

Douglas County Law Library

E-Mail Newsletter



Vol. 6, No. 6; June 2009

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Meeting and Event Announcements

The Defense Bar meets the second Friday of the month. This month the meeting will be on the 12th.

Survey on Providing ALR and Am. Jur.

The Library is currently reviewing the electronic legal resources it provides its users, with the possibility of making changes to its electronic subscriptions. Among those

changes is the potential addition of on-line access to ALR and Am. Jur. Feedback from local attorneys is very important in making these decisions.

Instead of distributing a paper questionnaire that would have to be returned to the Library after completion, we are trying an online survey service. There are only four questions, so it should take only a few minutes to complete.

To take the survey, click on the following link. If you get a security message, click on "Allow." You will be taken to the on-line survey form. Answer the questions, record any comments in the comments box, and then click "Done" when you are finished.

http://www.surveymonkey.com/s.aspx?sm=K2w2Q1Q_2bEVFM57BqNINPPg_3d_3d.

No personal information is collected, and all participants and their answers will remain completely anonymous.

Results of the survey will be used to determine whether the Library adds on-line access to ALR and/or Am. Jur., so, even if you seldom use the Law Library, or have never

used it before, please consider taking the survey.

West's Kansas Legislative Service

The Library has received the first volume of *West's Kansas Legislative Service*. This supplementary service report on legislation passed by the Kansas Legislature in its recently concluded session comes as part of the Library's subscription to the new *West's Kansas Statutes Annotated* that was purchased late last year.

"The purpose of the service is to supply the Bench and Bar of Kansas with prompt and ready access to the laws of the state through a series of pamphlets issued during and immediately following each session of the General Assembly. The keynote of the service is accuracy and timeliness in reporting the laws."

The legislative service publications are preliminary reports on Kansas statutes that were changed as a result of legislative action this year. The statutes include both the old text that has been replaced and new text that has been added.

Later in the year, West will publish *West's Kansas Statutes Annotated: Interim Update Service, Unannotated*, to further update this year's changes to Kansas statutes. This in anticipation of the final updating of the statutes with the publication of pocket parts for the *West's Kansas Statutes Annotated* scheduled for around the first of the year.

The *West's Kansas Legislative Service* volumes are shelved with *West's Kansas Statutes Annotated*, below the *Kansas Statutes Annotated* volumes in the same bookcase.

Spotlight on Library Resources

The resource in the spotlight this month is *Understanding DUI Scientific Evidence, 2nd Edition*, published by Aspatore and distributed by Thomson/West.

As noted on the back cover the book, "is an authoritative, insider's perspective on the scientific standards and tests used to determine when an individual may be charged with driving under the influence. Featuring leading DUI defense practitioners and experts, this volume guides the reader through the various observable behaviors and technological tests that are utilized as evidence of intoxication in a DUI case and discusses contributing factors that may skew these results."

The volume is shelved in the "General Legal" section in the bookcase along the south wall of the Library under the windows.

Spotlight on Library Resources is an occasional feature intended to make readers aware of a resource available in the Library with which most may not be familiar.

Current Art Gallery Exhibition

The June exhibits in the Douglas County Law Library Art Gallery and the Division IV Art Gallery are paintings by Lynn Metzger.

The exhibits will run through the end of June. All pieces are for sale and may be purchased directly from the artist. Contact information for Mr. Metzger is available in the Library.

The July 2009 Law Library and Division IV exhibitions will be watercolors by Johanna Hanks. More information on the exhibit will be in the July E-Mail Newsletter.

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

If you would like to exhibit your art in our gallery, or know of local artists who would like to show their original art here, contact Bill Pendleton, the Library's Art Gallery Exhibitions Coordinator at 843-3536 ext. 19 or billpen@pendletonandsutton.com, or 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.13:7 (May 2009).

Advance sheets of the Kansas Supreme Court and the Kansas Court of Appeals, v.288:1/v.41:1 (Apr. 2009).

Child Law Practice: Helping Lawyers Help Kids, v. 28:3 (May 2009).

Criminal Trial Techniques, v. 1 - v. 3, 2009 Supplement.

Internet guide for the legal researcher newsletter, v. 4:3 (May/Jun. 2009).

Juvenile Justice Update, v. 15:2 (Apr./May 2009).

Kansas Court of Appeals Reports, Second Series, v. 35.

Kansas Court Rules and Procedure, Federal, 2009 Supplement.

Kansas Court Rules and Procedure, State, 2009 Supplement

Law Library Journal, v. 101:2 (Spring 2009).

Search and Seizure Bulletin, v. 46:5 (May 2009).

Understanding DUI Scientific Evidence: Leading DUI Defense Lawyers on Utilizing Expert Witnesses, Understanding Chemical and Field Sobriety Testing Procedures, and Developing Appropriate Trial Strategies, 2nd ed.

West's Kansas Legislative Service, 2009:1.

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.

May's entry was:

- For paying the \$10.00 annual Law Library fee that is required by statute, attorneys may be issued a key giving them 24/7 access to the Library and free use of all its resources, including the Lexis online legal database and print resources focused on a Kansas practice. It's the best deal in town.

This Month In Legal History

June 3, 1858 - Gaius Jenkins is gunned down by General Lane.

Gaius Jenkins brought his wife and children to Lawrence, Kansas Territory, around the time that the town was founded in October of 1854. He began working to have Kansas admitted to the Union as a Free State, a state that did not allow slavery, eventually becoming a colonel in the Free State Militia.

In the fall of 1855, he moved into a house on land adjacent to the Robitaille Float ¹. The Robitaille Float was land that had been claimed by Robert Robitaille, a prominent member of the Wyandot Indian Tribe ². Many other settlers also claimed plots on the Robitaille Float, clearing land and building houses on them. Gaius Jenkins was one of these men, and had claimed a part of the Float near his residence. There was a well on this parcel, from which Jenkins and his family got their water. Jenkins had supposedly built a fence separating the parcel with the well from the plot where his house stood, and had installed a gate where the path from his house to the well passed through the fence. In addition to the well, there was also a house on the parcel. The house had previously been occupied by several different men when James Henry Lane moved in there in the spring of 1858. Lane was a lawyer and politician who had come to Kansas in 1855. He had allied himself with the Free-State movement, unusual for a Democrat at the time, and was appointed a general in the Free-State Militia. Lane supposedly had a fiery temper, and became known as "The Grim Chieftain." He was also associated with the Danites, a secret society that worked behind the scenes for the Free-State cause. By 1858, a number of his supporters were campaigning to get Lane nominated as a candidate for the 1860 presidential election. When Lane moved into the house on the Robitaille Float, he claimed that he had title to that part of the Float, not Jenkins, and so he owned the well Jenkins was using as his water supply. He ordered Jenkins to stop getting water from "his" well. In spite of Lane's objections, Jenkins continued to get water from the well, claiming that he had been getting water from the well for several years and had a right to continue to do so. Though both Jenkins and Lane were Free-state men, they belonged to different factions of the movement, and there was much internal conflict between the

factions. This added to the hard feelings that were developing between the two men over the land dispute. When Jenkins continued to draw water from the well, Lane put a locked cover over the well and nailed shut the gate in the fence. Jenkins' family supposedly tried getting water from a nearby creek, but all became ill because the water was bad. Around midday on June 3, 1858, Jenkins sent a hired man to go get water from the well on the disputed land. Lane ran him off, and he went back to report this to Jenkins. Jenkins, determined to get water, went off toward the well, accompanied by the hired man and two of Jenkins' nephews. Jenkins brought an ax with him and the other men carried firearms. When they arrived at the barred gate, Jenkins used the ax to break open the gate that he himself had built. Lane was outside his house and told the men to clear off or he would shoot. He turned and went inside the house, returning with his shotgun. The four men entered the yard and Jenkins advanced toward the well. Lane again threatened to shoot Jenkins if he continued. Jenkins was reported to have said something like "Lane, you know your duty." Jenkins continued to walk toward the well. There were reports that one of Jenkins' men attempted to fire a pistol, thought if he did it misfired. Lane fired his shotgun at Jenkins, hitting him in the chest. Jenkins fell mortally wounded, and two of his men fired back at Lane, one of them hitting him in the knee. Lane retreated into his house, and Jenkins' men picked up his body and carried it home to his grieving wife and four children. The post-mortem on Jenkins found ninety-eight shotgun pellets in his chest. Justice of the Peace Erastus D. Ladd began an inquiry into the shooting, with the proceedings dragging on for nearly a month. The major question was whether the shooting was justified. Lane's attorney argued that since one of Jenkins' men had attempted to fire a pistol before Jenkins was shot, the shooting of Jenkins was justified. After

hearing testimony from a number of witnesses, Ladd decided that Lane would not be brought to trial. He accepted the argument that one man having attempted to fire a pistol justified the killing of another man who had not done so. There was an outcry from many in the community. When Lane had purchased shot for his shotgun a few days before the shooting, he was heard to say that it was for Jenkins if he came on his land again. This prompted many in the community to believe the shooting was premeditated. They believed that Lane should be brought to trial in open court. The feeling was that Lane had used his political influence to get away with murder. That Lane had political influence, there can be no doubt. Even though his short-lived campaign to be nominated for election as President was cut short by the shooting of Jenkins, he went on to be elected Kansas' first United States Senator in 1861. There is also the possibility that Erastus Ladd may not have been as impartial as he should have been in his decision not to have Lane stand trial for the shooting of Jenkins. Ladd was for a time the roommate of Charles Leonhardt, another member of the secret Danites with whom Lane was associated. Perhaps there was unseen pressure from the society on one of its members to free "The Grim Chieftain." Whatever the reasons, Lane was never tried for the death of Jenkins. During the Civil War, Lane was appointed brigadier general of volunteers, becoming notorious in Missouri for raiding and burning towns in the state. He was supposedly the main target of Quantrill's men when they raided Lawrence in 1863, but was able to avoid the fate that befell so many of his fellow townspeople and escaped unharmed. However, on July 1, 1866, amid charges of financial irregularities and concerns that he had become demented, Lane shot himself in the head while in Leavenworth, Kansas. He lingered for ten days, finally succumbing to his wound on July 11, 1866.

¹ Pronounced (Row-bi-tal).

² The Wyandot had come to what is now Kansas in 1843 after they were granted land there to compensate them for being forced to leave their homes and farms in Ohio. This land was to be part of their reservation, but it was not the usual Indian reservation. Instead of all their land having to be in one place, pieces could be widely dispersed. Prominent members of the tribe were each granted the right to 640 acres of this "floating" reservation that could be located anywhere east of Missouri on land not previously claimed. Each of these separate pieces of the floating reservation were called "floats," hence the Robitaille Float. When Robert Robitaille heard that the town of Lawrence was being established, he made his claim on land that the founders were preparing to make part of the town. His claim was eventually rejected.

From: Herald of Freedom, v. 3:43 (June 5, 1858), p. 3; *ibid.*, v. 3:44 (June 12, 1858), pp. 2-3; *ibid.*, v. 3:45 (June 19, 1858), p. 3; *ibid.*, v. 3:46 (June 26, 1858), p. 3; *ibid.*, v. 3:47 (July 3, 1858), p. 2; Brief for Application in the Matter of the Wyandott Robitaille Float, by William Weer, [1856?], on Territorialkansasonline.org; The Secret Danites, Kansas' First Jayhawkers, by Todd Mildfelt, Todd Mildfelt Publishing, Richmond, KS, 2003; Lane, James Henry, (1814 - 1866) - Biographical Directory of the United States Congress, 1774 - Present, on Bioguide.congress.gov; and, Thomas Ewing Jr.: Frontier Lawyer and Civil War General, by Ronald D. Smith, University of Missouri Press, Columbia, MO, 2008.

And, in case you think times have changed, consider a May 26, 2009, article on ArgusLeader.com, the on-line version of the Argus Leader, a Sioux Falls, South Dakota, newspaper. Titled, "Man pulls gun on person trying to fill water buckets," the article reports on a Sioux Falls man who had problems with the water in his house. He had gone to his future brother-in-law's house to get water, and began filling buckets with water there, presumably at the outside faucet. A man approached him, drew a gun, and asked, "What are you doing?" The victim returned home and called police. His brother-in-law told officers the description of the man with the gun matched his neighbor. The man with no water was fortunate that the neighbor he encountered was not James Henry Lane.

From: ArgusLeader.com (May 26, 2009).

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 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, please let us know. 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: Douglas County Law Library, Judicial and Law Enforcement Center, 111 East 11th Street, Lawrence, Kansas, 66044. The Library's e-mail address is: info@douglascolawlibrary.org. The Law Library's telephone number is: 785-838-2477.

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.

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Published monthly by:

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