

# Douglas County Law Library

## E-Mail Newsletter



Vol. 9, No. 11; November 2012

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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 9th.

The November Douglas County Bar Association Brown Bag CLE program will be on Thursday, November 15, 2012, from 12:00 p.m. to 12:50 p.m. in the Jury Assembly Room in the Judicial and Law Enforcement Center. Suzanne Valdez will present *An Up-*

*date on the Ethics of Limited Scope Representation.* Handout material can be downloaded from the [DCBA website](#).

### Mandatory Misdemeanor Panel CLE

The Douglas County Criminal Bar Association will be conducting a CLE next month on December 7, 2012, that is mandatory for all attorneys who wish to take misdemeanor/non-felony appointment cases in Douglas County in 2013. This free CLE will be held from 8:30 a.m. to 5:00 p.m. that day in the Jury Assembly Room in the Judicial and Law Enforcement Center in Lawrence.

### Important Re-evaluation of Periodical Subscriptions in the Law Library

The Law Library is beginning a extensive re-evaluation of all the journals, supplements, pocket parts, and other periodical publications it receives, with an eye to reducing the acquisition of this material to only those titles that are actually used by Library patrons.

A committee has been formed to monitor this usage and to determine which titles to keep acquiring/updating, and which titles to cancel. To this end, there will be a periodi-

cals use survey conducted over the next six months. The survey will consist of a list of all the periodical material up for review. It is requested that when a patron uses one of the titles on the list, they record that usage on the list with a hash mark.

It is extremely important for all patrons to participate in this survey, as titles that do not exhibit sufficient usage will be cancelled, and so will be unavailable for use by Library patrons.

### **Current Art Gallery Exhibition**

The October/November 2012 Law Library and Division IV art gallery exhibitions photography by Susan Wolfe. Susan is the Administrative Assistant in Division IV.

The exhibitions will run through the end of November 2012. Contact information for Ms. Wolfe is available in the Library.

The December 2012/January 2013 exhibitions in the Douglas County Law Library Art Gallery and the Division IV Art Gallery are scheduled to be artwork from [The Dream Rocket Project](#). More information on these exhibitions will be in the December 2012 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 the Law Library at 838-2477 or by e-mail at [info@douglascolawlibrary.org](mailto:info@douglascolawlibrary.org).

### **New Acquisitions**

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

AALL Membership Directory, 2012/2013.

AALL Spectrum, v. 17:1 (Sept./Oct. 2012).

ABA Child Law Practice: Helping Lawyers Help Kids, v. 31:10 (Oct. 2012).

Advance sheets of the Kansas Supreme Court and the Kansas Court of Appeals, v. 294:3/v. 47:4 (Sept. 2012).

Kansas Court of Appeals Reports. Second Series, v.41.

Kansas Court Rules and Procedure, Volume I - State, 2012, 2012 Supplement.

Search and Seizure Bulletin, v. 49:9 (Sept. 2012).

West's Kansas Legislative Service, 2012:5.

### **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.

October's entry was:

The Library's catalog is now on-line, and can be accessed through any device connected to the Internet at <http://www.librarything.com/catalog/douglascountylib>.

## This Month In Legal History

November 29, 1854 - Lucius Kibbee shoots and kills Henry Davis.

Lucius Kibbee was born in Indiana<sup>1</sup> to Lucius and Elizabeth Kibbee. Sometime during the next three decades, the younger Lucius moved to Iowa, where on September 1, 1846, he married Letitia "Lettie" Boucher in Delaware County. By the beginning of 1854, Kibbee had fathered four children with Lettie, three sons and a daughter. That January, a bill was introduced in the United States Senate to create and open up to white settlement the new Territory of Kansas in the previously unorganized land west of Missouri. The bill would repeal the Missouri Compromise of 1820, and allow the question of whether the new Territory of Kansas would come into the Union as a free or slave state to be left up to a vote of the residents of the territory. Under the Missouri Compromise, the land to be named Kansas would have been a free state, and changing the rules and allowing the possibility that it could become a slave state was vehemently opposed by Americans who sought the end of slavery. By late spring, it appeared that the Kansas-Nebraska Act, as the bill was called, would likely pass. Kibbee was against Kansas becoming a slave state, so he began packing up his family to move there to work for the cause of a free Kansas. He did so in May, arriving in what was to be Kansas Territory some days prior to it being officially opened to white settlement. He staked out a claim in what would eventually be Douglas County, and began building a cabin<sup>2</sup> to house him and his family. He was there on May 30th, the date the Kansas-Nebraska Act was signed into law and the Territory was officially created. By virtue of that, Kibbee was the first white resident of what would be Douglas County. A few days later, a young man named Robert Hall Pearson arrived and was taken in by the Kibbees. Pearson resided with them un-

til that September, when he moved out to set up housekeeping on his own. Many other men were also coming to Kansas Territory, some supporting the Free State cause, and others supporting the proslavery cause. Tensions between the two factions grew rapidly, and violence began to break out in the Territory. Kibbee began working to make Kansas free from slavery, and quickly became known to men on both sides of the issue as an active Free State man. November 29, 1854, was designated as the day of the Territorial election to choose a delegate to the United States Congress, who would represent the Territory's interests in that body. That day, Kibbee was in Lawrence, the headquarters of the Free State movement in the Territory, probably to vote in the election. He and four other Free State supporters left Lawrence in a wagon driven by Robert Hall Pearson<sup>3</sup> and headed south, presumably on their way back to their homes. The wagon was small and low-slung with no sides and no seat, the men in it sitting on hay. They had not gone two miles when they saw a group of four men in the road ahead of them, three walking and one riding a mule. They recognized at least two of the men, Henry Davis and J.W. Rollins, both of whom were known proslavery advocates. Davis, Rollins, and the other two men stopped at a small cabin next to the road. The men in the wagon observed Rollins climbing up on the thatched roof of the cabin, and soon saw smoke rising from it. Rollins got off the burning roof, and all four proslavery men proceeded to tear down the cabin as it burned. When the wagon reached the ruined cabin, Pearson stopped it, and Kibbee asked Rollins, who by that time had mounted the mule, why he had done what he had done. Rollins drew a revolver and asked Kibbee what business it was of his. He said that he would take Kibbee from the wagon at the ford on the Wakarusa River, some mile or so farther south, and "carve him up." Kibbee said that he would report

him to the civil authorities. Hearing this, Davis began advancing on the wagon, which began moving again, shouting, "You will report us? I will report you to Hell!" He was also heard yelling something about Kibbee being a "God damned Yankee thief," and that he had stolen his timber. Davis attempted to get in the wagon, and Kibbee struck at him to keep him out. Davis then began walking alongside of the slowly moving wagon, and as he did, he drew a large knife with a five or six inch blade, known variously as an Arkansas Toothpick and a Bowie Knife, and struck at Kibbee, barely missing him, reportedly saying, "Come out you old Yankee son of a bitch." Kibbee said to Davis, "Go away. I want no fuss with you." Davis said that he would take Kibbee at the ford and, "Yes God damn your soul, I will carve you like beef." Davis took hold of the wagon, and attempted to reach Kibbee, striking at him twice again, saying that he would, "cut his damned heart out." Kibbee, fearing for his life, drew a pistol and fired at Davis. The pistol had been loaded with eight small shot, and they all hit Davis in the stomach. He let go of the wagon, walked a short distance, and sat down. Fearing a reprisal from the other men, Pearson picked up his whip and increased the speed of the wagon, driving the horses, described as a "rather poor team," as fast as they would go. A man named Sebastian, presumably one of Davis' compatriots, stayed with him for an hour. Davis reportedly said that, "he was gone," and asked for water. Sebastian went for water, which was about a half mile away, and when he returned, Davis was dead. A few days after the killing, Kibbee turned himself in to the authorities and was arrested. He was taken before Judge Rush Elmore in his court at the Shawnee Indian Mission<sup>4</sup>. Kibbee was arraigned on a charge of first degree murder, the first such case in the Territory, and ordered to be confined without bail in the Leavenworth Jail, pending his trial. On De-

ember 27, 1854, he was brought back to the Shawnee Indian Mission to appear before Chief Justice Samuel D. Lecompte of the Kansas Territorial Supreme Court on a writ of Habeas Corpus. The *Kansas Free Press* reported that in the hearing that day, Sebastian, the man who had gone for water for Davis, N.B Blanton, presumably Napoleon Bonaparte Blanton, who owned land at the Wakarusa Ford, Dr. A. Still, a Mr. Chandler, a Mr. Daily, N.D. Johnson, Robert Hall Pearson, and a Mr. Lamb all testified. Lecompte ordered Kibbee to be released on payment of \$1000 bond, and ordered him to appear before Judge Elmore for trial at Tecumseh, Kansas Territory<sup>5</sup>. Elisur Hill and Peter Baysinger of Prairie City, Kansas Territory, served as Kibbee's bondsmen. Kibbee appeared at the appointed place and time for trial, but Judge Elmore did not<sup>6</sup>. Owing to the absence of the Judge, no trial was held. The bondsmen were released, and it was reported that two days later, Kibbee "left the country." It appears that Kibbee moved his family a number of times over the next few years, first back to Iowa, where a daughter was born in 1855, then back to Kansas where another daughter was born in Linn County in 1857, then back to Iowa, where a son was born in 1858 and a daughter in 1860. All that moving around while birthing children may have been too much for Lettie, as she died in Iowa on May 11, 1860. Kibbee married Hannah Dodd in early 1862. They had three children in Iowa, two sons, one born in December 1862 and one<sup>7</sup> whose birth date is unknown, and a daughter born in 1865. Then Kibbee apparently moved his family back to Kansas, as a son was born in Linn County in 1867. The son was named Freeman, perhaps harkening back to Kibbee's Free State past. How long Kibbee stayed in Kansas is unknown, but the 1880 United States Census for Nebraska shows his nine-year-old daughter Emily (Emma) as being born in Nebraska, which would mean that Kibbee would have moved

to Nebraska no later than 1870 or 1871. In 1876, Kibbee settled his family in Antelope County, Nebraska. He died there on November 7, 1880, never having been tried for shooting Davis back in 1854.

(1) There is some confusion about Kibbee's birth date. Several genealogical sources note it as being November 16, 1812, but his gravestone lists it as being November 17, 1815. A marriage record for him dated September 1, 1846, lists his age as 31, which would place his birth in 1815. The 1880 US Census for Antelope County in Nebraska, enumerated on June 2-3, lists his age as being 64. Since he had not had his birthday yet that year, his birth year would have been 1815. One source identifies his birthplace as Indianapolis. Considering the likelihood of his gravestone being correct, and given the fact that the marriage and census records both support the 1815 date, he was very likely born in Indiana on November 17, 1815, probably in Indianapolis.

(2) The Kibbee Cabin was the site of the first Methodist sermon preached to white settlers in Kansas. It was also where a group of Methodist ministers met in 1857 and founded Baker University. The cabin deteriorated over time and was eventually rebuilt on the Baker University campus in Baldwin City, Kansas. The walls and roof were built of new materials, but the floor and some of the furnishings were moved from the original site north of town and used in the rebuilt cabin.

(3) There is conflicting information as to who was driving the wagon. Some sources indicate that Kibbee was the driver, but in sworn testimony before Chief Justice Lecompte on December 27, 1854, Robert Hall Pearson identified himself as the wagon's driver.

(4) The Shawnee Indian Mission, located along the Santa Fe Trail not far from the Missouri Border, opened in 1839 as a manual training school for children from a number of Indian tribes, most of whom had been removed from back east by the Federal Government and relocated to the area that would become Kansas. The Shawnee Indian Mission was comprised of several good sized brick buildings. In 1854, they were the only solid, permanent structures in the new territory, so when Andrew Reeder was appointed as the First Kansas Territorial Governor, he established the government offices in the Shawnee Indian Mission. Judge Elmore was a Justice on the Kansas Territorial Supreme Court, which was also located at the Shawnee Indian Mission.

(5) Tecumseh was a settlement founded by proslavery partisans on September 1, 1854. Judge Elmore had settled his family and 14 slaves there soon after it was founded. There was a movement to make the town the territorial capital, and apparently the intent was to have Judge Elmore's court set up there by the time that Kibbee was to be tried.

(6) No documentation for the reason that Judge Elmore failed to show up for Kibbee's trial has been found. At about that time, accusations surfaced that top government officials were involved in a land speculation venture involving unlawful purchase of Indian lands. A number of government officials lost their positions as a result of the scandal that surrounded the accusations, among them being Judge Elmore and Governor Reeder. The charges were eventually found to be unfounded, and Elmore was reappointed as associate judge, but if Kibbee's trial date was during the time Elmore was under suspicion, then the Judge would not have been available to try Kibbee. The plan to make Tecumseh the territorial capitol also fell through, but the reasons for that are not known.

(7) Lucius and Hannah's son, Charles, is recorded as being born and buried in Iowa. No birth or death dates have been found, and his name does not appear along with the other members of the family in later census records, so it is possible that he did not live long. The birth locations and dates of the other children that Kibbee fathered with Lettie and Hannah help determine the movements of the family, but since no date or location is given for Charles' birth and death, his do not.

From: [Lucius Kibbee](#), The Davis Family of Stafford, Connecticut, ID: I21678, RootsWeb.Ancestry.com website; [Lucius Kibbee](#), Find A Grave website; ["Iowa, County Marriages, 1838-1934," Lucius Kibbee, 1846](#), FamilySearch.org website; 1880 U.S. Census, Antelope County, Sherman Precinct, Nebraska, 6/2-3/1880; William G. Cutler's History of the State of Kansas, Biographical Sketches - Palmyra Township (Jacot - Willett), Douglas County, [Part 36](#); Lawrence Daily Journal-World, v. 112: issue 44 (February 20, 1870), [p.7](#); A Standard History of Kansas and Kansans, written and compiled by William E. Connelley, Lewis Publishing Company, Chicago, 1918, Volume I, Chapter XXIV, The Beginnings of Disorder, [pp.435-436](#); Kansas Free State, v. 1: issue 1 (January 3, 1855), p.3; [Shawnee Indian Mission](#), Kansapedia, Kansas Historical Society website; [Rush Elmore](#), Kansapedia, Kansas Historical Society website; [Tecumseh, Kansas](#), Wikipedia website; [Letter, James M. Hunter to T. N. Stinson, December 5, 1854](#),

Territorial Kansas Online; [Lettie\(Leticia\)Boucher Kibbee](#), GenForum, Gelealogy.com website; and, History of the State of Nebraska : Containing a full account of its growth ..., by A.T. Andreas, Chicago, The Western Historical Company, 1882, Part 3, Antelope County, [Glenalpine](#).

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, 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: Douglas County Law Library, Judicial and Law Enforcement Center, 111 East 11<sup>th</sup> Street, Lawrence, Kansas, 66044. The Library's e-mail address is: [info@douglascolawlibrary.org](mailto: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.

### **Employment Opportunity - Mediator:**

Douglas County Domestic Mediation Services is seeking to add additional mediators to its program. As part of the program, mediators agree to accept cases on a rotating basis and mediation fees are reduced and based upon a sliding scale where each party pays according to their individual income. The program contemplates a total of four hours of mediation for each case. Local court rule requires parties to a contested case involving child custody, parenting schedules

and/or parenting rights to attempt mediation prior to setting the case for final hearing. The issue most often mediated in the program is parenting time. Kansas Supreme Court approved domestic mediators can apply by submitting a resume by November 28, 2012 to Katy Nitcher, District Court Trustee, [knitcher@douglas-county.com](mailto:knitcher@douglas-county.com).

Sliding scale information can be found in the program brochure at [http://www.douglas-county.com/district\\_court/dct/docs/pdf/domestic\\_mediation.pdf](http://www.douglas-county.com/district_court/dct/docs/pdf/domestic_mediation.pdf).

A full position description can be found at: [http://www.douglas-county.com/district\\_court/dct/docs/pdf/job-description\\_mediator.pdf](http://www.douglas-county.com/district_court/dct/docs/pdf/job-description_mediator.pdf).

#### For Lease - Law Office Space:

The beautifully restored 1870 Stone Church at 1040 New Hampshire and the building at 1046 New Hampshire have been converted to quality professional Law Office spaces. Spaces available from one room offices to multi-room suites. Secretarial stations optional. Has conference room. Across from Douglas County, Kansas courthouse, register of deeds office, and downtown Lawrence, Kansas.

Rates start at \$295 per month and up. Call Bryan at 785-766-9383 for details and to schedule a personal tour.

See [Location.ManageBuilding.com](http://Location.ManageBuilding.com) for more details.



#### **Douglas County Law Library E-Mail Newsletter**

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