

## SALARY PAYMENT MAKES OFFICERS FIRST CREDITORS

Private Opinion of An Assistant To Attorney General Used To Excuse Method.

Here we present the final installment of the tax audit survey of the tax committee, Atkinson Service club.

### Payment of Salaries to County Officials

While there has been no transfer of funds, the usual practice has been in vogue for some years in Holt county of depositing all fees of the county offices in a Salary Fund instead of the General Fund as provided by law. Chap. 33-101 of the Nebraska statutes plainly states: "All fees paid into the treasury of any county under the provisions of this chapter shall be applied to the General Fund of such county and be distributed as provided by law." The principal effect of this practice appears to be that it places the employees of the county in a position of a preferred creditor in the payment of claims.

The following excerpts from correspondence between an interested taxpayer in western Nebraska and a member of the staff of the Attorney General in Lincoln, Nebr., shows the conclusions used to justify this procedure:

"We have your letter of March 23rd relative to the proper construction of that portion of Section 26-116 which provides as follows:

"It shall be unlawful for the county board of any county in this state to issue warrants for any amount exceeding the aggregate of 85% of the amount levied by tax for the current year, except there be money in the treasury to the credit of the proper funds for the payment of the same.

"The specific question presented is whether, notwithstanding this section, counties may pay the salaries of county officers and employees where warrants to the maximum amount have already been issued.

"The section in question was first passed by the 1879 legislature, at which time the limit was placed at 50% instead of 85%. It was subsequently amended in 1881 and 1883 and has since the later date, remained in the present form.

"Without going into unnecessary detail concerning the various county officers, it is enough to say that at the time this statute was passed county officers were, generally speaking, upon a fee basis. That is, they collected fees and retained a certain amount and paid in the excess to the county. This situation has been changed at the present time so that county officers pay in their fees to the county and are paid a salary.

"It occurs to us that the purpose of the statute was to limit the county board in its expenditures from monies raised by taxation, and that the legislature did not have in mind the curtailing of amounts which might be due to county officers.

"Apparently our office is already committed to the theory that this 85% limitation does not apply to the salaries of county officers, and we do not feel disposed to depart therefrom.

"You will understand that this is not an official opinion, since we give official opinions only to state and county officers in matters affecting the revenue, but is given as a matter of courtesy and is to be taken as an expression only of the private opinion of the writer."

In a later letter in regard to this same matter, the same member of the Attorney General's staff writes in part as follows:

"On April 8th we wrote you, of course unofficially, since we give official opinions only to state and county officers in matters affecting the revenue, that we feel that Section 26.116 Comp. Stat. Nebr. 1929 had no application to the salaries of the county officers and employees.

"The reason we entertained this opinion was because of the fact that at the time the statute in question was passed county officers were, generally speaking, upon a fee basis, and apparently the purpose of Section 26-116 was not to curtail the amount which might be paid to county officers in their salaries, but to limit the county board in its expenditures from monies

raised by taxation. We are still of this opinion.

"It occurs to us, however, that it is not necessary by reason of the fact that salaries to county officers may be paid without reference to this section, to entirely disregard the same, or to deny it its proper effect.

"If the proper accounting procedure were followed out in the county, it would be possible to ascertain by what amount the general fund had been augmented by fees collected by officers and coming into the treasury and, therefore not being monies represented by taxation. After having thus determined the amount so coming into the treasury, it should be possible to determine the amount necessary to pay the salaries of the officers and employees, and having determined the amount, then to determine the balance which should be either added to or subtracted from the monies in the general fund represented by taxation. It should then be perfectly possible to ascertain what 85% of that amount would be and to govern the issuance of warrants accordingly. If this (Continued on page 4, column 1.)

## Cattle On Atkinson Sale Market Highest Since 1935 In Large Offering

Atkinson, Nebr.—New tops for the season were made at Tuesday's Auction on every class and weight of cattle—nearly 500 head—the largest and best offering since last fall, were sold in record time to a large crowd of interested buyers. Cattle were shipped or trucked to Iowa, Illinois, South Dakota and eastern Nebraska.

An outstanding attraction was 60 head of fat cows from the Charley Peterson ranch that sold at 6.10 to 7.70, the two heaviest cows bringing over \$220, and the 10 best nearly \$95 a head average. Forty head of heavy calves consigned by Len Ulrich sold at 8.45 for the steers and 7.35 for the heifers.

Seven head of heavy steers from Basset, Nebr., sold at 8.35. All kinds and classes of cattle from the cheapest to the best shared in the days advance which ranged from 25 cent to \$1 a hundred.

The hog market was red hot from start to finish, with a \$10 top on fats; bulk sold at 9.75 to 9.90; sows at 8.50 to 9.35; pigs of all weights at 8.00 to 10.00 a hundred depending on quality. A little better tone prevailed in the horse market, particularly for the real good ones. Best here sold at \$100 to \$150 a head. Old horses in poor condition continue to drag. Next auction Tuesday, March 23.

## Bill Hammond, Jr., Will Do Editorial Work On A California Newspaper

Bill Hammond, Jr., a resident of O'Neill, will become an editorial worker on one of Southern California's leading community newspapers in the near future. Bill's position will last but one day, however, as he will assist a crew of student journalists from the University of Southern California, where he is now attending school, in editing one issue of the paper as a term project sponsored by the U. S. C. School of Journalism.

Under the supervision of Marc Goodnow, field representative for the Trojan school, more than a score of Southern California papers will be edited by crews from U. S. C. during the next few weeks, giving the students an opportunity to do practical work in their chosen profession.

U. S. C. journalism majors will be hosts to several hundred high school and junior college journalism students on Saturday, March 20, for the annual Newspaper Day sponsored by the University Park institution, with Roy L. French, director of the School of Journalism in charge of arrangements. Editors and publishers of California papers will also attend the convocation and confer with student members of the fourth estate.

### CARD OF THANKS

We desire to express our heartfelt thanks to the many kind friends and neighbors for their many acts of kindness and sympathy during the illness and death of our beloved wife and mother.—James O'Connor, Margaret O'Connor and Dr. D. C. O'Connor.

## CITY COUNCIL VOTE IS AGAINST ISSUING SWIM POOL BONDS

Council Does Not Favor Putting A Bond Issue Before Voters At Coming City Election.

At a meeting Tuesday night the City Council voted against putting the bond issue necessary for the city's share in constructing a swimming pool under WPA up to a vote of the people at the coming city election.

It would have been a good opportunity to find out the sentiment of the citizens of the town at no additional cost to the city. The application is now in Washington for the President's approval and upon its return will have to be put to a vote if the people want to take advantage of this opportunity—that in all likelihood will not come again—to build one of the most modern pools at half of its total cost.

There is not a good clean place to swim in this vicinity. A swimming pool in O'Neill would not only bring many people to the city but would provide pleasure and benefits in health to a large share of the population.

A number of years ago there was always some spot in the Elkhorn river where the younger people of the time could swim. Changing conditions in the last few years, coupled with straightening the river and hastening drainage has lowered the river to a point where it is impossible to get wet on more than one side at a time. We can have a swimming pool if we want it. Do you want it?

## Holt County School Notes

By the County Superintendent.

Two legislative bills of major importance had their hearing before the educational committee of the legislature Monday afternoon.

The first bill pertains to the certification of teachers. The new bill as proposed would have all certificates issued from the state superintendent's office. The main reason for this seems to be that the state superintendent wants to have all certificates uniform. At the present time there are twenty-nine different certificates in the state of Nebraska. This involves a great deal of trouble inasmuch as disputes often arise over credentials for certificate requirements. Under this new plan, it is said that there would be only eight different certificates. The requirements remain much the same. The bill calls for increased credit requirements for some certificates. It does not change the rural certificate phase a great deal. It will be necessary for the applicant to secure a credit transcript from the school or schools where he or she attended, and send it to the state superintendent together with the application fee.

There is one phase of the rural certification bill that we have worked very hard on and that is in regard to the normal training situation. The proposed bill to do away with normal training schools has been postponed indefinitely. A second phase pertaining to rural teachers would make it possible under the proposed bill for the teachers teaching on a third grade certificate to renew the certificate once on nine hours credit. The present requirement is twelve hours. The proposed plan was advanced by the normal schools. They want to shorten the summer session to nine weeks. In making this concession, it will save teachers of the state considerable money, which at this time would be greatly appreciated because of the present salary scale. Only one renewal will be granted.

A second certificate will be issued after the applicant has earned an additional fifteen hours, and the certificate will be known as the Initial Elementary certificate. Nebraska ranks in 45th place in regard to certification. The last certification law was passed in 1925. It is generally agreed upon by school superintendents everywhere, that our certification law is in need of some revision.

A second bill had a brief hearing pertaining to cutting the requirement for state aid to weak districts from twelve square miles to six square miles. This bill was introduced by Legislator Gantz of Chadron. There are some sections of

the state where consolidation is out of the question. This affects western Nebraska counties more than it effects counties in the central and eastern part of the state. Under the existing law, districts cannot participate in state aid who have less than twelve square miles of land in the district. Last year a total of \$1,900 was distributed to sixteen Holt county schools. In checking over the number of schools that would share in state aid under the proposed law we would have forty-six districts that would share. Last year each school received the sum of \$118, and under the proposed law would receive \$41.30 as an average figure per district. This would not help the weak district a great deal unless an additional appropriation could be set aside for this purpose.

## First Seat of Holt County Government Was Located 5 Miles Southeast of Here

The moving of the records from the old court house to the new last week brought to light many records that had not been inspected for years. Among those inspected by us last Monday was the first record of the proceedings of the Board of County Commissioners, and it contains some interesting reading.

On June 29, 1876, Silas Garber, then governor of Nebraska, issued a proclamation, in response to petitions from residents of the unorganized county of Holt, that the county be organized. In conformity with that request he issued the proclamation on the above date and named Elijah Thompson, J. B. Berry and James Ewing as special county commissioners and W. H. Haynes as special county clerk and Twin Lasser, the home of W. H. Hynes was designated as the temporary county seat.

Ed Boyle owns and lives on the old W. H. Haynes farm which was designated by the governor as the temporary county seat of Holt county. It is about five miles down the river from this city.

On December 27, 1876, a special election was held for the election of county and precinct officers and the location of the county seat. At this election Paddock was selected as the county seat of the county and the following officials were elected: County Commissioners, Ford Precinct, James Ewing; Paddock precinct, Harry Spindler; Center precinct, H. W. Haynes; John Cronin, county judge; Joseph Estep, coroner; J. L. Smith, treasurer; J. T. Prouty, clerk; J. B. Torbert, surveyor; E. L. Whiting, superintendent of public instruction; I. R. Smith, sheriff. These officials held office until the general election the following November.

At the general election November 6, 1877, the following officials were elected for the county of Holt: H. W. Haynes, Samuel Gregory and Harry Spindler, commissioners; Sanford Parker, county clerk; E. Thompson, treasurer; Thomas Berry, sheriff; V. M. Ross, county judge; J. L. Smith, county surveyor; Ed Whiting, county superintendent; D. Weygint, coroner. The county seat was still located at Paddock on the Niobrara river.

On May 12, 1879, a special election was held in the county on the location of the county seat and at this election O'Neill was selected and the records of the county were moved here August 1, 1879.

## Wool Growers Meeting Scheduled for Saturday

All Holt county sheep and wool growers are invited to a meeting in O'Neill Saturday, March 20, at 10:30 a. m. The meeting will be held in the assembly room of the new courthouse. W. Marshall Ross, president of the Midwest Wool Growers association, will be in charge of the meeting. W. W. Derrick from the Agricultural College will discuss sheep raising and wool growing as it applies to Nebraska conditions.

Miss Mable Erskine, who has been a stenographer in the office of Judge J. J. Harrington for the past two years, has resigned her position and leaves Saturday for her home in Norfolk, and will leave there Sunday for Omaha where she has secured a position. Miss Erskine made many friends during her residence in this city who will wish her success in her new home.

## LEGISLATURE STILL BATTLES OVER FIVE CENT GAS TAX BILL

Tobacco Tax Suggested To Raise Money For State Assistance To Replace Gas Tax.

By the Lowell Service

Punted back and forth from the floor of the legislature to the highways committee and back again, Governor Cochran's five-cent gasoline tax bill, once killed, later resuscitated, is still a legislative football for the unicameral. As an old farmer, who had listened intently from the balcony to the three hour debate on the measure which occupied all Friday morning, said as he left the state house, "They just don't seem to get nowhere!"

The last motion on the bill, and the only one that carried, was that made by J. N. Norton, that progress be reported on LB158. Before that, a motion by Hugh Ashmore to kill the bill lost by a vote of 11 to 22; and a motion by John Adams, Jr., to advance the bill, amended to change the governor's division of the extra cent from six-tenths for highways and four-tenths for relief to half and half division between the two, lost by a single vote.

So a second week has passed in which money from the extra cent tax on gasoline has ceased to flow into the state assistance fund, and motorists have paid but four cents tax on the desirable fluid that makes the wheels go round. Constructive suggestions on other methods of obtaining money for relief have been few and far between. Legislator Diers has a property tax plan, but can find few supporters for it.

Dr. A. L. Miller of Kimball, who has fought tooth and nail against Governor Cochran's gasoline tax bill, maintaining that a four-cent gas tax should go to roads only, has introduced a bill before the legislature which, if passed, will furnish about \$1,200,000 for the state assistance fund by placing taxes on cigarettes, cigars, and tobacco. This is the first really constructive plan offered for a means of securing the necessary relief money aside from the gasoline tax.

The legislature suspended its rules to permit the introduction of the bill, heard it read twice and referred it, finally, to the revenue committee. As first heard, the bill proposed a four-cent per package tax on cigarettes, a one-cent tax on each cigar, and 16 cents per pound on tobacco, or one cent per ounce. Later, Dr. Miller announced his intention of amending the bill to reduce the cigarette tax from four to two cents per package.

A Nebraska National Guard air squadron base is to be established at a cost of \$10,000, at some airport to be decided upon by the adjutant general and the governor. This was decided by the passage last Thursday of LB220. Friends of the measure claim that the \$10,000 appropriation will cause the state to receive about \$137,000 from the federal government to be used in the maintenance of the station and a squadron of a number of planes to be used, under army supervision, for the benefit of the state and the national guard.

Two other bills passed by the legislature Thursday were LB117, which allows routing of school buses along paved highways to meet rural pupils at their home driveways, and LB58, which provides that all the assets of a hail insurance company shall be used to pay losses to policyholders pro rata, if losses cannot be paid in full.

The legislature, after a lively debate of three days in the committee of the whole, has advanced to general file the bill for the regulation of gasoline transports, introduced by Charles Dafoe of Tecumseh. After long argument, the author of the bill consented, in order to prevent the bill from being killed, to an amendment making the liability bond required of operators \$20,000, instead of \$50,000 for transports carrying more than 1,500 gallons of fuel.

If the measure is passed, it will not go into effect until Jan. 1, 1938. Other provisions are that transport drivers must be at least 21, and not more than 60, and they must not be on duty more than 12 hours in any 24-hour period. The state department of agriculture will have charge of regulation and

inspection. From Saturday noon until midnight, Sunday, and on holidays, transports will not be permitted on the highways.

Nebraska truckers and the state railway commission, sponsors of two other bills for motor truck regulation, have been ordered by the legislative commerce committee to "get together," settle their differences, and have a compromise bill ready for consideration by the committee on March 16. The eligibility of those coming under the regulation is one of the chief points (Continued on page 4, column 2.)

## Water Pipe Lead Floods Three Offices At Court Building This Morning

A miniature Niagara Falls was discovered in the new court house this morning about 7:30. One of the brass couplings on the water pipes became loose letting a stream of water thru and it flowed down the steps leading from the jail floor to the office of the sheriff on the second floor. Local plumbers were called and soon the flow of water was stopped. Before that however the water had run down the pipes into the office of the county treasurer directly under the sheriff's office, staining the walls. The office of the county attorney, reporter and sheriff on the second floor was covered with several inches of water.

Dan Farrell, government engineer in charge of the construction of the building, says it is yet impossible to estimate whether any damage had been done to the building by the flood. He said, however, that the county was protected as it was guaranteed for a year. He said he could not understand why, or how, the overflow occurred. He said their was a drain that should have taken care of the water, in the event of a break in the pipes, and the only way that he could account for it was that the drain must have been clogged.

## Funeral Services For John Brentson Friday

John W. Brentson died in the O'Neill hospital Wednesday morning after an illness of two weeks at the age of 63 years, 7 months and 13 days. The funeral will be held from the Presbyterian church in this city Friday afternoon at 2 o'clock, Rev. H. D. Johnson officiating and burial in Prospect Hill cemetery.

John W. Brentson was born at Akley, Iowa, Aug. 4, 1872. He was united in marriage on Feb. 18, 1905, to Miss Rena Powell, the ceremony being performed in Iowa. He came to this county in 1906 and for a number of years farmed in the Minola country. He left here in 1918 and moved to Kansas where he resided for about ten years, returning to this county six years ago and since that time had made his home with his daughter, Mrs. William Buxton, near Star. He leaves to mourn his passing two daughters and one son. The children are: Russell Brentson, Lincoln; Mrs. William Buxton, Star, and Mrs. Albert Throckmorton, Lincoln.

## Production Credit Ass'n. To Meet Here Next Week

Stockholders of the O'Neill Production Credit association will hold their postponed annual meeting on Thursday, March 25, 1937, in the K. C. Hall at O'Neill, Nebr., according to A. U. Dix, president. The meeting will start at 10 a. m. A number of farmer-stockholders from this vicinity will attend.

Mr. Dix announced the order of business will include the election of directors, the annual report of the executive committee, and discussion of future lending policies. James W. Rooney, secretary-treasurer of the farmers' organization, will present the financial statement.

A representative of the Production Credit Corporation of Omaha will discuss operations of the Production Credit associations, which supply farmers and stockmen with short term credit for general agricultural purposes. The stockholders also will hear a number of their fellow members.

The O'Neill association serves farmers in Boyd, Holt, Garfield and Wheeler counties. Present directors are D. C. Schaffer of Emmet, E. W. Moss of Burwell, Frank Kiser of Spalding, R. B. Geary of Inman, and Mr. Dix.

## TRIAL ON LIQUOR THEFT BRINGS A PERJURY CHARGE

Cornelius O'Connell, Father of One Man Convicted, Faces Perjury Charge On His Testimony.

District court convened in this city last Monday morning, with Judge Dickson presiding and Reporter McElhoney at the reporter's table.

The first case on trial was that of the State of Nebraska vs. George O'Connell of Emmet. O'Connell was charged with having aided in the robbery of the Weber liquor store in Atkinson on the night of Nov. 24, 1936. D. R. Mounts of Atkinson, represented the defendant while County Attorney Cronin represented the state. A jury was secured shortly after noon and the trial was on. The case was given to the jury about 4 p. m. Tuesday afternoon and the jury returned a verdict at 9:30 that evening finding the defendant guilty as charged in the complaint.

Wednesday morning the trial of the last one of the defendants in the case, Frank Sealer of Emmet, was taken up. The jury was secured shortly after noon and the case is still on, but will probably be completed some time today, the state having rested last evening before adjournment. In this case County Attorney Cronin is prosecuting and Emmet A. Harmon is representing the defendant.

An aftermath of the trial of the case of the State vs. George O'Connell presented its appearance Wednesday when Cornelius O'Connell, father of the defendant George O'Connell, was arrested on a charge of perjury in connection with the evidence he gave in the trial of his son. He was arrested by Sheriff Duffy late in the afternoon and was confined in the county jail last night. This morning he was taken before County Judge Malone, waived preliminary hearing and was bound over to the district court, bond being fixed in the sum of \$500 which was furnished and he was released. The case will probably come before the court at this session.

There are a few civil cases for trial and court will probably be in session most of next week, perhaps longer, if all the cases are tried.

## Mrs. Donohoe Receives Word of Brother's Death

Mrs. P. C. Donohoe received a message Wednesday afternoon announcing the death of her brother, Daniel Holland at David City, Nebraska. Mr. and Mrs. Donohoe left this afternoon for Petersburg, Nebraska, where they will be joined by Mrs. Donohoe's sister, Mrs. Arthur Duffy and husband and will then go to David City to attend the funeral, which will be held Saturday morning.

Mr. Holland was a former resident of this county, his youth being spent on the old Holland farm a few miles west of this city. He moved to Butler county several years ago and had made his home at David City for many years. He was about 66 years of age and had been in poor health for several years.

## Conservation Community Meetings Start Monday

Soil conservation community meetings will be held starting Monday, March 22, in all communities of the county for the purpose of filling out statements of intention for each individual operator. Individual notices will be mailed to producers all over the county. It is very important that farm operators interested in the program for 1937 attend one of these meetings. In case anyone, because of moving, should not receive notice, they should contact their neighbors for the schedule before the end of the week.

## Coyote Hunt March 21

There will be a coyote hunt Sunday, March 21, starting from the Liddy hill at 1:30 p. m. Anyone who cares to participate is invited to attend. Shotguns only allowed.

The mule seems to be coming back into his own, even in these days of power farming machinery. Last week a team of mules at Herman, Nebr., sold for \$450.