

School Bonds Cannot be Cancelled.

Here are the opinions of Attorney E. U. Overman of this city, and of State Superintendent McBrien in regard to the petition recently presented to the board of education demanding that the school bonds voted last spring be cancelled, and in regard to other matters concerning the bonds and their sale:

RED CLOUD CITY SCHOOLS.

Red Cloud, Nebr., Nov. 1, 1907.

We, the Finance Committee, hereby submit the attached opinions of State Superintendent McBrien and Attorney E. U. Overman, relative to the petition presented to the Board of Education to cancel the \$25,000.00 bonds voted at the last April election, for the purpose of building, furnishing and heating a school house in the first ward and installing a heating plant in the second ward of School District No. 2, and, in view of these opinions, we recommend that no action be taken on this petition.

W. A. SHERWOOD,
L. H. FORT,
J. W. CALDWELL.

To Finance Committee, Board of Education,
Gentlemen:

You have been presented with a petition signed by parties representing themselves as electors, taxpayers and school patrons of School District No. 2, asking you to cancel the bonds recently voted by said district for reasons set out in said petition. You desire my opinion on:

1st. What legal effect such a petition has.
2nd. Whether you, as a Board of Education, have the authority to cancel said bonds and what procedure, on your part, would be necessary to cancel the same.
3rd. If you should cancel said bonds, whether it would be your duty to resubmit another bond proposition to be voted on by the voters of the district.
4th. Whether a vote of the people of the district is necessary to cancel said bonds.

5th. Whether the board can pay a premium out of its general fund in order to make a sale of said bonds.

1. As to the legal effect of the petition: Our statute specifically provides the manner by which school district bonds may be voted. I know of no provision of law for the cancellation of the same, when once voted, by a petition such as that filed with you or by any request of voters. The petition presented to you is certainly very imperfect, the signers thereof not even stating that they voted for the bonds. It is a common and elementary rule of parliamentary practice that even a motion once passed before a body can only be reconsidered by motion made and seconded by those voting on the prevailing side. Without further discussing the petition, I am of the opinion that the same is wholly without legal effect and that you are not bound to take any action on the same, and from a legal point of view it should have no weight with you. As to what moral effect it would have you have not asked me and on that question I am not giving any opinion.

You as a board submitted or undertook to submit under the law, to the voters upon their petition requesting you to do so, a proposition to vote \$25,000.00 bonds for the purpose alleged in said petition. The proposition carried. This was thought to be legally done. I am of the opinion that the proceeding can only be attacked for fraud or illegality by a bill in equity. I do not think you are under any legal obligation in connection with said bonds on account of or by reason of the petition presented, either to cancel the bonds or to take any other action whatever.

2. I am of the opinion that you as a board have no authority to cancel the bonds. I am unable to find any authority or precedent whereby a Board of Education can cancel school bonds once voted. Under the proposition submitted and carried by the voters, the bonds are to be sold "in the open market to the highest bidder for not less than par." Also, the interest as a part of the proposition was fixed at 4 percent. You have no authority except that given you by the proposition

adopted and under the law of the state you are therefore in duty bound to sell the bonds on the exact terms contained in the proposition voted on, and should use every possible effort to make said sale as ordered.

You are not limited as to time in selling said bonds and you should use all possible diligence in making said sale. If for any reason, such as a stringency in the money market or other cause which would temporarily hurt the money market and prevent the present sale of said bonds, then you should wait until the market is such that a sale could be made.

3. Under my view that you cannot cancel the bonds, it follows that you could not submit a new proposition to the voters issuing other bonds at a higher rate of interest, if you desired.

4. A vote of the people is in no wise proper or essential to cancel said bonds.

5. You have a right to pay from the general fund of the school district any reasonable expenses necessary to the sale of said bonds—such expenses as advertising the sale of said bonds in the open market, correspondence, or other reasonable expenses which would result in a sale of said bonds under



Mrs. O. C. Case died this morning at 9 o'clock at the Presbyterian hospital at Omaha as the result of an operation performed last week. The remains will probably be brought to Red Cloud for burial.

the conditions and terms ordered and contained in the proposition voted by the people. But you would not be justified in paying any bonus or premium the payment of which would result or could be said to add to or increase the amount of interest or income to the purchaser of said bonds or be an inducement for him to purchase.

Respectfully submitted,

E. U. OVERMAN,
Red Cloud, Nebr., Oct. 15, 1907.

October 25, 1907.
Board of Education, Red Cloud, Nebr.
Gentlemen:

Yesterday afternoon you submitted the following questions and asked a ruling thereon by this department. After a conference with the office of the attorney general, I make the following answers thereto:

1. "What legal effect has such a petition to the Board of Education relative to the school bond muddle in the school district of Red Cloud?" My answer is that it has no legal effect whatsoever.

2. "Has the Board of Education authority to cancel, and, if so, what procedure would be necessary?" Permit me to say that said bonds are beyond the recall of your board and cannot be cancelled.

3. "If we should cancel said bonds, would it be necessary to resubmit another bond proposition to the voters?" Your third question is answered in my reply to your second question.

4. "Is a vote of the people necessary to cancel said bonds?" This question is also answered in my reply to your second question.

5. "At the present time our bonds have failed to sell. Can the board pay a premium out of the general fund in order to make a sale? If the board

should so sell the bonds, would they individually or as a board be liable for such premium, under suit, as the petition states that the board will be held personally liable?" In answer to your fifth question, permit me to say that your Board of Education has authority to hire an attorney or agent to negotiate the sale of your bonds at not less than par value. You have authority to pay said attorney or agent a reasonable price for his services out of the general funds of the district, but in no case must said bonds be sold below par. The people of your district will have to wait for a new public school building until the bonds already voted will sell at par value. I am persuaded that you will have little trouble in finding a purchaser for your bonds at par.

Yours very truly,

J. L. MCBRIEN, Superintendent.

Election Results.

Below we give the results of the election. The figures given are taken from the official canvass of the votes. The total vote cast was 2393. Next week we will publish a table showing the vote of each precinct.

For judge of supreme court, Reese received a plurality of 295 and a majority of 109.

The republican candidates for regent carried the county by majorities of 157 over the democrats.

For railway commissioner, Clark received 804 majority.

The court house tax was defeated by a majority of 322. The vote was 1324 against and 1002 for the tax.

The balance of the ticket follows:

For District Judge, Tenth Dist.	
James, Rep.	1175
Dung to Fusion	1049
James' Majority	124
For County Treasurer	
Frahm	1510
Christy	481
Frahm's Majority	1029
For County Clerk	
Ross	1094
De Tour	1032
Ross' Majority	62
For County Sheriff	
Hedge	1437
Smith	755
Hedge's Majority	682
For County Judge	
Gilham	927
Edson	1309
Edson's Majority	382
For Clerk of the District Court	
Hanson	1001
Hutchison	1223
Hutchison's Majority	222
For County Assessor	
Scott	1198
Cramer	1022
Scott's Majority	176

Mrs. Nellie West Caster received 1033 votes for county superintendent. As she was the only candidate for that office, she was, of course, elected.

G. W. Hummel was elected county commissioner for the third district and Gerhard Olmsted for the fifth, the former by a plurality of 595 and the latter by a plurality of 491.

City Council Proceedings.

Council met in regular session Wednesday evening in the office of City Clerk Fort. Mayor and all councilmen present.

J. H. Rust came before the council and asked the city to build a crossing on the south intersection of 4th Avenue and Seward street, stating that he would build said crossing and wait on the city for the money. On motion made by Wolfe, seconded by Diederick, vote resulted in tie. Wolfe and Diederick voting aye and Robinson and McCall voting no. Mayor Caldwell then voted aye and motion was carried. Mayor and council then voted to furnish the churches of the city with water free, provided they pay for tapping.

On motion made by Diederick, seconded by Wolfe, bill of city against Mr. Holliday for \$70 for lighting chautauqua grounds last summer was reduced to \$50.

Councilman Wolfe then introduced a resolution requiring the street railway company to raise their tracks to grade and put in blocks for crossings in the



OLIVER D. HEDGE

Who received a larger majority than anyone else who has ever been a candidate for Sheriff of Webster County.

Wedding Bells.

KEENEY GRAVES

Married, last Sunday evening, at 7:30 o'clock, at the home of James Bogenrief, Rev. George W. Hummel officiating, Ex-County Judge A. H. Keeney and Miss Emma Graves, both of this place. The principals in the joyous event left immediately after the ceremony for Denver, which will be their home hereafter.

Mrs. C. L. Cotting Dead.

Mrs. C. L. Cotting died at the home of her brother, C. E. Upson, with whom she had been visiting, near Bristol, Wis. Her death was the result of shock and exposure experienced during a fire several weeks ago, at the residence of her brother, at which she was staying. Pneumonia set in soon after, and was not at first thought to be serious, until a short time before her death. Her husband was immediately notified, and arrived in time to be present at his wife's bedside during her last hours. Mrs. James Mitchell and Miss Jennie Cotting, her daughters, both of this place, left Saturday morning in response to an urgent message, but failed to arrive in time to be present at their mother's deathbed. The remains were brought to Red Cloud Wednesday for burial, and the funeral is to be held this afternoon at 2:30 o'clock from the home, in charge of Rev. A. A. Cressman, pastor of the Congregational church, of which Mrs. Cotting was an active member, and in the affairs of which she was an ardent worker.

Amelia Upson Cotting was born at Bristol, Wis., Sept. 18, 1850, and died at her birthplace Sunday, Nov. 3, 1907, being at the time of her death fifty-seven years of age. She leaves a husband, two daughters and a son, Edgar, the latter living at Chicago, and who was present at his mother's death, to mourn the loss of a faithful wife and a loving mother.

Marriage License

The following marriage licenses were issued this week by Judge Edson.

Albert H. Keeney and Miss Rachel E. Graves.

Charles Devlin and Grace A. Elliot. Married by Father D. G. Fitzgerald.

Alonzo H. Kincade and Miss Agnes E. Perry. Married by Judge Edson.

Notice.

The Red Cloud Investment Co. will advertise western Kansas and Nebraska, the Panhandle (Texas) and the Pecos Valley (New Mexico) irrigated lands next week. Look for their ad, as it is a good proposition for you.

places where crossings have recently been put in by the city.

The following claims were allowed on their respective funds.

E A Green	\$65 00
W A Brown	1 00
L H Fort	25 00
Oscar Burroughs	83 25
J O Butler	50 54
Wm. Lindley	5 00
J P Moranville	17 10
L E Tait	2 00
Chief Pub. Co	14 00
Eulton Grocery Co	13 95
Jno. Griffith	10 50
Wm. Bohrer	2 00
Wm. Hayes	5 40
Chas. Allsop	7 15
H E Grier	10 15
J O Butler	149 45
J W Kinsel	15 00
J O Caldwell	262 50
Jas. Peterson	125 35
Rombauer Coal Co	221 66
J O Butler	110 55
Globe Oil Co	16 00
A J Tomlinson	32 00
Western Electric Co	20 80
F W Studebaker	756 78
Guy Bradbrook	36 50
F H Fearn	46 00
Wm. Hayes	25 05
Wolfe & Beardslee	11 00
Bernard McNeny	10 00
Saunders Bros	282 70
Dc Damerell	9 00
F W Studebaker	47 05
Geo. W Hutchison	9 62

Real Estate Transfers.

For the week ending November 6, 1907, as furnished by the Fort Abstract Company.

Henry Boyd to Lincoln Land Co and 1/2 ne4ne4 18-4-11 wd.....town site	
Walter A Sherwood to E A Anshute lots 1-2 blk 22 Red Cloud wd.....	700
E A Bedford to Henry N Rutledge lots 1-2 blk 22 Red Cloud wd.....	600
William B Prather to Lorenzo Thomas e2e2 ne4 and e2w2e2 ne4 29-3-10 wd...	1500
Kansas City Trust Co to G J Koehler lots 9-10 block 1 Rohrer add to Blue Hill deed.....	1
Julia A Lane to Francis M Clark se4se4 28-1-9 wd...	3200
Charles W Kaley to F E Reeker ne4 1-2-11 wd....	6000
Maxwell C Fulton to Royden B Fulton nw 31-1-12 wd...	1600

\$13,601

Mortgages Filed	\$3,650
Mortgages Released	\$7,450

At any time during the day someone will be at Kizer's carpenter shop to do all kinds of shop work, saw filing, turning, etc.