Jason Clarke Swayze (1830–1877), the pugnacious editor of the Topeka Blade.
The Shooting of Jason Clarke Swayze: Libel, Press Freedom, and Editorial Civility in 1870s Kansas

by Erika J. Pribanic-Smith

Topeka newspapermen Jason Clarke Swayze and John W. Wilson had a violent history. Soon after Wilson took the helm of the Topeka Times in 1875, Swayze published an insulting woodcut in his Topeka Blade that led Wilson to threaten him with a club. Two years later, Wilson responded to virulent editorial comments in the Blade by attacking Swayze in the street.¹

Undeterred, Swayze published an editorial in the Blade that accused Wilson of being a gambler and a pimp.² As Wilson approached him outside a tavern that evening, Swayze brandished his pistol. “I did not come here to beat you up,” Wilson said, drawing his own revolver. “I don’t intend you to beat me up,” Swayze replied. The ensuing altercation took the men into an alley, where they fired at each other. One of the bullets struck Swayze’s chest; he died thirty minutes later.³

Though some newspapers lamented Swayze’s demise and cursed the judicial system for acquitting his killer, many wrote that it served him right.⁴ His ongoing verbal assaults on Wilson were not unique; no one was safe from Swayze’s attacks. Wilson was not even the biggest target; Swayze harassed Commonwealth editor Floyd P. Baker for years and, in fact, connected him with Wilson in the gambling and pimping scheme. Following the shooting, some accused Baker of conspiracy, which led him to sue Swayze’s ally M. C. Morris of the Leavenworth Times for libel. Years later, Swayze’s

¹ The woodcut appeared in the Topeka Blade, July 17, 1875; the Blade reported on the attack and ensuing legal action on July 21, 1875, and July 22, 1875. See also Topeka Blade, March 12, 1877.
² Topeka Blade, March 27, 1877.
³ Scene recreated from witness and medical professional testimonies to the coroner’s jury as published in “Assassination!,” Topeka Blade, March 28, 1877, and “A Fatal Affray,” Commonwealth, March 28, 1877.
son suggested that Baker ordered the slaying to punish Swayze for implicating him in a lottery scandal.5

Taken in total, the shooting, its causes, and its aftermath raise questions about libel, press freedom, and editorial civility in postbellum Kansas. The incident also demonstrates that despite the verbal and physical violence of some editors, Topeka was home to a leader in the movement toward a more respectable and objective form of journalism.

Aggression among newspaper editors was not unusual in nineteenth-century Kansas. Some historians aver that conflict in territorial newspapers over slavery set the tone for the rest of the century. The Kansas–Nebraska Act of 1854 allowed for settlers to determine whether the state would enter the Union with or without slavery. Few settlers arrived in the new territory without a passionate view on the slavery question, and violent factions developed.6 Historians of Kansas journalism demonstrate that skirmishes of the Bleeding Kansas era spilled over into the press. Editors of opposing factions engaged in bitter feuds, hurling accusations and insults in print. Moreover, mobs destroyed the presses of several

5. Oscar K. Swayze, undated speech (plain paper), and speech to the Shawnee County Early Settlers’ Society, folder 16, box 3, Oscar K. Swayze Papers, Collection 83, State Archives Division, Kansas Historical Society, Topeka, Kansas (hereafter cited as “Swayze Papers”).

newspapers because of the causes their editors advocated, and the most passionate newspapermen joined proslavery and free-state militias.7

Editorial abuse did not wane after Kansas joined the Union as a free state. Many pioneering editors of the territorial period maintained publication after statehood, and they continued fighting each other. Some conflicts stemmed from battles between neighboring communities for the distinction of county seat, as editors included the flaws of opposing newspapers in the list of reasons why the other community was inferior. Other arguments were personal. Historians declare that the biting language of the territorial period persisted in many Kansas papers for decades after statehood, until the newspapermen of Bleeding Kansas died, retired, or mellowed with age. Historian David Dary argued that by the 1920s, editorial language became more polite and newspapers sought respectability.8

While invective pervaded, some editors were punished for their words. A particularly famous example is Colonel Daniel R. Anthony of Leavenworth. During his editorial career, Anthony shot two rival editors in separate incidents three years apart, killing one and maiming another, but he was acquitted in both cases. Anthony took a bullet in a third argument. Later, another editor fatally wounded the editor who shot Anthony.


H
istorians of nineteenth-century journalism indicate that notable changes marked the postbellum era. Perhaps the most significant transformation was the shift in emphasis from editorial views to objective news. During the Civil War, newspapers had taken on an important role as providers of information, and many newspapers shed the partisan purpose they had served since the Revolution. Newspapers in larger cities became less identified with individual editors, and the highly personal editorial attacks that characterized the antebellum era decreased. Invective persisted in the South, where radical and conservative editors battled over Reconstruction policy. Elsewhere, however, newspapers that emphasized commentary lost readers and influence.10

A new type of journalism emerged, which Ted Smythe labeled “western journalism.” Young editors in Detroit, Chicago, St. Louis, and Kansas City, Missouri, developed practices that expanded the role of newspapers in business and civic life. These editors aimed to provide entertainment and information that readers could use and to protect readers from corruption through reform campaigns. As midwestern editors pushed for the largest possible audience, they kept harsh editorial attacks to a minimum. Frank Luther Mott focused on the same editors in his chapter on “Journalism in the West” from 1872 to 1892, in American Journalism: A History.11

During the period of western journalism, Kansas courts helped shape the concepts of conditional privilege and actual malice in American libel law. In its famous New York Times v. Sullivan ruling, the U.S. Supreme Court cited a 1908 Kansas Supreme Court decision that had roots in Reconstruction-Era Kansas. Coleman v. MacLennan arose at a time of political infighting and muckraking journalism in Kansas. In Topeka, a rivalry emerged between the State Journal, which dedicated itself to uncovering Republican wrongdoing, and the Republican Daily Capital. An August 1904 article in the Journal asked voters to consider the alleged wrongful behavior of three state officials facing reelection, resulting in a libel suit. The Kansas Supreme Court ruled that the press generally was free to publish anything, so long as it was true and not blasphemous, obscene, or scandalous. Even when the published material was untrue, if the matter was of public concern or involved public men—particularly officeholders and candidates—the injured party needed to prove actual malice. Justice Rousseau Burch wrote that the Journal circulated the offending article to provide what the defendant believed to be truthful information concerning a candidate, enabling voters to cast their ballots intelligently.12

Nearly fifty years earlier, the framers of the Kansas Constitution stipulated that truth was an adequate defense against libel and that the accused should be acquitted if he published the libelous matter for justifiable ends. The Kansas Supreme Court applied those provisions in the 1877 case of Castle v. Houston, in which a citizen seeking a state clerkship accused the Leavenworth Daily Commercial of publishing false allegations. The court ruled in favor of the Commercial’s legislative correspondent, stating that the defendant established the truth of the claims. Seven years later, the Kansas Supreme Court cited its Houston decision in its ruling on State v. Balch, reversing a district court’s conviction of a man who circulated a handbill accusing a candidate of election fraud. In that case, which historian Deckle McLean called the key precedent for Times v. Sullivan, some of the allegations were false. Nonetheless, the court argued that the defendant was blameless because he believed what he published was true. Furthermore, the broadside’s aims to create an informed electorate were just. Burch cited the Balch ruling in the Coleman v. MacLellan decision, emphasizing that the public benefit of stimulating discussion of candidates’

Founded in 1871, the North Topeka Times changed hands several times before V. P. Wilson & Sons became the publishers in 1874. Within a year, the Wilsons began publishing a daily edition in Topeka, with James King as editor. By 1876 the Commonwealth absorbed the daily Topeka Times too, though it later reemerged back in North Topeka. King was also a historian of sorts and published a History of Shawnee County in 1905.

A gap exists in scholarly study between territorial journalism and that of White’s day. Aside from Howes’s study of violence among Kansas editors, what has been written about postbellum Kansas journalism has appeared in Dary’s history of the “Old West” press and in broad histories of Kansas and Kansas journalism by individuals contemporary to the editors of the 1870s and 1880s. The latter works present a stark contrast to the former. Dary and Howes provide a sensational view of sharp-tongued editors prone to drawing their weapons at a moment’s notice, whereas histories published in the early twentieth century portray nineteenth-century Kansas newspapers primarily as town boosters who

lured immigrants, promoted enterprise, and maintained morale in the face of adversity. These works elevate certain editors as pillars of the community, including Swayze’s adversary Baker, who was an organizer, the first secretary, and eventually president of the Kansas State Historical Society. Historian James King paid Swayze little attention, merely mentioning that Swayze operated the Blade until his death, “resulting from a newspaper controversy.” The Historical Society’s History of Kansas Newspapers never discussed the shooting at all and only mentioned Swayze as founder of the Blade in a list of Kansas newspapers.18

Obviously a booster publication itself, King’s 1905 History of Shawnee County proclaimed, “Shawnee County has from the very beginning been a great field for newspapers, and Topeka has for more than half a century maintained its reputation as an important news center.”19 Perhaps it was, yet historians ignore it while emphasizing neighboring Missouri’s importance to the development of postbellum journalism. Therefore, Topeka’s newspapers warrant examination. The true story of Topeka journalism in the 1870s lies somewhere between the mud- and gunslinging view of Dary and Howes and the rose-colored image that the editors’ contemporaries depicted. This study demonstrates that Swayze was an unwelcome anomaly who brought a vindictive style of editorializing from Reconstruction Georgia to a midwestern city that upheld the tenets of civil and objective western journalism.

Swayze arrived in Topeka in 1873 with a new set of copper-faced type, a Campbell cylinder press, and a Colt’s Armory job press—all purchased with a loan from Swayze’s former New York Tribune employer Horace Greeley. The New Jersey-born Swayze took a position in 1866 as an agent of the Freedman’s Bureau in Griffin, Georgia, but he quickly resigned after his actions generated too much controversy. Swayze then took over the American Union and eventually moved it to Macon. “Being ku-kluxed, ridden on a rail for refusal to shout for Jeff Davis, shot at on the streets and threatened with hanging was a part of the life of the Union editor,” recalled Swayze’s son Oscar, who apprenticed at the newspaper as a child.20 Although some peers expressed the worthiness of the Union’s Radical Republican cause and praised Swayze’s fearlessness, others criticized his zealousness. One wrote, “This child of the devil is doing all he can to stir up riot and bloodshed in Georgia.”21 Once the Ku Klux Klan drove away or killed many of Swayze’s supporters, he determined that he had to “leave or starve.” Oscar Swayze indicated that the family moved to Kansas at Greeley’s urging. In the evening Blade’s prospectus, Jason Swayze explained that he canvassed the state and decided Topeka needed another newspaper.22

Topeka already had a healthy morning paper (the Commonwealth) and the weekly North Topeka Times. Salmon S. Prouty and J. B. Davis had founded the Commonwealth in 1869. Up until the Blade’s appearance, the Commonwealth had managed to buy up any direct competitors in Topeka proper. Baker bought the Commonwealth in 1875. Previously, the native New Yorker had been a school teacher and administrator, a lawyer, a farmer, and a legislator. Founded in 1871, the North Topeka Times changed hands several times before V. P. Wilson & Sons became the publishers in 1874. Within a year, they began publishing a daily edition in Topeka, with James King as editor. By 1876 the Commonwealth absorbed the daily Topeka Times, too, though it later reemerged back in North Topeka.23

Vear Porter Wilson was a prominent citizen in Dickinson County. He had immigrated to Abilene, Kansas, from Ohio in 1870 and started the county’s first newspaper. He also served as a judge, postmaster, and minister before his election to the state senate in 1872. He remained in the capital briefly after his term ended in 1874 but turned the Times over to his son John Wilson, King, and a third associate when he left in 1875 to edit a paper in Enterprise, a town he helped found. John Wilson worked in the Commonwealth office as a job printer at the time of the shooting.24

22. O. K. Swayze, undated speech (on Shawnee County letterhead), folder 16, box 3, Swayze Papers; Topeka Blade, August 13, 1873; “Prospectus of the Topeka Blade,” Topeka Blade, August 13, 1873.

James L. King, ed., History of Shawnee County, Kansas, and Representative Citizens (Chicago: Richmond & Arnold, 1905). Charles Howes reiterated some portions of his father Cecil’s “Pistol Packin’ Pencil Pushers” article in “Editors, the Fighting Kind,” chapter 14 in This Place Called Kansas, 79–87.
Arguments with these other newspapermen ultimately got Swayze killed. From the start, he emphasized that he saw his editorial duty as exposing corruption. The prospectus announced that his new paper “will be a Blade in every sense of the word, and will be used to cut off rotten limbs.” Other early editorials vowed to condemn wrongs wherever they existed and give readers a paper that would fearlessly uphold their rights. Sometimes, this type of journalism required harsh language, Swayze wrote.25

Swayze immediately opened fire on his competitors. Within a month of commencing the Blade, he replied “rather mercilessly” to an editorial in the Commonwealth on a road bond issue. When the Commonwealth failed to respond, Swayze believed his abuse silenced it and promised to be gentler in the future. Another Blade editorial questioned the Times’ independence after the weekly supported a candidate Swayze considered unscrupulous.26

Extracts from other Kansas newspapers demonstrated that the Blade was at first a welcome addition, in spite of Swayze’s sharp tongue. Some pointed out the practicality of its motto: “We will not hurt anybody unless they deserve it.” Editors called the Blade sensible, outspoken, lively, and honest. One wrote, “The editor wields a pointed pen and fearlessly dashes down upon corruption.” Some disliked Swayze’s forwardness, though, including one editor who proclaimed, “The Topeka Blade has an old woman with a butcher knife at the head of its editorial page.”27 The Blade initially struggled and ceased publication within six months, but Swayze revived it, after a year’s absence, in January 1875.

That May, the Wilsons began the daily Topeka Times, which published south of the Kansas River. As an evening paper in direct competition, the Wilsons and their paper were Swayze’s prime targets in his new Blade, beginning in earnest the newspaper war that culminated in his death. Swayze began his attack by copying extracts from other Kansas newspapers predicting the daily Times’ failure. The Blade repeatedly alleged that Wilson could not pay his staff, and Swayze cautioned King against joining the Times to rescue it, professing there was too much work for too little pay.28

Swayze credited the editors’ and proprietors’ incompetence for the Times’ purported lack of success.

In 1870 Year Porter Wilson moved from Ohio to Abilene, Dickinson County, Kansas, where he started the Chronicle, the county’s first newspaper. Wilson also served as a judge, postmaster, and minister before his election to the state senate in 1872. He remained in the capital city briefly after his term ended in 1874 but turned the Topeka Times over to his son John Wilson, James King, and a third associate when he left in 1875 to edit a paper in Enterprise, another Dickinson County town he helped found.


26. "Sorry," Topeka Blade, August 18, 1873; Topeka Blade, August 20, 1873; "As We Suspected," Topeka Blade, October 21, 1873.


28. Topeka Blade, May 7, 1875; May 17, 1875; May 18, 1875; June 7, 1875; June 14, 1875; June 25, 1875; and July 5, 1875.
On several occasions, Swayze pointed out mistakes in the paper, including typos and incorrect dates, which he labeled as “a fair index of the ability of the outfit.” Swayze also contended that the stories in the Times were too dull to interest readers and that the insights V.P. Wilson attempted to provide lacked wisdom. Furthermore, Swayze declared that Wilson lacked the business sense to run a daily newspaper in a city Topeka’s size.

Swayze frequently accused Wilson of letting potential patronage color his reporting. Swayze alleged that the Times published puff pieces about people who might offer Wilson printing work, and he contended that the Times straddled the fence on certain issues to avoid offending potential patrons. Moreover, Swayze asserted that Wilson’s lust for the local postmaster position caused him to editorialize in favor of President Ulysses S. Grant.

Swayze also assaulted Wilson’s credibility by charging the Times with inflating its circulation reports. Similarly, Swayze accused the Times of overstating its size and value. Because the Blade was a tabloid, Swayze took particular offense to Wilson’s assertions that the daily Times would be of “respectable size.” Swayze claimed that the Times’ twenty columns contained less “reader matter” in bulk and quality than the Blade and ranted that the Times had attempted “to perpetrate a fraud upon the people of Topeka by pretending to give them something worth twice as much per week as the Blade,” when the product was “inferior in every respect.” Swayze repeatedly reiterated his claim that the Times’ editors filled several columns of the daily Topeka Times with “dead advertisements” purchased for publication in the weekly North Topeka Times. Yet he heckled Wilson for soliciting legitimate advertisers for the daily. Swayze advised advertisers who wished to reach the public to do so in a paper that people actually read.

Moreover, Swayze constantly jeered the Times for claiming to be respectable when its proprietors behaved disreputably. In one example, the Times proclaimed, “We say to Mr. Swayzee [sic] in all candor that we can please respectable people best, the class who read the Times, by going right along, regardless of envious growls and misrepresentations.” Swayze responded in a series of three editorials over the course of two days that blasted the Times’ claims at respectability. Swayze also argued that a newspaper’s purpose was not to please people but to supply them with useful information.

Swayze made repeated mention of the fact that Wilson was a former minister, yet he had no trouble lying. For instance, Swayze accused the Times of fabricating claims that it had a special arrangement for exclusive dispatches from St. Louis, when in fact the same news appeared in other newspapers first. The Times also professed to be the only legitimate evening daily in Topeka—an obvious jab at the Blade. Swayze responded that the Times only was legitimate if having an editor who had sold his vote as a state legislator made it so.

Very few issues of either the North Topeka Times or the Topeka Daily Times are available from 1875. Only one of the extant copies alluded to the feud with Swayze, proclaiming that the daily Times was gaining ground in the community even if it was not “everlastingly lying about its neighbors and falsely bragging about itself.” However, excerpts republished in the Blade indicate that as Swayze’s attacks against the Times grew increasingly personal, the Wilsons responded in kind. One editorial asserted, “There is a mud-slinger in this town who has been endeavoring to get the Times to kick him for some time past, and is very wroth because he has not succeeded. The Times considers him beneath its notice, and hence has paid no attention to his snarlings.” The time had come, though, for the Wilsons to show Swayze’s true character, so they published an extract from a former Georgia colleague intended to expose Swayze as a liar. As a final blow, the Times alleged that Swayze had abused his wife. A paper in Dodge City later confirmed that Swayze had “some family troubles,” and “nearly

29. Topeka Blade, May 13, 1875; June 7, 1875; and May 31, 1875.
30. Topeka Blade, May 6, 1875; June 10, 1875; June 14, 1875; and July 5, 1875.
31. Topeka Blade, January 18, 1875; February 18, 1875; June 4, 1875; and June 7, 1875.
32. Topeka Blade, May 7, 1875. See also Topeka Blade, May 18, 1875. Topeka Blade, January 16, 1875; March 13, 1875; April 24, 1875; May 26, 1875; May 28, 1875; June 24, 1875; July 2, 1875; and July 22, 1875.
33. Topeka Blade, May 25, 1875; May 28, 1875; June 7, 1875; June 10, 1875; July 2, 1875; July 9, 1875; and July 14, 1875.
34. Quoted in Topeka Blade, May 27, 1875. (This issue of the Times is not available.) Topeka Blade, May 28, 1875; June 1, 1875; June 23, 1875; and June 24, 1875.
35. Topeka Blade, May 27, 1875; May 27, 1875; and May 28, 1875.
36. Topeka Blade, May 18, 1875; May 24, 1875; July 10, 1875; July 13, 1875; July 20, 1875; July 21, 1875; July 22, 1875; and July 31, 1875.
37. Topeka Daily Times, July 1, 1875. The July 22 issue of the daily Times and the July 23 issue of the North Topeka Times also are available but did not contain any mention of Swayze or the Blade. The next available issue of either Times title is from October 1875, after the argument between the Blade and Times had ended.
every day the columns of Wilson’s paper were filled with references to these ‘family jars’ and attacks upon Swayze’s private character.”

Swayze denied the rumors of domestic violence but called Wilson’s wife a prostitute and averred that Wilson pimped her out. The following week, the Blade reported that Wilson aimed to sue Swayze for libel. Upon Swayze’s death, Wilson reflected in his Enterprise paper that the Blade had “outraged every sentiment of decency and honor implanted in the human heart by inhumanly attacking . . . a faithful wife against whose pure life and character no breath of slander had ever before been uttered.” Prominent attorneys advised the Wilsons that libel proceedings generally failed in Kansas, though, and they could ill afford a futile attempt.

Wilson retired from the Times the next month to turn his attention to other interests. In his valedictory editorial, Wilson declared the Topeka Times firmly established in the community and announced that, though the past year had been hard on newspapers, the Times had paid all its bills and made itself “the best newspaper property in the city of Topeka.”

Swayze reported the paper would go to “the ‘devil,’ his son and heir, who will, with all due dispatch, run it into the ground.” Shortly thereafter, John Wilson berated Swayze on the steps of the courthouse, warning him of dire consequences should the Blade publish anything more about the Wilsons. Swayze accompanied his July 17, 1875, report of the encounter with a woodcut of a drunk.

A few days later, Wilson hunted Swayze down with a hickory club “for the purpose of ‘lickin’ the damned son of a bitch.’” Upon finding Swayze on the street, Wilson began spewing “disgustingly dirty language” and raised his weapon. The Commonwealth reported that Swayze “drew, drew at, or thought of drawing, a revolver,” at which time Wilson called for police, and an officer arrested Swayze for carrying a concealed weapon. One witness indicated that Swayze drew a revolver with a wooden handle, while another testified that he placed his hand on his hip pocket, where something that looked like the butt of a revolver peeked out, but he did not draw it. According to the Commonwealth, the item in his pocket “might have been a revolver, or it might have been a banana, or a bologna.” Swayze identified it as a wooden-handled eraser and alleged that “the great lubber” only called out for police to make sure Swayze had no means to defend himself against a beating. The judge dismissed the case, citing lack of evidence.

The day after the incident on the street, the Wilsons had Swayze arrested for libel, specifically citing the woodcut of a drunk. Swayze retorted, “To the best of our knowledge and belief, it was a good likeness.” Swayze also contended that he had ten times more cause than Wilson to seek redress, alleging that the Times had published countless slanders referring to Swayze’s “domestic misfortunes.” A justice examined the Wilsons’

39. “Justice Prevails,” (Enterprise) Kansas Gazette, June 8, 1877; Topeka Blade, June 7, 1875; and June 14, 1875.
41. Topeka Blade, July 14, 1875; July 16, 1875; July 20, 1875; and July 17, 1875.
42. Topeka Blade, July 21, 1875; July 22, 1875; July 23, 1875; July 24, 1875; and July 24, 1875; “A Distressing Affair,” Commonwealth, July 21, 1875; “Legal Proceedings,” Commonwealth, July 22, 1875.
43. Topeka Blade, July 21, 1875; and July 22, 1875.
Swayze harassed Commonwealth editor Floyd P. Baker for years and, in fact, connected him with Wilson in the gambling and pimping scheme. Following the shooting of Swayze, some accused Baker of conspiracy, which led him to sue Swayze’s ally M. C. Morris of the Leavenworth Times for libel. Years later, Swayze’s son suggested that Baker ordered his father’s slaying to punish Swayze for implicating him in a lottery scandal.

Such allegations increased after Swayze began harassing Baker over his connection to a lottery.45

The lottery was a raffle for cash prizes, purported to raise funds for the Topeka Library. Because a number of similar operations had been scams, a portion of the public and press had become wary. The Oskaloosa Independent declared the Topeka Library benefit a “high toned fraud” and wondered why Swayze had not opposed it. Swayze asserted that because the men who ran it were respected, Topekans generally considered the lottery respectable. “Hence, no matter how reprehensible it may seem to us,” Swayze explained, “we would be insulting our readers if we should attempt a war upon it.” Swayze received a torrent of responses indicating that Topekans generally did not support the scheme, so he took investigating it as his duty.46

Swayze focused a great deal of energy on Baker’s alleged role, noting that he had run two similar scams during his time as an editor in Texas. Swayze asserted that Baker “still hankered after the plan of getting other people’s money without giving an equivalent.”47 Baker and his associates procured the charter for a bank to comply with legal requirements stipulating that a lottery must be run through a legitimate banking operation, but Swayze emphasized repeatedly that the outfit conducted no bank business. According to Swayze, the bank’s article of incorporation listed Baker and his Texas partner G. W. Bain as the primary stockholders in the bank; additional stockholders included Baker’s brother-in-law R. H. C. Searle, his son C. C. Baker, and R. A. Barker, former Kansas secretary of state. Swayze wrote that the men named their organization the Topeka Library Aid Association “for the purpose of reaching the confidence of simple hearted people,” although the library insisted that the organization took the name without authorization and likely would not benefit from the scheme. Finally, the men appointed esteemed citizens as officers to imply respectability: former State Record editor S. D. MacDonald as president, the Topeka city treasurer as treasurer, and

libel case against Swayze for two days before dismissing it, again on the grounds of insufficient evidence. V. P. Wilson later lamented that the libel suit was “laughed out of court.”44

Soon after the failed libel suit, the Wilsons sold the Times. The Commonwealth reported that its co-founder Prouty would edit the Times, and N. R. Baker would handle its business from the Commonwealth counting room, but the Commonwealth and Times would run as separate enterprises. Swayze insisted that F. P. Baker acquired the Times so that he could have a monopoly on newspapers in Topeka and try to run Swayze out of town.

44. Topeka Blade, July 26, 1875; and July 27, 1875; Commonwealth, July 27, 1875; “Justice Prevails,” Kansas Gazette, June 8, 1877. Swayze admitted that his ex-wife had accused him of abuse but insisted that he had been cleared of all charges and that the former Mrs. Swayze had not even been awarded alimony when they divorced.


47. “Our Topeka Lottery,” Topeka Blade, March 30, 1876. For earlier articles about Baker’s interest in the Texas lotteries, see Topeka Blade, April 24, 1875; and May 3, 1875.
Barker as secretary. Swayze alleged that Baker named these figurehead officers to keep his hands clean, but Baker and Bain would handle—and pocket—the funds.48

Baker also purportedly secured endorsements from city, county, and state officials to lend the operation respectability. On April 2, 1876, Swayze asserted that the Kansas Constitution prohibited the sale of lottery tickets and questioned why officials would “allow these robbers to further drag the names [sic] of Kansas in the mud of corruption.” He alternately accused Baker of using the officials’ names on Library Aid Association literature without their authorization and of buying their endorsements. Swayze also averred that some politicians had their hands in the scheme, perpetuating the political robbery that led newspapers to nickname Kansas the “rotten commonwealth” early in its statehood.49 Although Swayze accused the Republican Party in general, he specifically named Baker’s favored gubernatorial candidate, John Guthrie, as a participant. Swayze hoped the connection would prevent Guthrie’s election, declaring, “It is quite time the people of Kansas should cease to elect bribe-takers, lottery swindlers and Treasury plunderers to office.”50

Swayze wondered why some of the state’s editors remained silent on the issue when exposing such frauds was their duty. He vowed to continue his incessant editorials about the lottery until the scam ended; “too much of this devilment” in Kansas already had been “shielded by a venal press.” Swayze published extracts from several newspapers that praised the Blade for the vigor with which it “ventilated the thieving concern.”51 He devoted even more space to newspapers that criticized him. The Hays City Star, for instance, declared that the “howl that is being kept up by the Blade, branding the best citizens of Topeka as thieves and swindlers” frightened settlers away. Swayze received the most abuse from friends of Baker’s, and he hurled it back. He accused editors of the Troy Kansas Chief and Topeka Kansas Democrat of perpetrating frauds and being bribed into the lottery’s service. Swayze placed these publications, along with the Commonwealth and several others, among a class of long-established newspapers that had helped give Kansas the “rotten commonwealth” moniker. Swayze wondered which papers would be sustained: those that aimed to expose corruption or those based on fraud and owned by robbers.52


52. “The Topeka Lottery,” Topeka Blade, April 11, 1876; “A Public Question,” Topeka Blade, April 12, 1876; “Sol. Miller Justice,” Topeka Blade,
Swayze reserved particular venom for Baker’s newspapers. The Commonwealth mentioned the lottery in only four items: an announcement that its presses were available for job printing after being consumed by contract work for the Topeka Library Aid Association, a notice that sales were closing and the drawing would take place June 8, a list of winners, and a recap of the concert event where winners were announced. Swayze took the Commonwealth’s failure to “condemn evildoers” and its bolstering of “lottery pimp” Guthrie for office as endorsements of the scheme; he deemed the Commonwealth’s few mentions of the lottery as proof of Baker’s connection to the operation. While the Commonwealth was silent, Swayze proclaimed that Baker refused “to compromise the dignity of his morning paper” and alleged that he had taken over the Times to use it as a mouthpiece for the lottery organization instead. Swayze also accused Baker of starting a new paper, the Topeka Herald, as a lottery organ and pretending it was a longstanding publication to lend credibility.

Baker took the Blade’s allegations in stride, but upon seeing correspondence in the Emporia Ledger accusing the Commonwealth of supporting the lottery, he wrote two letters in self-defense. Baker explained that he had done nothing to refute similar charges perpetrated “in the satanic and blackmailing papers in this State” because “as long as they appeared in no reputable journal,” he did not think it necessary. He feared, though, that some of the influential Ledger’s readers would see the accusations and believe them, and he denied involvement. After the prize drawing, Baker made a similar statement in the Commonwealth. He noted that his objective paper had said nothing either for or against the lottery. Baker declared himself opposed to lotteries on principle, but he did not feel it necessary to denounce good citizens who wished to buy tickets. Baker vowed to say nothing more on the issue and remained true to his word, but Swayze was bound to no such oath. He called Baker a lottery swindler and the Commonwealth a lottery organ right up until his death eight months after the drawing.

Adding fuel to Swayze’s editorial fire, the state legislature proclaimed that Baker became bitter when the state refused to appropriate funds for the Commonwealth’s benefit and subsequently “misrepresented and slandered members of this house” out of spite. Therefore, the body recommended that Baker “start another lottery” to “replenish his pockets.” Resolutions banned the Commonwealth from state patronage, awarding it exclusively to the Blade. Swayze barely could contain his glee. He rejoiced that some politicians could not be “manipulated by lottery swindlers” and touted his own political independence: “The Blade has asked no favors, but has stood aloof, making just, and sometimes harsh, criticisms; though which have been respected, because they were reasonable, and made with a spirit of fairness, and without hope of reward.”

An Associated Press agent from the Kansas City Times filed a story on the resolutions that several Kansas and Missouri newspapers ran, prompting the Commonwealth to publish a denial labeling the resolutions a “manifesto from a lot of bummers” known as the “third house.” Baker claimed the house did not have a quorum and bystanders were counted in the vote. Swayze averred that the resolutions were offered in regular order, admitted by the Speaker of the House, and passed legally; Baker’s denial was just another fraud. Swayze contended that Baker tried to “bulldoze” the clerk into leaving the resolutions out of the record, but “Fraud Pimp Baker cannot dictate to the legislature.”


56. The Topeka Blade ran the resolutions at the head of its editorial column on page 2 for several days: March 16, 1877; March 17, 1877; March 19, 1877; March 20, 1877; March 21, 1877; March 22, 1877; March 23, 1877; March 24, 1877; March 26, 1877; March 30, 1877.

57. “The Handsome Thing,” Topeka Blade, March 7, 1877; “Climbing Down,” Topeka Blade, March 9, 1877. See also Topeka Blade, March 9, 1877; and March 10, 1877.

58. “Those Resolutions,” Topeka Blade, March 12, 1877; Commonwealth, March 10, 1877; “The Way of the Transgressor is Hard,” Topeka Blade,
After local prostitute Belle Holmes began a rumor that Swayze had visited her brothel, Swayze accused Baker of enlisting her services to blacken Swayze’s character because Baker could not tolerate the Blade earning recognition from the legislature. Denying the prostitute’s claims, Swayze insisted that the character he had built through “a moral and upright life” could not be “swept away in a single breath by a harlot,” aided by a “wife-poisoner” and “lottery swindler.” Now Swayze added to his growing list of epithets for the Commonwealth “organ for prostitutes” and “organ of brothels.”

Amidst the tirades against Baker, Swayze reopened his quarrel with John Wilson, who recently had taken a position in the Commonwealth print shop. Swayze declared that Wilson was “on the roll as a gambler” in Topeka and “required to pay a periodical fine the same as prostitutes.” That evening, Wilson set out to find Swayze and asked why Swayze had to pick on him. Swayze retorted he would put whatever he pleased in his paper. Wilson then struck Swayze, knocking him down, and proceeded to kick him until, according to the Commonwealth, “Swayze’s face and head bore the appearance of having been run through a sausage grinder.” The Commonwealth also reported on March 11, 1877, that no one tried to break up the fight; bystanders cheered Wilson on and offered to pay any fine a judge might levy. The Commonwealth extracted from several other newspapers that claimed the public felt “Wilson only erred in not going further than he did.” One newspaper professed that everyone detested the Blade because it “panders to the lowest human instincts.” Its editor hoped the beating would reform Swayze.

It did not. If anything, the assault fueled Swayze’s editorial fury. Swayze accused Baker of lying in the Commonwealth and his Associated Press dispatch on the affair. Swayze denied that his condition was as poor as Baker described and that bystanders cheered on the attack. He also refuted that the Blade had wrongfully assailed Wilson’s character, claiming that the Blade always had tried to be on the side of truth and the community’s best interest. He called Wilson “an unprincipled vagabond” who tried to associate with decent people and “conceal from them his habit of visiting the worst slums of the city to gamble.” Swayze only aimed to expose Wilson’s duplicity. Only Baker would have liked to see Wilson go further, Swayze averred: “The cowardly old scoundrel would like to have had Wilson go far enough to kill, and thus he would have been rid of a foe to swindlers and tricksters like himself.”

Swayze contended that Baker spread lies in retaliation for showing “him to the world for what he is.” The Blade extracted from friendly newspapers that proclaimed if the incident occurred as Baker described it, the whole thing was a disgrace to Topeka. If it did not, then Baker’s lies were “one of the most villainest libels ever uttered upon the good name of a whole community.” The Blade also extracted from papers that “took their cue from the ex-State paper” and lambasted them as part of an “old corrupt ring” of newspapermen who had built their careers on lying and swindling.

Wilson pleaded guilty to the assault and was fined $12.45, reportedly paid by a man named Cochran, Baker’s friend and favored candidate for marshal. Swayze crowed that although Wilson had threatened him with further harm should the Blade publish anything more about him, the newspaper “not only repeated what we first said” but also “set it up to him on other scores, and still he seems to be civil.” The civility ended on March 27, 1877. An editorial in that evening’s Blade asserted Wilson had been arrested for pimping Belle Holmes—the prostitute Baker allegedly enlisted to smear Swayze’s name. The editorial also claimed that Cochran owned the brothel where Holmes worked. Now Baker reportedly employed Wilson, Cochran, and Holmes to slander Swayze because

March 26, 1877; “How it Seems to Outsiders,” Topeka Blade, March 26, 1877; “The Boot on the Other Foot,” Topeka Blade, March 27, 1877.
96. Topeka Blade, March 10, 1877.
64. This likely was Thomas W. Cochran, who eventually served as marshal in Topeka from 1881 to 1883; Cochran had a loan office in Topeka at the time of Wilson’s arrest. See Cutter, History of the State of Kansas, 545; F. W. Woodbury, Topeka City Directory (Topeka, Kans.: Swayze, 1874).
By the time the Wilson-Swayze editorial feud ended with Swayze’s violent death, Solomon “Sol” Miller had been in the Kansas editorial fray for two decades. Miller settled in White Cloud, Doniphan County, in 1857 and published the first issue of the Kansas Chief on June 4, 1857. He moved his paper to Troy in 1872, consolidated it with the Doniphan County Republican, and published the Kansas Chief there until his death on April 17, 1897. On April 5, 1877, the Chief criticized newspapers that pronounced the “self-defense” killing of Swayze a deliberate, premeditated murder with Baker as a conspirator. Editor Miller wrote that those papers seemed to forget the abuse Swayze had heaped upon “almost every public man in the State.”

the Blade had been a vehicle for exposing truth, Wilson shot Swayze that evening.

Baker pointed out that Swayze was Topeka’s first murder victim in four years. “In view of this fact,” he asserted on March 29, “it will hardly be charged that the condition of public morals here invites or encourages such things.” Baker claimed Topeka had less blood and “more to boast of as an orderly, law-abiding community” than other cities of similar size, particularly in the west, and he hoped the incident would not be counted as a blot upon the community’s good name. A special consideration of this incident was that the feud originated through newspaper assaults on private character, inflamed by “the printing of accusations which, whether true or false, were of purely personal concern and not at all of public interest.” Baker declared that such things had no place in a newspaper, but he claimed no ill will toward the deceased.

Baker’s foes disagreed. A Blade editorial, most likely written by city editor J. B. Fithian, proclaimed that the people of Topeka believed there had been “a deep laid conspiracy to murder the proprietor and editors of the Blade” and that Wilson had “backers.” Correspondence in the Kansas City Times specifically condemned Baker, alleging that “the Commonwealth’s steady and unqualified approval” of the beating Wilson gave Swayze earlier encouraged Wilson to commit murder. In the same newspaper, correspondence purportedly written by Swayze’s long-time friend M. C. Morris contended “the life of Mr. Swayze was purchased with lottery money.”

The Kansas Chief criticized newspapers that pronounced the self-defense killing a deliberate, premeditated murder with Baker as a conspirator. Editor Sol Miller wrote that those papers seemed to forget the abuse Swayze had heaped upon “almost every public man in the State.” He emphasized in another editorial that Swayze had “done much to bring his doom upon himself.” Other editors echoed the latter observation. The Kansas City Times cited a St. Joseph Herald editorial calling Swayze’s death a public benefit and noted that the Atchison Champion, Fort Scott Monitor, Kansas City Journal, and others expressed similar sentiments. The Times averred that Swayze was attacked as much as he attacked others. Swayze libeled no one, though; according to the Times, he spoke the truth. The Kansas City editor

made Swayze’s murder a free press issue, proclaiming, “It shows that life is insecure where corrupt politicians are banded together.” He hoped that freedom of speech would be asserted all the more vigorously in other places because of its suppression in Topeka.68

Other newspapers took the shooting as an opportunity to review the practice of personal journalism and libel laws in Kansas. The Emporia News believed that “an editor should not, under any circumstances, make his paper the channel for the expression of his malice toward any man.” Yet the News condemned the resort to violence as a means of redress: “There is law and there are courts for the treatment of such cases, and to these Wilson ought to have gone.” Wilson’s father reminded readers of his Enterprise Kansas Gazette that he had tried the law when Swayze slandered him before, and the law did nothing; he asserted that “not once in a thousand cases is the law enforced.”69

The Lawrence Journal suggested the libel laws needed to be reformed. Its editor declared that the press’s sole duty was to furnish news, not to “play the spy, the detective, the informer, or even the critic, upon the private lives and morals of individual members of the community.” The Journal blamed lax administration of laws against slander for much of the violence against editors in Kansas. “If the law, as executed, offered men more ample protection for assaults upon their reputation, there would be much less temptation to the taking of the law into their own hands,” the Journal argued.70

Following Morris’s letter to the Kansas City Times blaming Baker for Swayze’s murder, Baker had Morris arrested for libel. He noted that several papers were clamoring for law in the wake of Wilson’s violence, and he resolved to take their advice after submitting “to a great deal within the last year and a half, and generally in silence.” Baker vowed to try the law “in behalf of every citizen of the state who is exposed to like assaults.” He declared, “If . . . the courts refuse to punish the author or authors of such wicked and unprovoked assaults; then the issue will be settled. The law of libel may be considered blotted from the statute book, and men will understand that they must resort to other means than law for . . . protection.” Baker’s case against Morris was dismissed.71

In conclusion, although Kansas had been a state for merely sixteen years in 1877, Topeka newspapermen had formed a fraternal bond that resulted in a great deal of crossover, such as Prouty of the Commonwealth editing the Topeka Times and John Wilson of the Times working for the Commonwealth. This bond extended beyond Topeka as a large circle of Kansas editors encouraged each other’s endeavors and defended each other against attacks.

This editorial brotherhood never accepted Swayze into the fold. Editors of the Commonwealth and the Times professed respectability, and early histories of Topeka and the Kansas press remembered them as upstanding citizens, but the Blade portrayed a different view. Swayze insisted Baker and others friendly to him composed a corrupt ring that encouraged fraud, sullying the reputation of Kansas and its press.

Many Kansas editors saw Swayze as a troublemaker and shameful purveyor of filth. He had been trained as a newspaperman in antebellum New York, where the many newspapers of the big city competed for readers using sensational tactics and often editorially assaulted each other.72 Swayze spread his own editorial wings in the tumultuous South during Reconstruction, where hostile feuds between conservative and radical editors characterized the press. The persecution Swayze faced there contributed to a thick skin and fearless editorial style. The personal, even violent journalism that Swayze practiced in Georgia was not completely foreign to Kansas; the state’s journalism was born of quarrels between free-state and proslavery factions and matured during conflict between towns vying for county seat. Historians noted that pioneering editors of the territorial era reached into the second era of Kansas journalism—which included Baker and his cohorts—and passed down their ideals and methods.73

Yet the old guard heaped criticism on newcomer Swayze for his scurrilous attacks. Hazel Dicken-Garcia asserted that societal changes of the nineteenth century brought about shifting

journalistic norms, and media criticism arose because of deviations from established values. Many of the editors of 1870s Kansas, particularly Baker, had progressed toward a more civilized type of journalism, akin to the western journalism Smythe defined. The values Swayze expressed in the Blade were unwelcome.

In several editorials, Baker commented on the Commonwealth's style in contrast with Swayze's. Baker refused to fill the air “with mud, rotten eggs and kindred substances.” He admonished the “certain class of newspapers” that concocted scandals to increase their circulations, proclaiming those tactics unnecessary for a respectable newspaper. Referring primarily to the Blade, Leavenworth Times, and Kansas City Times, Baker also condemned newspapers that labeled Kansas the “rotten commonwealth.” He lamented that mudslinging newspapers so often repeated how badly state affairs were mismanaged that outsiders had come to see Kansas as a “sink-hole of corruption.” Baker insisted that Kansas was the best-run state in the nation. As early histories of Topeka and the Kansas press noted, one of Kansas newspapers' primary functions was to boost their towns and state. Baker did that well; even in his report of Swayze’s shooting, he insisted that Topeka was a safe and moral place. Swayze, on the other hand, trumpeted the corruption of politicians and private citizens alike.

As reports of Swayze’s beating a few weeks before the shooting attest, the whole editorial feud reflected poorly on the community. It also raised important questions about the rights of journalists and their subjects. Swayze’s


75. “A Word to Republicans,” Commonwealth, November 8, 1876; “A Year’s Work,” Commonwealth, March 7, 1876; Commonwealth, May 6, 1876; “Two Years,” Commonwealth, March 6, 1877.
feud and its aftermath demonstrate that courts offered little help in libel cases. Swayze insisted that what he published about the Wilsons was accurate, and two days of examination failed to refute his truth defense. Baker fared no better against M. C. Morris. These outcomes are consistent with what historians have written about libel in late nineteenth-century Kansas; as long as the defendant believed the slanderous statements to be true, the plaintiff had no recourse. Further, because his competitors were charged with serving the public through their newspapers, Swayze declared informing readers of their shortcomings to be his civic duty.

However, the editors in Kansas’s newspaper brotherhood viewed the Wilsons as private citizens, unlike the officeholders who brought Castle v. Houston, State v. Balch, and Coleman v. MacLellan to the Kansas Supreme Court. Although V. P. Wilson had been a legislator, he was retired from public office, and his maligned wife never was a public figure. John Wilson was a mere job printer when Swayze accused him of gambling and pimping. Editors declared that revealing damaging information about private citizens had no bearing on public welfare; truthful or not, publication of that information was malicious and unjustified. In the aforementioned cases, the Kansas Supreme Court defined malice as “ill will” and “wanton disregard of the rights of others.” Swayze’s fellow editors accused him of both.

Some editors, including John Wilson’s father, insisted that without legal defense against vicious slanders, the subjects had no choice but to take matters into their own hands. The Kansas City Times proclaimed silencing Swayze for speaking his mind demonstrated suppression of free speech in Kansas, but other editors argued that free speech did not give editors the right to publicize the scandalous activities of private citizens. In addition to damaging the reputations of the individuals, focusing on scandals damaged the image of the community. Their arguments predated the 1908 Coleman v. MacLellan decision, in which Justice Burch wrote that papers “devoted largely to the publication of scandals” should be suppressed to protect the morals of the community because such newspapers displayed the licentiousness, not the liberty, of the press. Swayze’s frequent charges of prostitution and pimping certainly would apply.

The logical course for an editor in 1870s Topeka would have been to conform to the established values and publish a “respectable” newspaper like Baker’s Commonwealth. Baker’s promotion of civil and objective journalism made him a leader in Kansas of the western journalism movement that Smythe identified in other nearby states. [KH]

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