

## Speaker needs to drop lawsuit against the state

Rep. Mike O'Neal, speaker of the Kansas House, has done a bad thing. He needs to admit it, correct his error and get on with the session.

The Hutchinson Republican is maybe best known in this area for representing Dr. Victor Hildyard in his disputes with the Colby hospital, but now he's not only a lawyer in private practice, but the leader of the state House of Representatives.

It was a mistake for him to sign on as the attorney for a group of professions protesting a bill which "swept" \$5 million unused money out of state trust accounts to help balance the budget. Groups ranging from real estate agents to workers-compensation insurance pools complained that this was not the state's money, but theirs, money they paid to the state in trust for future use.

These groups may have a good case, and as Mr. O'Neal says, they certainly deserve to be heard in court. We have no argument with that. On the surface, at least, it looks as though they may be right.

But the speaker should have left this case to some other lawyer. It's unseemly, having a high state official involved in suing the state, especially in a year when many are unhappy with school districts using state money to sue the state.

It just doesn't look good.

And, the longer he sticks with this lawsuit, the more Speaker O'Neal will realize that in public ethics, what looks bad is bad, legal niceties aside. It won't make much difference what else happens in this case. His enemies, both within his own party and in the other party, will make hay.

Mr. O'Neal can call this "playing politics," as he has, but it won't wash. He's a big boy, and he should have seen the problem. Suppose the governor decided to represent someone suing the state? Or, God forbid, the attorney general?

Other House Republicans see the error of his ways, but they're mostly afraid to cross the speaker, who can cast death spells on their bills. The Dems have no such qualms.

"In my opinion, there is too much inherent conflict of interest in that situation," said Senate Minority Leader Anthony Hensley, who introduced an amendment to bar legislators from taking similar cases.

Makes no difference who complains. It will weaken Rep. O'Neal's position. The longer he hangs on, the worse he will look. He'll be hurting his party and eroding his own power.

Give it up, Mr. Speaker. Let someone else handle this case.

And get on with the people's business.  
— Steve Haynes

## Revenue estimates still down

Here is a recap of activities and information from the Kansas Senate:

**January Revenue Collections:** January was the third monthly report based on the revised consensus revenue estimates made in November. Through January, total State General Fund receipts for the 2010 fiscal year were \$39.1 million, or 1.3 percent, below estimates. Tax collections to the general fund were \$36.5 million, or 1.2 percent, below predictions. Total receipts through January were \$301 million, or 9.2 percent, below comparable receipts from the previous year. For this year, tax receipts are \$252.2 million, or 7.9 percent, below the same period in FY 2009.

Many tax sources fell below estimates by more than \$1 million, including a \$24 million drop in individual income tax collections, \$5.3 million in compensating use taxes, \$5 million in the severance tax, \$3.5 million in estate taxes, and \$3.5 million in estate taxes. Corporate income tax receipts exceeded estimates by \$9.9 million, or 7.7 percent, the only tax source to exceed estimates by \$1 million.

**SB 391 Anatomical Gifts:** Amends the 2007 Revised Uniform Anatomical Gift Act by including language that a person who has agreed to put their name in the Midwest Transplant Bank registry has also given full legal consent to the donation of their organs or tissues upon their death. The bill also allows a donor to amend or revoke an anatomical gift by accessing the registry website or by notifying the organization designated for organ procurement in Kansas. If a donor chooses to withdraw their consent to be listed in the registry, it does not



### Letter from Topeka By Sen. Ralph Ostmeyer ralph.ostmeyer@senate.ks.gov

withdraw their donation of organs or tissues. Passed 39-0 on Tuesday, Feb. 2.

**SB 393 Administrative Hearings:** Would allow the Department of Agriculture to provide notice and an opportunity for a hearing when the agency revokes a license. The bill also authorizes the Secretary of Agriculture to temporarily suspend licenses and permits issued under the Kansas Dairy Law without a hearing and notice as required by administrative procedure law. The temporary suspension could not exceed 90 days. Passed 39-0 on Feb. 2.

**SB 421 Election Crimes:** Changes the penalty for voting without being qualified from a class A misdemeanor to a level 9 nonperson felony. Passed 39-0 on Feb. 2.

**SB 426 Absentee Ballots:** Expands absentee voting opportunities for federal service voters and military personnel and their family. Allows overseas voters to apply for, receive and return their ballots electronically. If needed, overseas voters are also allowed to vote a full ballot for all elections and vote by write-in ballot. Passed 39-0 on Feb. 2.

**SCR 1615 10th Amendment Resolution:** The Senate Judiciary Committee favorably passed out SCR 1615 on Wednesday, Feb. 3. The concurrent resolution declares

the sovereignty of Kansas and serves as a notice and demand to the federal government to immediately cease and desist all mandates that are beyond the scope of the powers delegated under the 10th Amendment to the Constitution. In addition, SCR 1615 prohibits all federal legislation that requires states to comply under threats of penalties or sanctions or requirements that states pass laws to maintain certain funding. The resolution is now up for consideration by the Senate.

**SCR 1621 Litigation Financed with Public Funds:** The Senate Judiciary Committee favorably passed out SCR 1621 on Wednesday, Feb. 3. The concurrent resolution declares the view of the Kansas Legislature that courts lack the constitutional authority to order the legislature to make specific appropriations. In addition, SCR 1621 declares that no public money or money derived from taxes should be used to finance or support any lawsuit challenging the constitutionality of appropriations by the Legislature. Now up for consideration by the Senate.

Saturday, Feb. 20, is the deadline for bills to be passed out of their house of origin, known as "turn-around day."

We planned to start our "town hall" meetings on Saturday. Rep. John Faber and I hope to see as many of you as can make it.



## Life is never dull at her house

Guess things have just been too dull around our place for Jim.

Saturday, a young couple from Colorado was scheduled to pick up one of the antique cars they bought from Jim two weeks ago. They were on their honeymoon, visiting friends in a nearby town, when they saw Jim's ad in the paper.

Since Jen is as much of a "car nut" as her new husband Sean, it seemed perfectly natural to them to spend their honeymoon tromping through the mud looking at rusty frames and buckets of parts.

Jim wanted to have everything ready for them when they arrived. He knew they were on a tight schedule, and he wanted to have the vehicle ready to load. He had it chained to the front loader of the tractor and was backing out into the alley when he clipped a gas line and knocked the cap off the top.

I wasn't there, but I guess the whoosh was incredible as natural gas spewed out. Quick-thinking man that he is, Jim grabbed a wooden Model A wheel spoke he was working on, jammed it into the



### Out Back By Carolyn Sue Kelley-Plotts quality-pro@webtv.net

opening and pounded it in with his hand. At the same time he hollered at son James to call for help.

James called 911, and within a minute, two men from the city's fire department were on the scene making sure the citizenry was safe. The sheriff's department and gas company technicians soon arrived and the problem was resolved within an hour.

The only thing hurt is going to be our wallet, as Jim was assured he will be responsible for the damages. Oh well, it still passes my ultimate test: nobody died.

And, the newlyweds — they managed to get in on all the action. They are a great young couple, and took the commotion in stride. Jen

came in the house with me while the menfolk attended to business. I had just put a cheese danish in the oven, so we had coffee and a nice chat. As it turns out, we have a lot in common. Not only do we both have daughters and think we got the last "good guy" out there, but we have very similar tastes.

I was showing her my dining room and picked up a catalog to show her the rug I had picked out for the room. She said it was exactly the same one she had picked out for her home.

I'm so glad they bought more than one old car. It means we'll get to see them again.

## Toyota fiasco inexplicable

The Toyota fiasco raises plenty of questions, and doubtless there'll be no good answers.

One issue is how a driver could fail to react to a stuck accelerator. Every car I've owned has both a gearshift and a key. Using one or the other enables you to instantly control a stuck throttle, yet most stories on the recall fail to even mention these simple safety steps.

Turning off the ignition might not save you from a bump if you're facing a wall or pulling up behind another car at a light. But neither situation should produce a fatality, let alone a serious injury.

The "worst-case" often cited in "scare" stories involves a California state trooper driving a borrowed Lexus that reportedly reached speeds in excess of 110 mph as it accelerated along a mountain highway. The victims had time to call 911 and tell the dispatcher this before the car crashed and burned.

What was this guy thinking? Shift the car into neutral. Sure the engine will be racing, but the car'll stop.

Turn the key to off. With the engine off, power steering and power brakes are lost, but the car will stop. (Be sure NOT to remove the key, or the steering column may lock up.)



### Along the Sappa By Steve Haynes s.haynes@nwkansan.com

So, while this regulatory laxity is something that shouldn't happen, especially over a period of seven years while both the manufacturer and government officials ignore the problem, it's not exactly the end of the earth.

Then, there's the issue of how a safety defect like this could be ignored for so long. Toyota built millions of vehicles with apparently faulty throttle assemblies, arrogantly ignoring consumer complaints and trying to suppress any investigation or recall.

What does that say for the company's hard-won reputation for quality?

Or corporate concern for safety? And just where were the regulators, through two administrations, who were supposed to protect us from this kind of situation?

Then the question no one has asked yet, but someone should: Is Toyota being set up for a torpedo

by the U.S. government, which just became the biggest stockholder in two American competitors?

And should we allow any bias toward one or more companies to overshadow free and open competition?

The situation does not present a pretty picture of government regulators or of the auto industry bureaucracy, any way you look at it. There seems to be a lot more concern for covering their collective behinds than for consumers, car owners and the general public.

We need Toyota — and the American car companies — to build good and dependable cars and trucks, vehicles we all want to drive, that are safe and efficient, that produce plentiful jobs.

Not more bungling like this. That said, anybody want a good deal on a Camry?

## Leader explains 'secret meetings'

To the Editor:

First of all, an explanation of the "secret airport committee."

In a community the size of Oberlin, City Council members have no staff. If a project involves the council, members can either drop it, work alone or gather a group with similar interests to work on it.

When it became clear that the airport project was going to need a great deal of work, and being on the council at the time, I suggested that a group be formed to work on the project, and the council agreed. There being, at that time, a free flow of information and cooperation between the city and the Economic Development Corp., Connie Grafel, marketing director for the corporation, was asked to work with us. There were some basic tasks that needed to be done: secure the money from the Federal Aviation Administration, work with the engineering firm, find companies, industries — or the National Guard — to be tenants.

An effort was made to ask people to serve from as broad a spectrum of the county as possible. The group expanded and changed as

### Letter to the Editor

volunteers came in, worked and left. The following is a partial list of those who worked on the project: Ms. Grafel, Councilwoman Rhonda May, former City Administrator Gary Shike, Gaylord Shields, Lee (Doc) Franklin, Sid Metcalf and Greg Lohofener from Economic Development, Phil Fraker representing the airport operator, County Commissioners Gene Gallentine and Doyle Brown, Patti Skubal, Jim Wesch, Councilwoman Marcia Lohofener, Gary Allen, myself, former Undersheriff Randy McHugh, Mayor Joe Stanley, Shayla Williby, Deanna Castle, Rusty and Sharon Addleman, Floyd Badsy (with the FAA at Oklahoma City) and many others, to whom I apologize for forgetting their names. All gave of their time, expertise and money, and it is appreciated.

Even though the group was responsible to the council and had only authority to offer suggestions, some felt that a working group of volunteers was not an official organization. Protection was

sought by becoming a committee under Decatur Tomorrow and the development corporation, and Mr. Metcalf as development board president, took over and managed the group.

Jay Anderson, Oberlin former City Council member

### From the Bible

This is what the LORD says: "Maintain justice and do what is right, for my salvation is close at hand and my righteousness will soon be revealed.

"Blessed is the man who does this, the man who holds it fast, who keeps the Sabbath without desecrating it, and keeps his hand from doing any evil."

Isaiah 56:1-2 (NIV)

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