

# The Plattsmouth Journal.

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NO. 30

## T. H. POLLOCK WELL PLEASED OVER DECISION

### Decision of State High Court Sustains His Contentions as to Stockholders' Liability.

From Monday's Daily—  
Stockholders in a failed bank cannot be held for their double liability under the constitution and laws of Nebraska until all assets available for payment of depositors and creditors and the reimbursement of the guaranty fund have been exhausted, the state supreme court says in an opinion handed down Saturday affirming the decision of the district court at Plattsmouth in the suit of Fred E. Bodie, former receiver of The Bank of Cass County, against T. H. Pollock, one of the stockholders.

The Cass county case was one brought to test the right of the state to proceed against solvent stockholders before the affairs of a suspended institution had been wound up. It was contended by the state banking bureau and the receiver that if the stockholders could not be made to pay until all assets had been realized, it would enable them to dispose of their property and thus avoid all liability when that time arrived.

### Holding of the Court

But the supreme court, in its interpretation of the constitutional provision, holds as follows:

"Sections 4 and 7, Art. XII, of the constitution, are self-executing when considered together, as they have been and should be; and, so considered, they form a complete constitutional rule to the effect that, while stockholders in banks are subject to the double liability set out in said sections, such liability cannot be enforced until the property of the bank has been exhausted, and the amount justly due judicially determined.

"Since the time when the liability of a bank stockholder can be enforced is definitely fixed by the constitution, no other time for the enforcement of that liability can be prescribed by the legislature so long as the constitution stands unchanged."

### Law on Which Based

The language of the constitution bearing upon the question is as follows:

Sec. 7, Art. 12.—"Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him held, to an amount equal to his respective stock or shares as held, for all its liabilities accruing while he remains such stockholder."

Sec. 4, Art. 7.—"In all cases of claims against corporations and joint stock associations, the exact amount justly due shall be first ascertained, and after the corporate property shall have been exhausted, the original subscribers thereof shall be individually liable to the extent of their unpaid subscription, and the liability of the unpaid subscription shall follow the stock."

### No Dissenting Opinion

The opinion is by the court as a whole, participated in by Chief Justice Morrissey, Supreme Judges Lettison, Dean, Day and Good, and District Judges Rogers and Shepard.

### Statute Held at Variance

A statutory provision bearing upon the subject, found in Sec. 8,015, Compiled Statutes of 1922, is thus worded:

"In case any stockholder shall sell, transfer, or dispose of such stock, knowing that such bank is insolvent, he shall be deemed the owner of such stock and liable thereon, the same as if such stock had not been sold, transferred or disposed of, and any such liability may be enforced whenever such banking corporation shall be adjudged insolvent, without regard to the probability of the assets of such bank being sufficient to pay all its liabilities."

It is the holding of the high bench that this enactment by the legislature, under which the liability of bank stockholders could be enforced against the assets of the institution's assets, is at variance with the constitution and therefore ineffective as an additional regulation.

The court refers to a former opinion in the case of State vs. German Savings Bank, under laws in force prior to 1897, and says the same principle applies in the Plattsmouth case.—Lincoln Star.

The decision of the state supreme court Saturday in the action in which Fred E. Bodie, receiver of the Bank of Cass County, brought action against T. H. Pollock of this city, and in which the court sustained the finding of the district court, is very pleasing to Mr. Pollock as it sustains his contention as to the law.

Mr. Pollock has not attempted to evade the liability of a stockholder in a failed or closed bank, but has contended that the liability should not be collected until all of the resources of the bank had been exhausted by the receiver which in the

case of the Bank of Cass County has not been done.

In this failed bank case there are still a large number of assets remaining in the hands of the receiver and bank board which when disposed of will add to the resources of the bank and until such disposal has been made does not permit the collection of the liability of the stockholders in the failed bank.

Mr. Pollock has never refused to pay any of the just liabilities due the state or the receiver of the bank, but contended that under the law the amounts claimed were not due and payable and this has been sustained by the state supreme court.

This case is a precedent for some fifty other failed banks in the state and will be the basis of the settlement of the other cases.

## NEGRO BURGLAR IS TAKEN INTO CUSTODY

### Fred Holmes and William Grebe Capture Man Entering John Koukal Home Half Hour After.

From Monday's Daily—  
Yesterday morning the home of John Koukal, Jr., near the Missouri Pacific right of way north of the city, was entered by some person while the family was absent from the house and the thief took with him an overcoat and a new pair of pants which had just recently been purchased by Mr. Koukal.

As soon as the articles were missed, the call was sent in to the authorities in this city and Fred Holmes, state agent, who has been here several days, with William Grebe were sent out to the scene of the crime and learning that a negro seen near the Koukal place was suspected of the crime, started out to look up the man of color and a few moments later located the man walking across the Missouri Pacific railroad bridge over the Platte river and heading for La Platte, where he was doubtless intending to catch a train to get on into Omaha.

The two officers arrested the man who had the stolen goods in his possession and brought him on into this city where he was lodged in the county jail as the enforced guest of Sheriff Quinton.

This morning a complaint was filed in the court of Justice William Weber against the negro, who gave the name of Louis Hardin, charging him with burglarizing the Koukal home and stealing property of the value of \$20. On hearing the complaint and the plea of guilty entered by the negro, Justice Weber bound him over to the district court and in failure to supply the necessary bond, the man was remanded to the custody of the sheriff to await trial in the district court.

The prompt action in apprehending the man is to be commended and as the result, Mr. Koukal had his stolen clothing back in less than an hour after the crime was committed.

## TARIFF DOES NOT HELP BEET GROWERS

### Secretary Shumway of Nebraska Department of Agriculture Replies to Tariff League

The fair tariff league which is undertaking to arrive at what shall be a legitimate and beneficial tariff to the United States and its industries, has written Grant Shumway, deputy secretary of the department of agriculture, asking for responses to some questions with relation to sugar beet growing.

This league starts out with the premise that authorities agree Nebraska has \$3,950,000 tariff benefit on her annual production of 750,000 tons of sugar beets.

The accuracy of this is challenged by Secretary Shumway. He says this amounts to about \$5.25 per ton. He points out that the highest price ever paid for beets was before this tariff went into effect. The total price paid for beets for the 1922 crop was \$8.01. If the tariff benefit was \$5.25 of this, the price without the tariff would be \$2.76. The lowest price ever paid for beets in western Nebraska was \$4.50 a ton; that only once in that part of the state has the price been below \$5 per ton, so that it may be said if there is any tariff benefit to the sugar beet growers of western Nebraska it certainly does not approximate the \$3,950,000 figure.

### ENTERTAINS AT TEA

From Monday's Daily—  
Yesterday, Rev. and Mrs. H. G. McClusky entertained a number of the cabinet of the Christian Endeavor society at the church parlors to discuss the plans for the coming year and the starting of the work of the society in the church after the summer vacation. The occasion was in the nature of a 5:30 tea and the members of the party spent some time in the discussion of the plans for the coming year which will stimulate interest in the society. Those attending were: George E. DeWolf and wife, F. A. Clodt and wife, Rev. and Mrs. McClusky, Misses Gertrude Morgan, Estelle and Caroline Baird, Pearl Staats and Gerda Peterson.

## FUNERAL OF MRS. L. E. MYERS HELD AT CEDAR CREEK

### Services Very Largely Attended Saturday Afternoon—Buried in Glendale Cemetery.

From Monday's Daily—  
The funeral services of the late Mrs. L. E. Myers were held Saturday afternoon at 1:30 from the community church at Cedar Creek and was one very largely attended by the old friends and neighbors who had known and loved the deceased lady in her forty-three years residence in their midst.

The services were conducted by the Rev. H. G. McClusky of the First Presbyterian church of Plattsmouth and were simple yet very impressive as the pastor spoke to the assembled congregation of the Christian belief that the gates of death lead but to the greater life beyond the portals of the gate and to husband and the sorrowing children of the deceased he gave words of comfort and cheer in their hour of parting with the one they had loved so dearly.

The quartet, composed of G. L. Farley, Mrs. J. W. Holmes, Rev. McClusky and Miss Estelle Baird, with Mrs. H. F. Goos as accompanist, rendered several of the well loved hymns during the time of the service.

At the close when the last words of the service were pronounced the body was tenderly laid to rest in the beautiful Glendale cemetery where it will rest until the day when all things shall return in the likeness of the Creator. The pall bearers were George R. Sayles, Chris Gauer, J. P. Schroeder, John Gauer, Will Schneider and George Lohnes.

Bertha Stoop was born in the republic of Switzerland, July 6, 1848, and at the time of her death, which occurred Thursday afternoon at the hospital in Omaha, was 75 years of age. In her native land she grew to womanhood and on January 6, 1871, was united in marriage to John Frey and nine years later in 1880 the family came to America and settled on a farm near Cedar Creek where in 1887 the husband and father was killed in the prime of life to his final reward. To this union there were born nine children, eight of whom survive the death of the mother, they being John Frey, Townsend, Montana; Bertha Miller, Norman, Nebraska; George Frey, Oteo, Nebraska; Clementine Horn, Beaver City, Nebraska; Eugene Frey, Palmetto, Kansas; Tobias Frey, Rozet, Wyoming; Henry Frey, Ord, Nebraska; Jerry Frey, Omaha, Nebraska. One son, Jacob Frey, preceded the parents in death.

After years of widowhood spent in rearing her family, Mrs. Frey was married for the second time at Cedar Creek in 1903 to Mr. L. E. Myers, who, with the children, survives the death of this good woman.

The deceased lady has lived the best years of her life in this community and was a kind wife and mother and a neighbor who will be greatly missed by the large number of friends associated in the community of Cedar Creek.

### Card of Thanks

We wish to express our feeling of appreciation to the friends and neighbors for their assistance and sympathy to us in our hour of bereavement at the death of our wife and mother, and for the beautiful flowers for the funeral and especially do we wish to thank the A. T. D. A. for their floral remembrances.—L. E. Myers; The Frey Family.

## IOWA LAD INJURED HERE WHILE BUMMING A RIDE

From Monday's Daily—  
Saturday evening while beating their way on a Missouri Pacific freight train, two young lads giving their home as Sac City, Iowa, had a close call from very serious injury, and one of the boys, Ralph Stevens, aged 16, had the heel of his right foot very badly injured.

The two boys had arrived here on a freight and were riding between two freight cars when the train stopped in the yards and Stevens stepped thinkingly allowed his heel to get between the bumpers of the car and as the train suddenly backed up the bumper caught the heel and badly lacerated it and caused more or less injury.

The companion of the injured boy, James Baker, aged 16, and also of Sac City, assisted the injured boy to the passenger station and Chief of Police Jones was called to the scene and had the injured boy taken to the county jail here the injury was dressed and the patient made as comfortable as possible.

The accident had a dampening effect on the journey of the boys out into the world, but they were fortunate that their injuries were not more severe.

### FOR SALE

Spotted Poland China bears, immune and registered. Inquire of Maud E. Babble and Son, Phone 31-5. 31w

## VISITS IN THE CITY

From Monday's Daily—  
Yesterday Mr. and Mrs. Searl S. Davis had as their house guest, Mrs. Gordon W. Wattles of Hollywood, formerly of Omaha, and wife of the well known Omaha capitalist. Mrs. Wattles is making a visit of a week's duration in Nebraska with her old friends in Omaha and vicinity and took the occasion to renew the friendship with Mrs. Davis with whom she was associated as a member on the faculty in the Home Economics department of the state university. Mr. and Mrs. Wattles and family are planning a trip of longer duration in Nebraska in the spring but at this time Mrs. Wattles is taking a very short visit here with the family friends.

## DEATH OF PIONEER OF MERRICK COUNTY

### James Irving, Father of Mrs. Ward Clark of This City, Called to His Last Reward.

From Monday's Daily—  
The Silver Creek Sand contains the following account of the death of James Irving of that place, father of Mrs. Ward Clark of this city, which occurred in that city the past week. Mrs. Clark is at the old home having been called there at the time of the death and remaining over for the funeral.

"James Irving, pioneer resident of Nebraska, and for thirty-six years a resident of Silver Creek, died at the home of his daughter, Mrs. F. F. Brittain early Tuesday morning, death being due to his advanced age and a fall several weeks ago, at which time he received a fractured rib.

"Born in Halifax, Nova Scotia, on March 7, 1836, he lived to the ripe age of 87 years, 7 months and 9 days. Just when he came to the United States we have been unable to learn, but he came to Nebraska in 1872, and homesteaded about seven miles north of Schuyler, where he operated a blacksmith shop.

"In 1873, at Schuyler, he was united in marriage with Maria Stone and two children were born to them. Mrs. Irving died in 1883, and the children were brought to Silver Creek to be cared for by their aunt, Mrs. C. N. Powers. In 1887, Mr. Irving located at Silver Creek and opened a blacksmith shop which still stands and which he operated actively until the past few years.

"Uncle Jim, as he was known to nearly all of us, had a large following of friends. Particularly was this true amongst the small boys of twenty years ago, who knew that Uncle Jim was never too busy to mend a broken plow. Having come to Nebraska when it was almost a treeless territory, he voiced an emphatic disapproval of the destruction of any trees or foliage and particularly was he interested in the large cottonwoods which grew around his shop.

He is survived by his two daughters, Mrs. Ward Clark of Plattsmouth and Mrs. F. F. Brittain of Silver Creek, and five grand children.

Funeral services were held at the home Thursday morning, conducted by Rev. G. L. Freeborn, the business houses closing during the services in respect for him, and the remains were shipped to Schuyler for burial at the side of his wife."

## SHOWING IMPROVEMENT

From Monday's Daily—  
H. N. Dovey, president of the First National Bank of this city, and who has for a period of several months been laid up as the result of a fractured leg, is now so much improved that he is able to be up and using a wheel chair to get around in the home and which is a great relief from the long confinement to his bed. Mr. Dovey, who is one of the true blue baseball fans, has had to miss a greater part of the game this season, but during the world series, a radio set kept him in touch with the games between the Yankees and the Giants.

## CELEBRATES BIRTHDAY

From Monday's Daily—  
Yesterday was the sixty-fourth anniversary of Mrs. G. A. Meisinger of this city and in honor of the occasion a number of the relatives and friends gave her a most delightful surprise at the home in this city. The members of the party arrived with well filled baskets and remembrances of the day and the time was spent in the enjoyment of an old fashioned family dinner as well as renewing the pleasant ties that existed between the guest of honor and the members of the surprise party. Those attending were: Mr. and Mrs. L. G. Meisinger, Mr. and Mrs. E. J. Meisinger, Mr. and Mrs. Ed G. Meisinger, Mr. and Mrs. Fritz Hanni, Mr. and Mrs. A. H. Engelke, Mr. and Mrs. Tom Jennings, Mr. and Mrs. Fred Nolting, Misses Laura Engelke, Grace and Ellen Nolting, Ellen Nora, Maxine, Alice Meisinger, Dorothy Meisinger, Messrs. Will Meisinger, Herbert Meisinger, Delbert Jennings, Walter Engelke.

## STRAYED

From my home, one black horse, with spot in forehead, about five years old. Hair on hind shanks is rubbed off by single trees. Would be glad to receive any information as to his whereabouts. Phone 1221. Weeping Water exchange, and reward will be given.—S. E. Major.

Advertising will pay you.

## ANDY SCHMADER HAS SOME MORE TOUGH LUCK

### Former Cass County Pugilist, Now Living in Omaha, Has Hand Mangled While at Work.

From Monday's Daily—  
The host of friends in this city were greatly surprised Saturday evening to learn of the serious injury of Andy Schmader, former Louisville heavyweight pugilist, who has for several months past been making his home in Omaha and is employed at the city asphalt plant in that city.

While Andy was at his work shortly after 8 o'clock Saturday morning he had the misfortune to get his right hand caught in the water pump at the asphalt plant and have it very badly mangled before it could be extricated from the machinery.

The injured man was given emergency treatment at the police station hospital and sent on his home after the hand was dressed.

The friends here are hopeful that the injury may be slight and the general ex-pugilist suffer no inconvenience as the result of the injury as the result of the accident.

## YOUNG PEOPLE HAVE HALLOWE'EN PARTY

### Miss Laura Elizabeth Eaton Hostess to School Friends at a Fancy Dress Affair Last Night.

From Tuesday's Daily—  
One of the most elaborate of the social functions of the late fall season was the Halloween party given last evening at the M. W. A. hall by Miss Laura Elizabeth Eaton, who entertained her school friends in a most delightful manner in a costume party that for several hours was the source of the most unfeigned delight to the members of the party.

The hall had been arranged very effectively in the color scheme of orange and black, emblematic of the witching season of the year and from the balcony and all parts of the hall streamers of this color formed the waving sea of the party.

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The members of the party, on arriving at the hall, were greeted by a truly Halloween welcome as they were greeted by the ghostly lighted candles and through the darkened hall they made their way to the main hall where other ghosts gave them welcome and put the members of the party in the proper spirit for the fine time that was enjoyed for the remainder of the evening.

The main hall was the scene of life and frolic as the young people, happy in the joyous abandon of youth entered into the spirit of the occasion and their costumes of every style and hue made a glorious picture of happiness and pleasure. The various soldiers, witches, halloween girls and others of the merry throng certainly proved a very alluring scene.

The young hostess was assisted by her mother, Mrs. Edna Marshall Eaton in the entertainment of the party and those who were in attendance felt that it had been a very delightful occasion for every one of them.

The young people spent the time in dancing as well as a number of the Halloween diversions that proved most delightful diversions for the crowd, and the music of the Victrola added to the pleasantness of the fleeting hours. After the time spent in the attempts to discover the identity of the various friends in the throngs of the maskers, the young people were requested to unmask and many surprises were found when the various guests stood revealed in their strange and attractive garbs.

The guests were given favors in keeping with the spirit of the Halloween season, rattles and fans being distributed to the members of the party and which were of the most fantastic designs and also orange and black coloring.

At the approach of the homegoing hour, there was served a real Halloween luncheon of sandwiches, doughnuts and apple cider that served as the climax of a real Halloween gathering.

The young people on departing for home expressed their most thorough appreciation of the delightful time afforded them by Mrs. Eaton and Miss Laura Elizabeth.

## ENTERTAINS AT BRIDGE

From Tuesday's Daily—  
Last evening, Mrs. Waldemar Soennichsen, assisted by her sister, Mrs. George F. Dovey, of Chicago, entertained very pleasantly at the Soennichsen home at bridge. There were two tables of the ladies and the time spent very delightfully in the fascinations of the game. The home was arranged in the Halloween decorations of the season and in a color scheme of orange and black. At a suitable hour the hostesses served refreshments in keeping with the season which completed a thoroughly enjoyable evening for the members of the party.

## SOUTH OMAHA TEAM WINS FOOTBALL GAME HERE

### Defeats Plattsmouth City Team by Score of 15 to 12 on Local Gridiron Yesterday.

From Monday's Daily—  
Yesterday afternoon the city team of football stars met defeat at the hands of the South Omaha Boosters by the score of 15 to 12 in an exciting and interesting game of the fall sport.

The visitors had a very heavy team and with them was Anthony, former Wesleyan star, who was mainly responsible for South Side's scoring, making one touchdown himself and advancing the ball with forward passes often for great gains.

The Packers returned the ball on the kickoff thirty yards and the two teams played some good straight football. The visitors then used some very effective aerial work and in which Anthony was a strong factor as he constantly broke through the Plattsmouth line of defense.

The first Plattsmouth touchdown occurred in the first period of the game and occurred when Wintersteen, left half of the local, recovered the ball on a fumble by South Omaha and gained ground on the visitors, later pushing the ball over.

At the opening of the second period the visitors scored their first tally when they completed a pass for 25 yards and drop kicked from the ten yard line for three points.

The Boosters also made a touchdown in this quarter with a series of line smashes and passes.

Anthony scored the Packers' last touchdown when he pulled a pass down from the clouds and with an open field scored.

Try's point after touchdown failed for both teams.

Plattsmouth scored again when South Omaha was forced to punt on its own five yard line and Carter, right guard, broke through, blocked the kick and fell on the ball over the goal line.

The lineup of the Plattsmouth team was as follows: Carter, left end; Paynter, left tackle; Harvey, left guard; Wilford, center; Smith, right guard; Backler, right tackle; Fulton, right end; Reed, quarterback; Wintersteen, left half; Bell, right half; McClintic, full. Substitutes for Plattsmouth—Krejci for Fulton and Paynter; Martin for Carter; Henry for Bell; Warren for Martin.

### RETURNS FROM OKLAHOMA

From Monday's Daily—  
Frank E. Vallery, who has been spending some time in Oklahoma, has returned home and during his stay in the Sooner state had some real startling experiences in the floods and high waters that prevailed in that locality. Mr. Vallery states that the flood was very bad in Oklahoma City and that over the Canadian and other rivers of the state railroad bridges were washed out and the water from the overflowed rivers covered miles of the country and made travel by train impossible. The use of aeroplanes from Dallas, Texas, was called for and the planes used in the transportation of passengers to and from the different points in the state.

## STORK IS BUSY

Early Sunday morning the stork visited the home of Mr. and Mrs. Lee Eastridge in this city and left in their care a fine little daughter, who is now the pride of the household and all concerned are reported as doing very nicely at this time.

## HOGS FOR SALE

Big type Poland-China boars for sale. All immuned. C. L. Maysabb, phone 3713, Plattsmouth, Mo. 08-3wks, d&w

## Under Government Supervision

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