

# The 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 9th.

The August 2016 Douglas County Bar Association Brown Bag CLE program will be on Thursday, August 18th, from 12:00 p.m. to 12:50 p.m. in the Jury Assembly Room in

the Judicial and Law Enforcement Center. Laura Fey and Steve Hengeli from Fey LLC will present *Inviting Legal to the Bring Your Own Device Party*. Check the [DCBA website](#) for more information on the program, on the CLE credits available, and for handout material.

### Resources Available Through Lexis Advance Subscription



The resources that are available to library patrons through its Lexis Advance subscription are listed on a document accessible through the library's patron workstations. Look for this icon on the workstation desktops titled "Lexis Advance Subscription Contents."

### Free Training on Using Lexis Advance

As part of the law library's contract with LexisNexis, unlimited free training on Lexis Advance is available to library patrons. Lexis Advance became the library's on-line legal database on July 1st this year. The Lexis Advance training includes both individual and group sessions.

There will be a group Lexis Advance training session in webinar format for attorneys on Friday, September 23rd, from noon to 1:00 p.m. It will be held in the Judge Shepherd Conference Room, located at the east end of the hall in the Citizen Review Board's office suite next to the library. Depending on the feedback the library receives from attorneys who attend the session, scheduling more sessions in the future will be considered.

In addition, individual training sessions for attorneys are available. There will be more information on this in next month's newsletter.

### **Current Art Gallery Exhibition**

The August/September 2016 Law Library and Division III art gallery exhibitions are arts and crafts by Judicial and Law Enforcement Center staff and their families. The exhibitions will run through the end of September 2016.

The October/November 2016 exhibition slots in the Michael J. Malone Douglas County Law Library Art Gallery and the Division III Art Gallery are scheduled to be photography by Marjorie Hedden. More information will be in the October 2016 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](mailto:info@douglascolawlibrary.org).

### **New Acquisitions**

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

ABA Child Law Practice: Helping Lawyers Help Kids, v. 35:8 (Aug. 2016).

### **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.

August's entry was:

Library patrons can get access to material from other libraries through interlibrary loan. Fluctuations in Law Library expenses reflect the fact that the Law Librarian's salary, benefits, and charges for copier leasing are usually billed and paid quarterly.

### **This Month In Legal History**

September 14, 1911 - Dr. Payne tries to kill his wife before committing suicide.

Charles C. Payne was born in 1873 in Topeka, Kansas, to W. H. and Amanda J. Payne. A year later, Amanda gave birth to a second son, Franklin L., and three years later in 1877, a third son, Ira M. was born. W. H.'s occupation was listed as a merchant in the 1880 census. In 1884, a fourth son, Clem H. was born to W. H. and Amanda, which completed their family. Nothing else has been found to give an idea of Charles' early life and schooling, but he eventually met Mattie A. Smith, daughter of Newton and Mary Ann, née Hurley, Smith. When Mattie was born in 1876 in Kansas, her parents already had four children; Marshall, born in 1862, George A., born in 1868, Ne-

vada A., born in 1869, and Fred J., born in 1873. Newton and Mary had both been born in New York, but they moved several times before they came to Kansas. Marshall was born in Indiana, and George, Nevada, and Fred were all born in Michigan, where their parents were married on April 18, 1866<sup>1</sup>. Sometime between Fred's birth in 1873 and Mattie's birth in 1876, the family moved to Kansas, where the last child, a daughter named Nellie E. was born in 1878. Then in 1883, Newton Smith died, leaving Mary a widow. It is not known when Charles and Mattie first met, or how much time elapsed before they began courting, but they eventually did, and around 1896 they married. Charles studied medicine and became a physician and surgeon. Where he received his medical education is not known for certain, but there is an indication that it might have been at the University of Kansas in Lawrence. The couple had two children, a daughter Ester, born around 1899, and a son, Charles, Jr., known as Charlie, born around 1902. Both Ester and Charlie were born in Michigan, which means the family lived there for some time. In 1905, Mattie, Ester, and Charlie were recorded in the Kansas State Census as living with Mattie's mother, Mary Smith, in Eudora, Kansas. Charles' name is missing from the record, and the reason for this is unknown. There are several possibilities. One is that the three may have just been there on a visit and that for some reason Charles was not able to accompany them. A second is that the family was moving from Michigan to Kansas, and that Mattie and the children had come on ahead while Charles remained behind temporarily to finish some business there. Subsequent events raise the third possibility, that Mattie had left Charles and taken the children to live with her mother. Whatever the reason, Charles eventually came to Eudora and the family was reunited. Exactly when that was in not known, but reports hint that it was in 1905 or 1906. Charles opened a medical

practice in Eudora and also taught at the University of Kansas. The 1908 yearbook has him listed as "a demonstrator of Massage and Hydro-Therapy". Although he was described as a caring and competent doctor, rumors began to spread that there was trouble in the family. On December 10, 1910, Charles changed the beneficiaries of his life insurance policies from Mattie to Ester and Charlie, cutting his wife out completely. It appears that around this time, Mary, who had been living with Charles and Mattie, moved out and left Eudora. She was reported to have told Charles that she wanted the family to be together, and had pleaded with him to give up his drinking. Mary went to live with her daughter Nevada, who apparently had left her husband, Horace Mendenhall Rogers. The couple had lived in Jefferson Township in Johnson County, Kansas, but after leaving Rogers, Nevada, had opened a boarding house at 1407 Kentucky Street in Lawrence. The gossip around Eudora was that Charles "was in the habit of drinking heavily and abusing his wife and family." On April 7, 1911, while Charles was in Kansas City for the day, Mattie had a friend drive her to Lawrence, where she boarded a westbound Santa Fe train. Gossip around Eudora was that she had run off with a man. This was apparently fueled by Charles reportedly having said that she went to Colorado with a former patient of his, but there is no evidence that she did so. Wherever she went, Mattie did not stay away long, but returned home in time to be seen dining with Charles at the Eldridge Hotel in Lawrence on April 17th. Then, on September 11, 1911, things began to go very wrong. One report has Charles coming home drunk and threatening to kill Mattie, telling her to take the children and leave. Another has it that she just left, telling her husband that she would never return. Whichever account is correct, Mattie left Eudora around midday on the 11th, leaving the children with their father, and walked the

nine miles to her sister Nevada's place in Lawrence. Charles discovered where Mattie had gone, and sent the children to her by train on the morning of the 13th. That evening she got an unnamed farmer to take them back home. She sent along a note to Charles, explaining that he was better able to care of them than she was. The next morning, September 14, 1911, Charles left Eudora and drove himself and the children to Lawrence. Some reports have him having been drinking heavily since Mattie left, but a man who said that he had been with him the evening of the 13th and the morning of the 14th reported that Charles had not touched a drop. The three arrived at the house on Kentucky Street. At first Mattie would not let Charles in, but he said that all he wanted to do was talk to her. She let him and the children in, and Charles, Mattie, Mary, Ester, and Charlie sat around a table in the dining room, discussing the family's problems. According to Mattie, Mary said to Charles that "she was anxious to have us live together and get along," and she told him again to give up drinking. Charles asked Mattie if she would come back to Eudora with him, but she refused, saying "I would not live in Eudora again, as I [have] had enough of that place." Charles supposedly swore at her, stood up, and in front of the couple's two children, drew out a 32-calibre revolver, reached across the table, and fired two shots at Mattie. One bullet went through the fleshy part of her left forearm. The other nicked her right arm and continued on behind her, hitting her mother in the thigh. After being hit, Mary fell to the floor. Charles then turned the revolver around, pointed it at his chest, and fired. The bullet went through his heart and he fell dead. Someone called Dr. G.W. Jones, and when he arrived he found that both Mattie and her mother had been taken to bed. He examined and treated Mattie and Mary's wounds. The coroner, Dr. Carl Phillips, had also been called, and when he arrived, he

examined Charles' body. He declared it a suicide and said there would be no need for an inquest. Dr. Jones determined that neither of Mattie's wounds was life threatening, but the bullet in Mary's thigh had impacted the bone, and so was very serious, especially for a 71 year-old woman. The initial report in newspapers was that the bone was shattered and that Mary was not expected to recover. Charles' body was removed to Shafer and Funk's funeral parlor in Lawrence. It was reported that Mattie had said that Charles was a good man when he was not drinking, and that she would have been willing to go anywhere with him except back to Eudora, where he would resume his old life with his "carousing crowd". Mattie, Mary, and the children spent the night in Nevada's home. Although the first reports of Mary's condition were dire, Dr. H. T. Jones<sup>2</sup> determined her injuries were not as severe as first thought, and that the bullet in her thigh had only chipped the bone instead of shattering it. It was a serious wound, but he expected her to fully recover. To make her more comfortable, the day after the shooting he had her taken to Simmons Hospital. That evening, Mattie took the two children back to their home in Eudora, where she had earlier sworn she would never go to again. She had not been able to use her left arm since the shooting, and physicians had determined that it would take time to see if the paralysis was permanent. On the morning of Sunday the 17th, Charles' body was taken from Lawrence to Eudora, where the local Masons took charge of it. The funeral was held that afternoon in the English Methodist Church there. It is not clear what happened to the body after the funeral. A cousin of Charles, Dr. O. S. Johnson, was in Lawrence on September 20th, and was quoted as saying "We were not greatly surprised when we learned of the shooting ... We have known that Charles was losing his grip for some time. The family realized that he was drinking heavily and

that he was not so strong as formerly. He also had a quick temper." Mattie immediately put in a claim to the American Central Life Insurance Company on behalf of Ester and Charlie on the three policies totaling \$6,525 that Charles had with them. The company denied the claim, stating that there was a clause in the policies that if the insured took his own life, the policies were invalidated. Mattie filed suit in Douglas County District Court on September 28, 1911, to force the insurance company to honor the policies. Mary was recovered enough from her wound to be released from the hospital that same day. The lawsuit eventually made its way to federal court in Leavenworth, Kansas, where a jury decided on October 17, 1913, in favor of the insurance company. Mary completely recovered from her wound. It is not known if Mattie regained the use of her left arm. In 1915, Mattie married George Neis, a member of a long standing Eudora family. Mary came to live with them, and stayed the rest of her life in Eudora, dying there in 1937. Mattie died in 1938, and joined her mother in the Eudora Cemetery. George Neis died in 1948, and was buried alongside Mattie.

<sup>1</sup> The date of Newton and Mary's marriage is four years after Marshall was born. There are two explanations for this discrepancy. The first is that Marshall as born out of wedlock, and that for some reason, perhaps because of Newton serving in the military during the Civil War, Mary and he did not get married until 1866. The second is that Mary was not Marshall's mother. Newton could have had a previous marriage, and that his first wife, Marshall's mother, died between 1862 and 1866. Census records are of limited assistance in determining which is correct. Members of the household are always categorized by their relationship to the head of the household, in this case, Newton, and under his entry in the 1880 U.S. Census for Jefferson County, Kansas, Marshall is noted as "son," which he would have been regardless of whether or not Mary was his mother. That same entry does record Marshall's mother's place of birth as New York, which it would have been if Mary was his biological mother, but it really is no help in answering the question, because a

possible first wife of Newton's could have also been born in New York.

<sup>2</sup> There were two Dr. Jones in Lawrence at that time, Dr. G. W. Jones and Dr. H. T. Jones.

From: Lawrence Journal-World (September 19, 2011), [100 years ago: Injured wife of Eudora doctor goes home in silence; town abuzz with gossip](#), by Sarah St. John; Payne, W.H., 1880 United States Census, First Ward, Topeka, Shawnee County, Kansas, 6/2/1880; [Newton Smith](#), Michigan, County, Marriages, 1820-1940, Marriages, 1863-1890, v. D, no. 3207, Family Search website; Payne, Charles, 1910 United States Census, Eudora, Douglas County, Kansas, 5/11/1910; Lawrence Daily Journal-World, v. 55, no. 90 (April 10, 1911), p. 5; Lawrence Daily Journal-World, v. 55, no. 96 (April 17, 1911), p. 3; Lawrence Daily Journal-World, v. 55, no. 120(1) (September 14, 1911), p. 1, 4; Lawrence Daily Journal-World, v. 55, no. 120(2) (September 15, 1911), p. 1; The Topeka Daily Capital, v. 35, no. 208 (September 15, 1911), p. 3; Lawrence Daily Journal-World, v. 55, no. 121 (September 16, 1911), p. 1; The Jeffersonian-Gazette, v. 30, no. 51 (September 20, 1911) pp. 3, 7, 8; Lawrence Daily Journal-World, v. 50, no. 272 (November 28, 1911) p. 1; Lawrence Daily Journal-World, v. 55, no. 232 (September 29, 1911), p. 1; and, Lawrence Daily Journal-World, v. 57, no. 249 (October 17, 1913), p. 1.

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 11<sup>th</sup> Street, Lawrence, Kansas, 66044. The Law Library's telephone number is: 785-838-

2477. The Library's e-mail address is: [info@douglascolawlibrary.org](mailto: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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