution. Thacher had been following what was going on in Kansas, likely through communications with his cousin, Timothy Dwight Thacher, who had come to Kansas in April 1857 and settled in Lawrence, the headquarters of the Free State movement. Upon arrival there, Timothy Thacher had begun publication of the *Lawrence Republican*, a Free State newspaper. Solon Thacher became determined to go to Kansas and help the Free State cause. He left Chicago in July 1858 and brought his family to Kansas Territory², also settling in Lawrence. He purchased a half interest in the *Lawrence Republican* and became associate editor with his cousin. The Lecompton Constitution was rejected in a vote on August 2, 1858, and support for the Leavenworth Constitution also faded away, leaving Kansas Territory without a constitution. The Free State faction in the territory slowly gained the upper hand, so when a new constitutional convention was called in 1859, it was assumed a constitution coming from it would outlaw slavery in Kansas, but how it would do that and what else it would or would not include was unknown. Solon Thacher was elected as a delegate from Lawrence to the convention to be held in

Wyandotte, a town in Wyandotte County. The convention was convened in July 1859, and delegates went about the task of writing a constitution. It was agreed early on that slavery would not be allowed, but the status of black men and women in what would become the State of Kansas was hotly debated. One of the delegates made a proposal "to make this not only a free State, but a free white State. We do not propose that this State shall be the receptacle of free negroes and runaway slaves ... believing that God Almighty, for some high purpose, has established ... [the] inferiority of the black race, and stamped an indelible mark upon them. Between the two races there is an unfathomable gulf that cannot be bridged." If enacted, this proposal would exclude all blacks from Kansas, and there were a number of delegates at the convention that supported it. Solon Thacher was not one of them. In his short time in Kansas, he had become known as a strong supporter of some of the raids and other overt actions carried out by Free State men against proslavery supporters, and his activism and liberal attitudes made him a radical voice at the convention. He made an impassioned speech against the exclusionary language, concluding with "Shall Kansas, which has just come out of such an alembic of persecution and suffering, with her garments yet crimsoned with the blood of her martyred sons, and her soil yet blackened with the embers of her burned homes, frame a Constitution that does not glow and radiate in every line and syllable with the glad light of liberty and freedom to all? For the sake of the Great Father of us all, who loves purity and hates oppression, let me hope that this fundamental law of our land will be true to humanity and true to God." The exclusionary proposal was defeated. The convention went on to deny universal suffrage for blacks, women, and Indians, but affirmed separate property rights for married women, provided for women's equal rights in the possession of their children, and guaranteed

women's rights to participate in school elections. The convention ended after having produced a document that became known as the Wyandotte Constitution. It was put to a vote in Kansas Territory on October 4, 1859, and was approved by a nearly two-to-one majority. Solon and Sarah became parents again on March 1, 1860, when a daughter named Nellie Green was born. The following month, the United States House of Representatives voted 134 to 73 to admit Kansas into the Union under the Wyandotte Constitution, but the proslavery faction in the Senate prevented a vote on it in that body. On May 19, 1860, Thacher left his position with the *Lawrence Republican*. It is unclear whether he sold his half interest in the newspaper or merely stopped serving as associate editor. After Lincoln was elected President of the United States on November 6, 1860, southern states began seceding from the Union, beginning with South Carolina on December 20, 1860. By January 21, 1861, five southern states had seceded, and their senators had resigned from congress, enabling the by then antislavery majority in the Senate to pass the bill previously passed by the House to admit Kansas to the Union as a free state under the Wyandotte Constitution. President Buchanan signed the bill into law on January 29, 1861, making Kansas the 34th state and the Wyandotte Constitution the Constitution of the State of



Judge
Solon Otis Thacher

Kansas. The new state government quickly began to organize, and elections were held for various offices, including those for judges in the state's judicial districts. An election was held for judge of the new 4th Judicial District of Kansas, which at the time included Allen, Anderson, Bourbon, Douglas, Franklin, Johnson, Linn, Lykins (soon renamed Miami)³, and Wyandotte Counties. Solon Thacher won the election and was sworn in

as district court judge. In 1862 he was nominated for Chief Justice of the Kansas Supreme Court, but declined the nomination on account of a constitutional provision against serving as both a district court judge and as a justice on the Supreme Court. Around dawn on August 21, 1863, around 400 Confederate guerillas under the command of William Clark Quantrill rode into Lawrence, and over the next four hours sacked and burned the town, killing around 200 unarmed men and boys. Being a government official, Judge Thacher was on the list of Lawrence men to kill that was carried by the raiders, but he and his family were able to get safely across the Kansas River. They watched as their house was looted and their horses were driven away by Quantrill's men. In 1864, Judge Thacher resigned from his office as judge in the 4th Judicial District to run for Kansas Governor that year as an anti-Lane candidate⁴. Although he made a vigorous campaign for the office, he was unsuccessful in his bid for the governorship. Judge Thacher then settled into a lucrative law practice in Lawrence. In 1867 he was a candidate in the special election to fill the unexpired term of the United States Senate seat made vacant when James Henry Lane committed suicide the previous year. Although unsuccessful in his bid, he received the second highest number of votes. In 1871, Judge Thacher was on the defense team of John J. Medlicott, a Lawrence physician and surgeon who was on trial, accused of murdering one of his patients, a man named Isaac M. Ruth. The trial was in Anderson County, Kansas, having been moved there on a change of venue request because of the notoriety it had in Douglas County. Moving the trial did nothing to diminish that notoriety, as the case became a national sensation. Many eastern newspapers had reporters at the trial, and daily articles were published all over the country about every aspect of the proceedings. The trial lasted eighteen days, and on October 27, 1872, the

jury found Medlicott guilty of first degree murder. He was sentenced to hang. The defense appealed to the Kansas Supreme Court, who overturned the conviction and granted a new trial on the grounds that the trial court should not have allowed admittance of certain evidence. The disallowed evidence was all that the prosecution had connecting Medlicott to Ruth's death, so they filed a nolle prosequi in the case and set Medlicott free. Not only did Judge Thacher continue with his law practice after the trial, he served as a Regent of the University of Kansas on several occasions and held the Chair of Equity Jurisprudence in the Law School there. He became associated with the Leavenworth, Lawrence, and Galveston Railroad, serving as attorney for them. Judge Thacher also served for many years as an attorney for the Atchison, Topeka, and Santa Fe Railroad after it acquired the LL&GRR. In 1880, he was elected to the State Senate, and ran unsuccessfully for the Republican Party nomination for governor in 1884 against John P. St. John, who would go on to lose in the general election that fall. Judge Thacher did not have long to dwell on his failure to receive the nomination of his party, because in July 1884, President Chester A. Arthur appointed him as one of three commissioners from the United States in a delegation to Central and South America to negotiate treaties and do other diplomatic work. It was reported that he "was acknowledged the brains of the commission, and did most of the work." As a member of the commission, Judge Thacher traveled over 34,000 miles. In his travels, he became shipwrecked, and was taken to England before he was able to return to America. It was reported that "He met nearly every ruler in the southern continent, learned a great deal about the conditions existing there, and his report to Congress was so exhaustive that he was called before a special committee to explain his views on reciprocity." Over the years, Judge Thacher acquired

"many hundreds of acres of the best Kaw valley farm land, and many pastures in Douglas County", which made him "... one of the largest farmers in Kansas." It was reported that "He experimented with the latest devices in farm machinery, wrote dissertations on the cultivation of the grape, [and] understood the value of moisture artificially applied to the soils...." "When in a corn-field, he would exclaim, 'This is clean money!'" Judge Thacher was active in the Kansas Bar Association, serving as its president for 1887. In 1892, Judge Thacher ran again for State Senate and was successfully. He tried to become the Republican Party's nominee for United States Senate in 1894, but failed. Judge Thacher then ran for reelection to his seat in the Kansas Senate and won in the November 1894 election. In early 1895, he was appointed as President of the Kansas State Historical Society. Later that year, Judge Thacher began feeling unwell and traveled to Colorado for his health. In late July, he decided to come home. Part way through the journey, the train he was riding was delayed for many hours by floodwaters, which caused him and the other passengers significant hardships. When he finally arrived home, he was in such bad shape that he was confined to his house. As the days passed, Judge Thacher seemed to get better and began going to his office. Then on August 2nd, he had a severe attack. His Lawrence physicians called in specialists from Kansas City, and the diagnosis was a severe case of Bright's Disease, an acute form of kidney disease. He began a gradual decline and became weaker and weaker. Around 5:00 a.m. on Sunday, August 11, 1895, Judge Solon Otis Thacher died, leaving his wife Sarah and his two married daughters. He was buried in Oak Hill Cemetery in Lawrence. At the 1896 annual meeting of the Kansas Bar Association, Judge Thacher was memorialized, and a resolution passed officially regretting his death and offering sympathy to his family. Others

noted that he was the "acknowledged leader of the bar of Kansas for nearly half a century." Sarah lived another sixteen years, dying on July 8, 1912, and was buried next to her husband in the family plot.

¹ Some sources give Sarah's middle name as Abbott, and others as Mary. Her mother's name was Mary, so she may have been named after her, or this might have caused confusion over Sarah's middle name. There is also the possibility that Sarah actually had two middle names.

² Although it is likely that Sarah and Mary had joined Solon in Chicago before his decision to go to Kansas, no definite information to that effect has been found. Sources refer to him bringing his wife and infant daughter to Kansas. This language implies that they were together before the beginning of the journey to Kansas, and not that they would have come there separately, which would have been the case if Solon had come from Chicago and Sarah and Mary had come from New York.

³ The county was originally named for David Lykins, a Baptist missionary to the Wea, Piankeshaw, Peoria, and Kaskaskia Indians whose mission was located just east of modern day Paola, Kansas. Lykins was a proslavery supporter who had served in the Kansas Territorial Council, the equivalent of the Senate in the Kansas Territorial Legislature. The legislature was known as the "Bogus Legislature" by Free State supporters because of the fraud surrounding its election in 1855. After Kansas entered the Union as a free state, Lykins moved to Missouri. On June 3, 1861, Lykins County was renamed Miami County in honor of the Miami Indians. It was one of several counties in the state that were renamed after the beginning of the Civil War because of the proslavery or pro-Confederate sympathies of the men for whom the counties had originally been named.

⁴ There were several factions in the Republic Party during the 1860s, one of which opposed James Henry Lane, the controversial United States Senator for Kansas who had earned the name "The Grim Chieftain" during the troubles in Kansas Territory in the 1850s. At the same time he was serving as Senator, Lane acted as a general in the Union Army and was accused of numerous excesses in his military campaigns in Missouri during the War. Many Republicans in Kansas were vehemently opposed to him and his style of politics, which led to a rift in the Party.

From: [Judge Otis Thacher](#), thacherfamily.org website; [Judge Solon Otis Thacher](#), thacherfamily.org website; The United States Biographical Dictionary: Kansas Volume: ..., S. Lewis and Co., Chicago, 1879, [pp. 523-524](#); [Thacher \(Otis and Hannah Kennedy Graves\) Family](#), The Underground Railroad: An Encyclopedia of People, Places, and Operations, by Mary Ellen Snodgrass, M.E. Sharpe, Armonk, N.Y., 2008; Transactions of the Kansas State Historical Society, 1897-1900, Volume 6, W.Y. Morgan, Topeka, 1900, [pp. 206-219](#); [New York Republican State Committee](#), Wikipedia website -.

The Wentworth Genealogy: English and American, Volume 1, Little, Brown, and Company, Boston, 1878, [p. 364](#); The United States Biographical Dictionary: Kansas Volume: ..., S. Lewis and Co., Chicago, 1879, [pp. 14-16](#); [Kansas Constitutions](#), Kansapedia website; Kansas Constitutional Convention: A reprint of the proceedings and debates of the convention which framed the constitution of Kansas at Wyandotte in July, 1859, Kansas State Printing Plant, Topeka, 1920, [pp. 178-181](#); [Wyandotte Constitutional Convention, 1859, Cast of Characters](#), by William Addison Phillips, Shared Stories of the Civil War Reader's Theater project; [Wyandotte Constitution](#), Wikipedia website; [Lykins County, Kansas \[defunct\]](#), Kansas Counties, Kansas Historical Society website; Lawrence Daily Journal-World, v. 80, no. 71 (March 23, 1936), p. 1; History of the State of Kansas ..., A.T. Andreas, Chicago, 1883, [p. 249](#); [Solon Otis Thacher](#), Kansas Counties, Kansas Historical Society website; Solon Otis Thacher, A Standard History of Kansas and Kansans, Volume 3, William E. Connelley, Lewis Publishing Company, Chicago, 1918, [p. 1239](#); Seventh Annual Meeting of the Kansas Bar Association, Reed-Martin Printing Co., Topeka, 1890, [\[p. 3\]](#); Lawrence Daily Journal, v. 27, no. 191 (August 12, 1895), pp. 2, 4; Thirteenth Annual Meeting of the Kansas Bar Association, Crane and Company, Topeka, pp. [8-11](#); and, Wyandotte Constitution, A Standard History of Kansas and Kansans, Volume 2, William E. Connelley, Lewis Publishing Company, Chicago, 1918, [p. 946](#).

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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