

Michael J. Malone

Douglas County Law Library

E-Mail Newsletter



Vol. 12, No. 10; October 2015

Contents

- Meeting and Event Announcements
- 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 9th.

The Douglas County Bar Association is sponsoring a special CLE program for new attorney development in October. It will be on Thursday, October 15, from 1:30 p.m. to 5.00 p.m. in the Jury Assembly Room in the Judicial and Law Enforcement Center. Titled *Introduction to Practicing Law in*

Douglas County, it is geared toward attorneys admitted to the Bar for 7 years or fewer. The schedule is:

1:30 - 1:55 Introduction to Practicing Law in Douglas County, with Sarah Warner, DCBA President, the Honorable Robert Fairchild, Douglas County District Court, and Kerry Altenbernd, Michael J. Malone Douglas County Law Library

1:55 - 2:45 Making the Most of Technology in Your Practice, with Branden Smith and Joe Jarvis

2:45 - 3:10 Casemaker: Legal Research Made Easy (and Free*) from Anywhere, with Sarah Warner

3:10 - 3:20 Refreshment Break

3:20 - 4:10 Ethical Pitfalls for Setting Up Your Practice, with Deb Hughes, Deputy Disciplinary Administrator

4:10 - 5:00 Law Office Management: Tips, Tricks, and Resources to Help You Succeed, with Danielle Hall, KBA Law Office Management Assistance Program

Four hours of CLE credit, including two of Ethics, are available. When available,

handout material can be downloaded from the [DCBA website](#).

A reception following the CLE Presentation will be at Five Bar & Tables (10th & Mass.).

Current Art Gallery Exhibition

The August/September 2015 Law Library and Division III art gallery exhibitions of paintings by Alice Ming Hsiang Kuo have been extended through the end of November 2015.

The December 2015/January 2016 exhibition slots in the Michael J. Malone Douglas County Law Library Art Gallery and the Division III Art Gallery are open for scheduling. More information will be in the December 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:

ABA Child Law Practice: Helping Lawyers Help Kids, v. 34:9 (Sep. 2015).

The Bluebook: a uniform system of citation, 20th ed.

Kansas Administrative Regulations, 2015 (v. 1 and v. 2) supplements.

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.

September's entry was:

Membership in a bar association is not a requirement to obtain a Law Library key. All that is required for an attorney to be issued a key is to register annually with the Clerk of the District Court and pay the annual Law Library Fee of \$50.00.

This Month In Legal History

October 1857 - Eighty-nine Free State men held for trial in Lecompton, Kansas Territory, charged with murder in the Battle of Hickory Point.

The violence between Free State and proslavery men that had been growing in Kansas Territory since the Kansas Nebraska Act opened the territory to white settlement in 1854 began to increase dramatically in 1856. The Act had left the decision as to whether Kansas would allow slavery when it was admitted to the Union up to the residents of the territory, and that had proven to be a source of significant conflict. The trouble in 1856 began on January 17th when a proslavery man murdered a Free State man with a hatchet in Leavenworth County, Kansas Territory. Lawrence, the headquarters of the Free State movement in Kansas, was sacked and burned by proslavery forces on May 21st. This was followed on the night of May 24th/25th by the Pottawatomie Massacre, in which five proslavery men were killed with broadswords. The Battle of Black Jack occurred on June 2nd, and the first Battle of Franklin on June 4th. Free

State supporter David Starr Hoyt was murdered by proslavery men on August 11th, which resulted in the second Battle of Franklin on August 12th. The Battle of Fort Titus was fought on August 16th near Lecompton, the territorial capital and headquarters for the proslavery movement in Kansas Territory, followed on August 30th by the Battle of Osawatomie, when a large force of proslavery men attacked and burned that Free State town. On September 8th, an armed body of proslavery men raided and burned Grasshopper Falls, a Free State settlement approximately 15 miles north of Lawrence in Jefferson County. A day or so later, General James Henry Lane received word of problems at Ozawkie, a predominately proslavery town also in Jefferson County some 12 miles northwest of Grasshopper Falls. Lane was a lawyer and politician who had come to Kansas in 1855, and had eventually allied himself with the Free State movement. Known as "The Grim Chieftain," he had been appointed a General in the Free State Militia and was known to have a fiery temper. Lane led a company of Free State militia toward Holton, which was a good distance northwest of Lawrence, when he received a message from Free State men who lived in Ozawkie, requesting that he come and stop the proslavery men in the town from preying on them. Lane abandoned his plans to go to Holton, and instead led his men to Ozawkie. Having restored order in the Ozawkie area, Lane's men were joined by a number of local Free State men. Lane then learned that an armed force of over 100 proslavery men was at Hickory Point, a small settlement in Jefferson County. He determined that he would march there and capture the men. Hickory Point consisted of a few log buildings on the Fort Leavenworth-Fort Riley military road. Captain H.A. Lowe was the owner of Hickory Point, and had recruited around 100 proslavery men, mostly settlers in the area, to defend his property. They had been joined

by a force of around 40 South Carolinians commanded by a Captain Robertson, who had been harassing Free State settlers in the county and were suspected of having been the men who had burned Grasshopper Falls. Lane and his men arrived on September 13th, and proceeded to attack the buildings there. The attack was repulsed, and Lane realized that the buildings were too heavily fortified for him to be able to take without assistance. He sent messages to Colonel James A. Harvey and Captain Thomas Bickerton in Lawrence, ordering Harvey to bring up reinforcements and Bickerton to bring up "Old Sacramento," a bronze cannon that had been used by Free State forces in the Battle of Fort Titus following its capture from proslavery men in the second Battle of Franklin. Lane directed them to come to Hickory Point by the long way through Topeka. Harvey assembled a force of about 125 men and set out that same evening for Hickory Point, accompanied by Bickerton and "Old Sacramento." Instead of taking the road west to Topeka as Lane had ordered, Harvey marched his men on the direct route north from Lawrence. After Lane had dispatched his orders to Harvey and Bickerton, he received word that John W. Geary, the new territorial governor, had issued a proclamation that all militias disband immediately. Lane abandoned his plans to attack Hickory Point and led his men towards Topeka. Because he had ordered Harvey and Bickerton to take the Topeka Road, he expected to run into them and so be able to stop their advance, but since the reinforcements had taken another route, the two groups did not meet. Therefore, Harvey and Bickerton did not know that the attack had been called off. After having covered the 24 miles from Lawrence by marching all night, they arrived at Hickory Point at around 10:30 on the morning of the 14th. Upon the approach of the Free State men, the proslavery men tried to retreat, but instead were compelled to fall back into the log buildings. The Free

State men found that Lane and his men were nowhere to be found. Not knowing that the attack had been called off, Harvey had his men surround the log buildings and ordered the cannon be brought up and readied for firing. It was, and the first shot from "Old Sacramento" passed through the blacksmith shop and killed Charles G. Newhall who was inside. About 20 more shots were fired but without effect. A steady rifle fire was kept up by both sides, but because of the distance between the two, there were few casualties. The Free State men attempted to set the blacksmith shop on fire by pushing a wagon up next to it and setting the hay in it on fire, but were unsuccessful. Soon after, the proslavery men displayed a white flag, and both sides ceased firing. Messages went back and forth between the two sides and at around 5:00 p.m., a compromise was reached. It was agreed that both sides would retire peaceably, give up all plunder that had been taken, and that all non-residents would leave the county. Besides Newhall, who had been killed by the cannon ball, four other proslavery men had been wounded. Three Free State men had been shot in the legs, one had a head wound, and another had been shot through the lungs. The Free State men left Hickory Point and headed back toward Lawrence, traveling about five miles before making camp for the night. Several men continued on with the wounded, trying to get them home that night. They had only gone about a mile when they met a troop of United States Dragoons under orders of Governor Geary, who took the men into custody. The dragoons followed their trail back to the camp and arrested all the Free State men they could find. None of the proslavery men who had participated in the Battle of Hickory Point were arrested. After their capture, the prisoners had their weapons confiscated, and were marched to Lecompton. A number of the Free State men had managed to avoid capture, and a few were able to escape during the march to

Lecompton, but 101 of them were still captive when they arrived in the capital. On September 20th, the prisoners were brought before Sterling Green Cato, who was a United States District Court Judge for Kansas Territory and Associate Justice on the Kansas Territorial Supreme Court. Judge Cato had been born in Hancock County, Georgia, in 1817, and eventually moved to Eufaula, Alabama, where he was in law practice with his brother Lewis. Cato was a member of the Eufaula Regency, a group of lawyers who were dedicated to promoting the expansion of slavery and countering threats that might limit it. They believed that if it became necessary, secession as a viable option in protecting slavery. There were many politically influential men in the Eufaula Regency, which likely led to Cato being appointed to the Federal and Kansas Territorial benches. His opinions about slavery and the men who opposed it seemed to influence the way he conducted himself in Kansas. It was reported that the first interview that Governor Geary had with Judge Cato was in the proslavery camp at Franklin, where Geary found him "doing duty as a soldier." The Free State men soon became convinced that Judge Cato was no friend of theirs. At their first court appearance on the 20th, the Hickory Point prisoners were charged with murder and remanded into custody. They were brought into court again on the 22nd, but moved for an adjournment until the following day. It was granted. Judge Cato then held an evidentiary hearing on the 23rd, and after hearing testimony from both sides, bound the Free State men over for trial in the court's October term on the charge of murder. For the first week of their imprisonment, the defendants had been in the custody of the dragoons, but around the time that they were bound over for trial, Colonel Henry T. Titus, a proslavery supporter and leader in the movement, took charge of the prisoners. They were locked in a small building that was extremely over-

crowded. It was reported that they had to take turns sleeping on the bare floor, as there was not room for all of them to lie down at the same time. Many of the prisoners became ill, and one whose name was William Bowles died in what some were calling the "Great Political Prison" in Lecompton. Marcus Parrott became the defense council for the men, and began preparing his case. In a letter to his father, he indicated that he was not optimistic about the outcome. After the death of Bowles, several of the prisoners managed to escape. The trial of the prisoners began in October. By that time of the trial, there were only eighty-nine defendants remaining. Ten of the men were tried and acquitted. Then twenty more men were tried, convicted of manslaughter, and sentenced to the penitentiary for five years at hard labor wearing a ball and chain. The fifty-nine remaining prisoners were moved on November 15th to the Tecumseh, Kansas Territory, jail, where they were crowded in two basement cells. The conditions there were so bad that many of the prisoners decided to escape. They were able to acquire an old bayonet and use it to dig out through the bricks and soil. One dark night, forty-five escaped. The remaining fourteen chose to remain and stand trial. When they did, they were acquitted. It was reported that Sam Jones, the proslavery sheriff of Douglas County, had wanted to hang the defendants, so he was not pleased by the verdict. He wanted to carry out the sentences to their fullest extent and impose harsh corporal punishment on them, including attaching a ball and chain to each prisoner. Jones made a request to the Governor that he be issued them. Geary wanted a more lenient, conciliatory policy, and remitted the ball and chain penalty. This angered the Sheriff, and a dispute between Jones and Geary ensued. In December, the remaining prisoners were placed in the custody of Captain L.J. Hampton, who had been appointed by Geary as Master of Convicts. Although Hampton

was a proslavery man from Kentucky, he was described as possessing "an honest heart and generous disposition." He, "treated the prisoners as though they were human beings, and with as much kindness and consideration as their relative positions would permit. He soon gained their confidence, and having no proper place for their safe confinement, and being required to keep them at work when labor could be obtained, he allowed them to go at large without a keeper, relying upon their own promise to return to his charge at any specified time." For this he suffered the wrath of other proslavery men, the most violent condemnation coming from Sheriff Jones. Jones dispute with Governor Geary ended on January 7, 1857, when he resigned as Sheriff. Three of the men in Captain Hampton's charge either escaped or were released, because by March 2, 1857, only seventeen men remained in his custody. On that day, Governor Geary issued full pardons to all seventeen, noting that prior to the attack at Hickory Point, all had "maintained good reputations; that the offence for which they were convicted, was committed in one of those political contentions, in which a great portion of the people of the territory took an active part, many of whom, though equally, if not more guilty, were still at liberty, and could never be brought to punishment; that they had already suffered an imprisonment of nearly six months; and that their continued punishment could neither subserve the ends of justice, nor the interests of the territory." With the issuing of the pardons, the Hickory Point case was closed. Judge Cato eventually left Kansas, and was living in Kansas City, Missouri, by 1860. Soon after resigning as sheriff, Sam Jones left Kansas Territory for New Mexico Territory. On March 12, 1857, President Buchanan fired John W. Geary as territorial governor of Kansas effective March 20th, and he left Kansas the next day. Some of the men who had been tried for their actions at Hickory Point stayed and be-

came permanent residents of Kansas, while others eventually left for greener pastures elsewhere.

From: [Hickory Point, Battle of](#) - Kansas: a cyclopedia of state history, embracing events, institutions, industries, counties, cities, towns, prominent persons, etc. ... / with a supplementary volume devoted to selected personal history and reminiscence. Standard Pub. Co. Chicago : 1912, vol. 1; [Early Political Troubles](#), William G. Cutler's History of the State of Kansas, Jefferson County, Part 3; Geary and Kansas: Governor Geary's Administration in Kansas with a complete history of the Territory until July 1857..., by John H. Gihon, Charles C. Rhodes, Philadelphia, 1857, [Chapter XXXII](#); Transactions of the Kansas State Historical Society, Embracing the Fifth and Sixth Biennial Reports, 1886-1888..., Vol. IV, Kansas Publishing House, Topeka, 1890, [pp. 573-584](#); [CATO-L Archives](#), Rootsweb website; [Eufaula Rectory](#), Encyclopedia of Alabama; and, [Letter, Marc Parrott to Dear Father \[Thomas Parrott\], October 7, 1856](#), Territorial Kansas Online website.

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

Editor: Kerry Altenbernd

Published monthly by:

The Michael J. Malone Douglas County Law Library,
Judicial and Law Enforcement Center,

111 East 11th Street,

Lawrence, Kansas 66044

Phone: 785-838-2477

Fax: 785-838-2455

E-mail: info@douglascolawlibrary.org

Website: <http://www.douglascolawlibrary.org>

© 2015, by the Michael J. Malone Douglas County Law Library