

# A State Treasurer Defaults: The Taylor Case of 1895

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Tucked away in most of the annual reports of the state treasurers of South Dakota are notations of small amounts of money coming into the state coffers from the "Taylor lands." These lands take their name from Walter William Taylor, who was treasurer of the state from January 1891 to 8 January 1895.<sup>1</sup> Born in Lafayette, Indiana, in 1855, Taylor began his professional career there in the wholesale and retail coal business of his father, William W. Taylor. In 1885, the younger Taylor moved to Redfield, Dakota Territory, where he became president of the First National Bank, general manager of the Northwestern Mortgage Trust Company, and president of the Gettysburg State Bank. He was first elected treasurer of South Dakota in November 1890, was reelected in November 1892, and was constitutionally ineligible for a third

1. There is some discrepancy in Taylor's name. He usually used his initials—W. W. Taylor, but he is frequently called both Walter William and William Walter. In the records preceding the scandal and in the legislative committee investigations, he is usually called Walter. In many of the court records, he is referred to as William Walter. Since his father's name was William W. Taylor, it is possible that his was also, and that he went by Walter to avoid confusion. His obituary in the *Lafayette Courier* on 21 December 1916, however, and the cemetery records all list him as Walter W. Taylor.

term.<sup>2</sup> His main duties, as prescribed by law, were to "have charge of and safely keep all public moneys which shall be paid in to the state treasury, and pay out the same as directed by law."<sup>3</sup> The story of the Taylor lands begins at the end of Taylor's second term when he was expected to turn the "public moneys" over to his successor.

In his opening message to the legislature on 8 January 1895, newly reelected governor Charles H. Sheldon praised the departing treasurer with the following words: "Mr. W. W. Taylor, our efficient and faithful outgoing treasurer is entitled to the thanks of the people for the zeal and energy which he has at all times displayed in the management of his office, and it is a matter of pride to him, as to the state officers with whom he has been associated for the past two years, that he leaves the public service carrying with him the unbounded respect of those who have known his business methods and his desire to preserve the credit of his state."<sup>4</sup> The next day, the governor sent a written message to the legislature, asking that these words be stricken from the official journal.<sup>5</sup> On 9 January 1895, the citizens of South Dakota had discovered that Taylor had failed to appear in the capital to turn over the treasury to his successor and had, in fact, absconded with practically all the funds entrusted to his care. It was soon ascertained that these monies amounted to \$367,020.59.<sup>6</sup> Obviously, state authorities had to try to catch the defaulter, punish him for his misdeed, and recover as much of the sum as possible. In the meantime, however, how was the state to meet its financial obligations, especially since its constitutional indebtedness had been reached?<sup>7</sup>

2. *South Dakota Legislative, Executive and Judicial Directory, 1893* (Pierre, S.Dak.: Gershom Jones, 1893), p. 40; *South Dakota, Constitution*, art. 4, sec. 12.

3. *South Dakota, Statutes of the State of South Dakota, 1899, Annotated* (Grantham), vol. 1, sec. 63, p. 100.

4. *South Dakota, Legislature, Governor's Message to the Fourth Legislative Assembly, State of South Dakota, Delivered January 8, 1895*, p. 5.

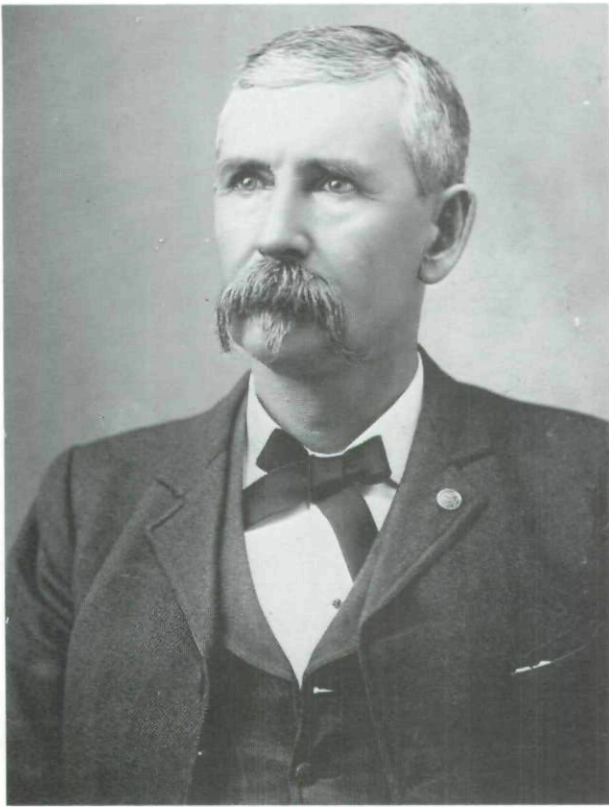
5. *South Dakota, Legislature, Journal of the House, 1895*, 4th sess., p. 66. In this retraction letter, the governor wrote that the state public examiner had examined the treasurer's office in April of 1894 and had found it "in perfect condition" and that Taylor had given Sheldon "frequent assurances, some of them quite recently," that the treasury was solvent.

6. *Governor's Message to the Fifth Legislative Assembly, 1897*, p. 4; Herbert S. Schell, *History of South Dakota* (Lincoln: University of Nebraska Press, 1961), p. 233; *Sioux Falls Evening Argus-Leader*, 9 Jan. 1895; *Pierre Daily Capital*, 10 Jan. 1895.

7. *Argus-Leader*, 9 and 12 Jan. 1895; *Pierre Daily Capital*, 12 Jan. 1895.

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First, two Deadwood banks advanced \$75,000 in loans.<sup>8</sup> Next, two railroad corporations, the largest taxpayers of the state, paid their property taxes in January instead of March when they were due. The state auditor demanded that county treasurers pay the sums in their possession that were owing to the state, and this



*Governor Charles H. Sheldon*

procedure brought in \$40,000. The 1895 legislature also passed a law permitting the treasurer to sell bonds for \$98,000 to cover the

8. *Governor's Message, 1897*, pp. 4-5. It is not known when the loans were repaid or at what interest.



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losses from the permanent public school fund, and the new state treasurer, Kirk G. Phillips, obtained an extension of one year to pay the funding warrants of \$220,000 that were due on 1 January 1895 (\$100,000 of these warrants were redeemed by 1 July). Further, the legislature authorized the treasurer to issue funding warrants based upon revenue assessed but not yet collected; the treasurer issued \$304,600 of such warrants, \$204,600 of which would fall due on 1 April 1896, and the remaining \$100,000 on 1 April 1897. These warrants were duly paid, and the various measures saved the financial situation for the state.<sup>9</sup>

For Taylor, who had gotten the state into these difficulties, it had been incredibly easy to carry off the state funds. In his name as state treasurer, he had the power to place the state monies in any banks he wished, subject to his withdrawal by checks, drafts, vouchers, and warrants, and, in the meantime, he could personally pocket the interest from these funds.<sup>10</sup> Outside supervision of the monies was minimal as can be readily seen from testimony before a legislative committee that met to investigate the incident between 19 January and 4 March 1895. Two state public examiners testified that, except for the accounts in three Pierre banks, they had simply taken Taylor's word for the amounts deposited in various institutions and, in four years, had made only one perfunctory check of the largest amounts, which were deposited in Taylor's own bank in Redfield.<sup>11</sup> The deputy state treasurer under Taylor, W. A. Burrington, informed the committee that,

9. *Argus-Leader*, 19 Jan. 1895; *Pierre Daily Capital*, 15 Jan., 4 Feb., and 14 Oct. 1895; *Governor's Message, 1897*, pp. 4-5; South Dakota, Office of the Treasurer, *Report of the Treasurer of the State of South Dakota for the Fiscal Year Ending June 30, 1895*, p. 4; *Report of the Treasurer, 1896*, p. 3; *Report of the Treasurer, 1899*, p. 48; *Report of the Treasurer, 1900*, p. 64; George W. Kingsbury, *History of Dakota Territory*, and George M. Smith, ed., *South Dakota: Its History and Its People*, 5 vols. (Chicago: S. J. Clarke Publishing Co., 1915), 3:544-48. Ironically, Taylor had persuaded the 1891 legislature to pass the funding warrant act, which "enabled the treasurer to at all times provide for any deficiency in the general fund to meet public expenditures" (*South Dakota Legislative, Executive and Judicial Directory, 1893*, p. 40); the act was now being used to keep the state solvent.

10. South Dakota, Legislature, *Journal of the Senate Appendix: Report of Joint Committee to Investigate the Defalcation of W. W. Taylor, Late Treasurer of South Dakota*, pp. 136-39, 196-97, 214-15 (this document is hereafter cited as *Senate Appendix*); *Pierre Daily Capital*, 10 Jan. 1895; *Argus-Leader*, 9 Jan. and 29 Oct. 1895; Schell, *History of South Dakota*, p. 239.

11. *Senate Appendix*, pp. 161-71. The findings of the committee were mostly unsatisfactory and confusing.

on 1 December 1894, his records showed state funds in the amount of \$221,578 on deposit in the name of "W. W. Taylor, State Treasurer" in Taylor's First National Bank of Redfield.<sup>12</sup> From the cashier of that bank, F. W. Humphrey, the investigating committee learned that, from the middle of December 1894 to the beginning of January 1895, the cashier had sent \$80,000, or "something over \$100,000," in Taylor's name to the Chase National Bank of New York and the American Exchange National Bank of Chicago. Those funds were no longer in either bank. Humphrey also testified that, on 24 April 1894, when the state public examiner had been told of the various state deposits, about \$80,000 in certificates of deposit from several banks had been counted twice so that the total sum would agree with that on the books of the state auditor.<sup>13</sup> Clearly, nobody could account for the physical whereabouts of the state funds either before or after Taylor had failed to appear in Pierre.

Taylor's attorney, Charles T. McCoy of Aberdeen, testified that his client had recently lost \$232,200. Approximately \$110,000 had been lost in the failures of the Northwestern Mortgage Trust Company of Redfield and the Gettysburg bank, \$52,000 in a Mexican silver mine, \$2,700 in a South American mining venture, \$2,500 in wheat speculation on the board of trade, \$40,000 in Chicago real estate, \$15,000 in lands at Anacortes, Washington, \$5,000 in investments in the Cripple Creek area of Colorado, and \$5,000 in the "Head Light Institution." Daniel K. Tenney, Taylor's Chicago attorney, also reported that Taylor had lost an additional \$50,000 in a venture in Montana (possibly a sheep ranch and two mines).<sup>14</sup> McCoy and Tenney did not tell the committee whether these funds were Taylor's own or those of the state. Since the two were commingled and interchangeable, it was impossible to ascertain which was which. The nature of some of these speculations, however, shows that Taylor was rather reck-

12. Ibid., p. 199.

13. Ibid., pp. 137-40, 250-58.

14. Ibid., pp. 218-20; Doane Robinson, *South Dakota (Sui Generis), Stressing the Unique and Dramatic in South Dakota History*, 3 vols. (Chicago: American Historical Society, 1930), 1:347. The state received, from Taylor, \$24,600 in bonds issued by the Santa Juliana Mining Company, whose offices were in New York and whose mine was in Mexico. At first, the state was offered ten cents on the dollar for these bonds, but by 1898, they were entirely worthless. South Dakota, Office of the Attorney General, *Report of the Attorney General of the State of South Dakota for the Years 1897-1898*, p. xx.

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less in his investments. Furthermore, the United States was experiencing a severe economic depression in 1893, 1894, and 1895, one that saw an increase in farm and bank failures. Taylor's Northwestern Mortgage Trust Company and the Gettysburg bank had both failed in the autumn of 1894, placing the absent



*Walter William Taylor*

treasurer in severe financial difficulties. His Redfield bank closed on 9 January 1895, although Deputy State Treasurer Burrington had testified that the state monies there in December of 1894 amounted to \$221,578, and the cashier reported holdings ranging



from \$120,000 to \$130,000 in the same time period.<sup>15</sup> Neither of these amounts would have been sufficient to cover the full amount Taylor owed the state, but by January of 1895, all state funds were missing.

On 9 January 1895, Attorney General Coe I. Crawford, the chief law-enforcement agent of the state, urged the legislature to offer a reward of \$2,000 for the apprehension of Taylor. The reward was duly offered, and in March it was increased to \$5,000. On 16 January, Crawford authorized the famed Pinkerton's National Detective Agency to search for the missing treasurer at eight dollars a day per agent, plus expenses. (The total Pinkerton bill amounted to \$3,824.60.) These detectives, or "shadows," pursued Taylor on a long itinerary through Central American countries, which were then, because of a lack of extradition treaties, favorite havens for fugitives from American justice. The authorities knew that Taylor had about ten thousand dollars to aid him in his travels, but they were determined that he would be found.<sup>16</sup> To insure his capture, variations of the following description of Taylor were sent to chiefs of police in major cities: "About 5 feet 6 inches, heavy set, weight 190 to 200 pounds, sloping shoulders, light short mustache, ruddy complexion, blue eyes, rather large mouth with hanging under lip, slightly bald, hair tinged with gray, walks with a sort of waddling gait."<sup>17</sup>

Taylor later told a reporter that he had left Chicago on 3 January for Tampa, Florida. From there, he traveled to Key West, Havana, Vera Cruz, across the Isthmus of Tehuantepec, up the Mexican coast to Manzanillo and lower California, then back down to

15. Fred A. Shannon, *The Farmer's Last Frontier: Agriculture, 1860-1897* (New York: Farrar & Rinehart, 1945), pp. 295, 322-23; Coe I. Crawford, "Charles E. De Land—A Tribute," *South Dakota Bar Journal* 4, no. 4 (Apr. 1936): 43; *Argus-Leader*, 9 Jan. 1895; *Senate Appendix*, pp. 137, 199, 211-12, 252.

16. *Senate Appendix*, pp. 37, 153-57; *Report of the Attorney General, 1894-1896*, pp. 16, 22-23, 25; *Argus-Leader*, 11, 17 Jan. and 18 June 1895; *Pierre Daily Capital*, 11 Jan. and 9 Mar. 1895; Coe I. Crawford to Pinkerton's National Detective Agency, 16 Jan. 1895, Coe I. Crawford Papers, South Dakota Historical Resource Center, Pierre, S.Dak. On 14 January, Crawford wrote to the Pinkerton firm, "This state is very much in earnest in this matter and is determined to get Taylor if we have to rake the world with a fine tooth comb" (Crawford to Pinkerton, 14 Jan. 1895, Crawford Papers). The state legislature appropriated \$10,000 for expenses in the case, with an additional \$3,000 to be spent after 30 June 1895. See *Report of the Attorney General, 1894-1896*, p. 16; Crawford to E. W. Blakey, 11 Apr. 1895, Crawford Papers.

17. *Senate Appendix*, p. 155.

Guatemala, Nicaragua, and Costa Rica, where he spent a month in San Jose. Next, he sailed to Jamaica and then gradually made his way back to an unnamed "important northern city" in the United States by early March. He asserted that the detectives were slow in picking up his track and that they had followed two of his blind leads.<sup>18</sup>

Both travels and detectives were in vain, however, because on 12 June 1895, the press received notice that Taylor, tired of being a fugitive, would voluntarily reappear in Pierre by the end of the week. A local newspaper alliteratively headlined the news thus: "WHOO! Wandering Willie Works Westward With Waddling Walk, Weary, Wrecked. We Will Wonder While Waiting, Where Wandering Willie Went."<sup>19</sup> On the twenty-first of June, he surrendered to state authorities and was freed on \$25,000 bond to appear before the regular term of the Hughes County circuit court at Pierre on 13 August. Under the circumstances of Taylor's admitted flight, it would be interesting to identify the unknown person who trusted Taylor enough to post his bond in June and then again in August when he appealed his case to the state supreme court. The state, less trusting, had paid agent B. H. Sullivan \$800 to accompany Taylor from Chicago to Pierre in order to insure that he would appear and that he would not be arrested by someone hoping to collect the reward.<sup>20</sup>

On 13 August, Taylor pleaded guilty to an indictment charging him with the crime of embezzlement, and Judge Loring E. Gaffy sentenced him the next morning to a term of five years at hard labor in the state penitentiary. The following day, Taylor obtained a writ of habeas corpus from the state supreme court on the ground that the punishment was excessive and that, by law, it could not exceed two years, and he was released on a \$30,000 bond. The court denied this writ on 30 August, stating that, whether or not the court exceeded its jurisdiction in setting the sentence, it did not provide a reason to free a convicted felon. Apparently, Taylor was then lodged in the county jail while his lawyers filed a writ of error with the state supreme court. This case

18. *Argus-Leader*, 18 June 1895; *Report of the Attorney General, 1894-1896*, p. 16. The blind leads were probably from Costa Rica to Panama and from there via Barbados to Para, Brazil. *Pierre Daily Capital*, 13 June 1895.

19. *Pierre Daily Capital*, 12 June 1895.

20. *Report of the Attorney General, 1894-1896*, pp. 16, 26; *Pierre Daily Capital*, 18 and 20 June 1895.



was heard on 2 October, with the judgment being rendered ten days later.<sup>21</sup>

The supreme court reduced Taylor's sentence to two years, basing its decision on sections of the state code that concerned embezzlement, the crime for which Taylor had been indicted. The court ruled that Section 1665 of the *Compiled Laws of 1887*, which allowed for a sentence of up to twenty-one years, was defective in wording, being "in form but a skeleton, in substance inanimate," and that it provided "nothing for the act named 'embezzlement' to operate upon."<sup>22</sup> In short, the law that was supposed to cover the embezzlement of public funds failed to mention the actual taking of government money. (Judge Gaffy had also made this determination in the lower court.) Other statutes that dealt with embezzlement and allowed a sentence of up to five years were unsuitable in that they did not deal with the state treasurer or the state, which is a "body politic" and not an "association, society or corporation, public or private."<sup>23</sup> In the court's opinion, only one statute pertained to the case, and that was Section 6698 of the code, which did not mention embezzlement but was intended to punish public officers who misappropriated public monies. While Taylor's attorneys claimed that this section also did not apply, the court ruled that it did, but that the maximum penalty provided for in the section was two years.<sup>24</sup> The court stated, therefore, that the sentence for five years, "being erroneous as to the excess, must by this court be corrected."<sup>25</sup> Taylor's sentence was reduced to two years, beginning in August when he was first incarcerated. He also received four months off for good behavior, serving a total of eighteen months in the penitentiary.<sup>26</sup>

This lenient sentence for a criminal act of such magnitude outraged the public and press of the state, and editors vociferously

21. *Report of the Attorney General, 1894-1896*, p. 16; *Argus-Leader*, 14 Aug. and 12 Oct. 1895; *In re Taylor*, 64 *Northwestern Reporter* (3 Aug.-7 Dec. 1895): 253-59; *Pierre Daily Capital*, 30 Aug. 1895.

22. *State v. Taylor*, 64 *Northwestern Reporter* (3 Aug.-7 Dec. 1895): 548-49.

23. *Ibid.*, pp. 549-51.

24. *Ibid.*, pp. 551-53.

25. *Ibid.*, p. 553.

26. *Ibid.*; *Report of the Attorney General, 1894-1896*, p. 16; *Argus-Leader*, 14 Aug. and 12 Oct. 1895; *Pierre Daily Capital*, 15 Oct. 1895. The records of the South Dakota State Penitentiary are not complete for this period and do not show that Taylor served his sentence, but Attorney General Crawford stated in his annual report of 1894-1896 that, after the supreme court decision, Taylor was "confined in the penitentiary at Sioux Falls, where he is now serving out his sentence" (p. 16).

charged that a "deal" had been made. Characteristic of this sentiment were the editorial statements of the *Sioux Falls Evening Argus-Leader*. In announcing the news of the court's decision on 12 October, the paper called it "the blackest day which South Dakota has known since her entrance into the Union. . . . The whole



*Judge Loring E. Gaffy*

world has watched this matter. It has noted that men who stole a few dollars worth of bread or money have been sent to the penitentiary for years, but that the rich, influential, popular and politically powerful thief who steals a quarter of a million gets a punishment of only a year and a half." The editor reminded his read-

ers: "A crime has been committed against the good name and the credit of every resident of the state. It is a crime for which they will suffer for years." It would have been better, the editor suggested, for Taylor to have escaped entirely than for the state to have "allowed him to escape like this. . . . there has been a most regrettable miscarriage of justice."<sup>27</sup> Although the harassed attorney general reacted to these and other charges by branding the editor "a cold blooded, shameless and unscrupulous liar,"<sup>28</sup> a settlement, or deal, between Taylor and the state had indeed been worked out back in June. No proof has been found that an arrangement was made to give Taylor a lenient sentence, but an agreement concerning his voluntary return and the restitution of funds was undoubtedly arranged.

As early as 11 January 1895, the press had been reporting rumors of a compromise settlement between the state and Taylor through his attorneys and bondsmen.<sup>29</sup> It was later reported that, in December of 1894, Taylor had had some of the state money with him in Chicago and that he had informed five men about his losses. The five men were Charles T. McCoy of Aberdeen, Taylor's attorney and brother-in-law; John T. McChesney of New York, one of his bondsmen (to the amount of \$50,000) and also a brother-in-law; Howard M. Benedict of Chicago, still another brother-in-law who would later accompany him on his Central American tour; and Daniel K. Tenney and Charles H. Wells, the partners of a Chicago legal office. These five men tried unsuccessfully to raise the money to cover Taylor's losses, and then, about 24 December 1894, they persuaded Taylor to assign all but \$10,000 of what money he had to Wells, pay Tenney \$10,000 for legal services, turn over all his other property to Benedict (the total amount of money and property is unknown), and flee the country while they tried to arrange a compromise with the state. Their early settlement offers proposed that Taylor would return \$50,000 to the state and the bondsmen would pay a like sum in return for Taylor's safety from prosecution and their own release from their bonded obligations.<sup>30</sup>

27. *Argus-Leader*, 12 Oct. 1895. See also *Pierre Daily Capital*, 15 and 28 Oct. 1895; *Argus-Leader*, 21, 29 Oct. and 4, 5, 8 Nov. 1895; Crawford to C. G. Kidder, 28 Dec. 1895, Crawford Papers.

28. *Pierre Daily Capital*, 28 Oct. 1895. See also *Argus-Leader*, 29 Oct. 1895.

29. *Argus-Leader*, 11 Jan. 1895.

30. Robinson, *South Dakota*, 1:347; Smith, *South Dakota*, 3:545-46; *Report of the Attorney General, 1894-1896*, p. 14; *Pierre Daily Capital*, 5 Mar. and 13, 20, 30 June



In late January, Crawford met with McChesney in Chicago about a possible settlement and wrote that if this were a private suit he would effect a compromise, which in all events would be better than a prosecution, but that public opinion in South Dakota would not allow it.<sup>31</sup> On the fifth of February, Crawford confided his fears about the affair to the sheriff of Minnehaha County. "This is a very unfortunate case," the attorney general wrote, "and the State is a great loser, and it is questionable whether it is going to get back much of anything."<sup>32</sup> On the eighteenth, he wrote that McChesney and Tenney wanted Taylor's immunity from arrest but that the attorney general could not permit this and that no other compromise was possible until Taylor's cash and property were turned over to the state.<sup>33</sup> In March, he brought an indictment of criminal conspiracy against the men involved in the attempted settlement (in reality, the charge was only valid against the two men who were in South Dakota, McCoy in Aberdeen and Benedict who had been apprehended in Chicago by Pinkerton detectives and brought to South Dakota on rendition).<sup>34</sup> The attorney general also brought suit against Tenney in the United States Supreme Court for the \$10,000 that Taylor had paid Tenney earlier. After protracted negotiations, a special com-

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1895; *Argus-Leader*, 5 Mar. and 18 June 1895; *Senate Appendix*, pp. iv, 37, 117. On 23 and 24 January, the legislative investigating committee elicited the information that, on 14 January, five of Taylor's bondsmen had met in Tenney's Chicago office, where they had discussed this compromise settlement. Two of the bondsmen who were witnesses before the committee denied that they had agreed with the plan. *Senate Appendix*, pp. 34, 36-40, 102-3, 115-16, 118-19.

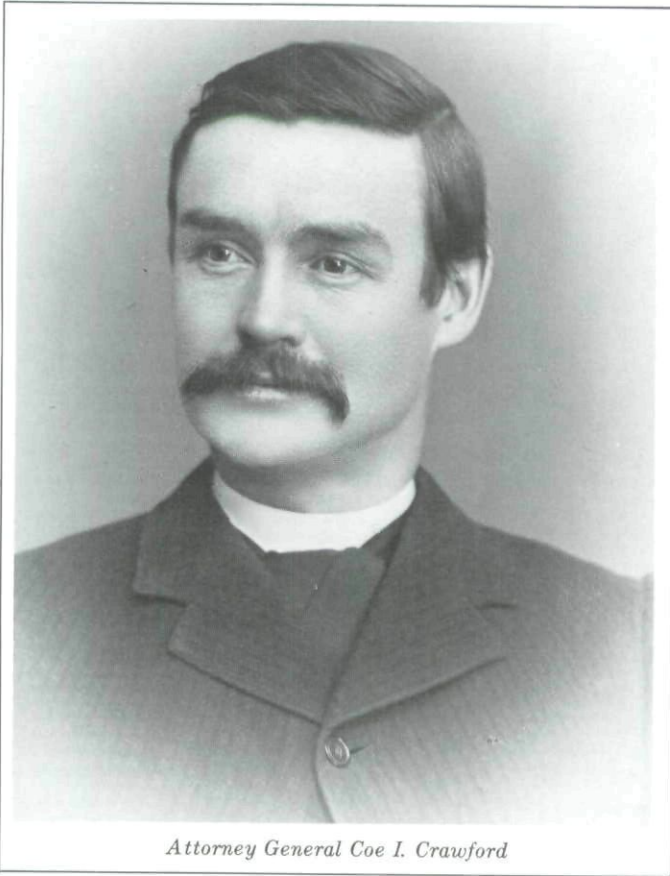
31. Crawford to C. G. Kidder, 2 Feb. 1895, Crawford Papers. In this period, Crawford also stated that he had no authority to compromise and that "this talk of a compromise settlement is the merest nonsense . . . because these parties [bondsmen] would not tender an adequate amount" of money (Crawford to Kumler & Gaylord, 9 Feb. 1895, Crawford Papers).

32. Crawford to C. W. Hubbard, 5 Feb. 1895, Crawford Papers.

33. Crawford to Kidder & Melcher, 18 Feb. 1895, Crawford Papers. Crawford further wrote that McChesney, safe in Illinois but desiring a settlement, "wants to 'play horse' with us, and so far as I am concerned 'I'll have none of it'" (Crawford to C. G. Kidder, 20 Feb. 1895, Crawford Papers). The attorney general did suggest to the press in June that, if Taylor were to return to South Dakota and "make a full and complete confession . . . and plead guilty," he would then "recommend him to the mercy of the court" (*Pierre Daily Capital*, 20 June 1895).

34. *Report of the Attorney General, 1894-1896*, pp. 4, 15-16; *Pierre Daily Capital*, 20 June and 12 Nov. 1895. The attorney general would drop the prosecution of this case in November because of insufficient evidence and the fact that by then much of the stolen funds and other property had been turned over to the state.

mission of lawyers decided, surprisingly given the circumstances, that Tenney should receive \$2,000 for his services. The remaining \$8,000 was then divided evenly between the state and the Chicago attorneys it had hired to pursue the case.<sup>35</sup> In the meantime, Crawford, using the conspiracy indictment as leverage, continued



*Attorney General Coe I. Crawford*

to negotiate with Taylor's attorneys and friends, and by the end of May 1895, the attorney general could report that "matters are progressing in elegant shape and some rather startling news will

35. *Report of the Attorney General, 1894-1896*, p. 14.

be forthcoming in a few days."<sup>36</sup> This news was the voluntary surrender of Taylor in June.

While Crawford had thus been pursuing Taylor and the state funds through negotiation and compromise, he had also been attempting to recover the \$367,020.59 loss in other ways. Between 17 January and 27 April, he had obtained attachments for \$22,746.39 of the state's funds that were deposited in small accounts in seven banks that the former treasurer had somehow overlooked. With these funds accounted for, Taylor still owed the state a balance of \$344,274.20, which the attorney general tried to obtain by court action from Taylor and his seventeen bondsmen. These men, including Taylor's own father, had stood bond for Taylor in 1893 in sums ranging from \$5,000 to \$50,000 each, for a total of \$350,000, although state law required a bond of only \$250,000 for the treasurer. When Crawford brought suit for the bonded sum of \$80,000 against two nonresident bondsmen in the state courts of Indiana and New York, the judges denied the claim on the ground that the bond was supposed to be \$250,000, and they ruled that the amount was covered by property in South Dakota.<sup>37</sup>

On 9 January 1895, Crawford, on behalf of the state, brought suit in the Hughes County circuit court in Pierre against Taylor and his bondsmen for attachments of their property to the value of \$350,000. Sheriff's attachments were made upon as much property of these men as could be found in thirty-two South Dakota counties. All of the defendants except Taylor and three nonresident bondsmen appeared at the May trial, where the judge ordered a verdict against them of \$344,277.45. The defendants were then granted a stay of execution of sixty days. In this interval, a deal was finally made between Crawford (for the state) and Taylor and his attorneys and bondsmen, whereby Taylor would surrender, plead guilty, accept whatever sentence the court would impose, pay \$100,000 to the state, and turn over his entire property. The state would have the property appraised, and the bondsmen would then pay the difference to make a total of \$344,277.45. Accordingly, on 7 August, six days before Taylor was to be tried,

36. Crawford to J. A. Johnson, 30 May 1895, Crawford Papers.

37. *Report of the Attorney General, 1894-1896*, pp. 10-11, 13-14; *Report of the State Treasurer, 1895*, p. 71; *Senate Appendix*, p. iv; Crawford to Kumler & Gaylord, 6 Jan. 1896, and Crawford to Glenn W. Martens, 11 Feb. 1913, Crawford Papers. It is not known why Taylor's bondsmen posted sureties for \$350,000 when only \$250,000 was required by law; it is possible that they did so because the funds in the state treasury were usually close to the larger sum.



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Charles T. McCoy, his Aberdeen attorney, paid the state \$100,000 and gave over a total of 21,036.80 acres and 269 lots in thirty-two South Dakota counties, two Minnesota counties, and Cripple Creek, Colorado. Most of these lands belonged to Taylor himself and one of his bondsmen, former governor Arthur C. Mellette,



*Arthur C. Mellette*

and they comprise the "Taylor lands" of the state treasurers' annual reports.<sup>38</sup>

38. *Report of the Attorney General, 1984-1986*, pp. 9-11; South Dakota, Department of School and Public Lands, *Twenty-Sixth Biennial Report of the Commissioner of School and Public Lands for the Period from July 1, 1938, to June 30, 1940*, pp. 452-53; *Argus-Leader*, 11, 14 Jan. and 18 June 1895; *Pierre Daily Capital*,

From 1895 to 31 May 1983, these lands have been sold or leased for a total amount of about \$158,000 (an average of \$1,795.45 per year). This sum, plus the \$100,000 paid to the state by McCoy, the \$4,000 paid by Tenney, and the bank attachments of \$22,746.39, leaves a total debit of about \$82,270.00 from the \$367,020.59 that Taylor should have turned over to the state at the end of his second term (or roughly 22 percent of the total). The highest amount gained in one year from the proceeds of the lands was \$12,768.63 in 1902. In contrast, during the Great Depression (1929 to 1936), the lowest sum was \$24.40 in 1936, and the highest was \$741.80 in 1930. The state retained mineral rights to the Taylor lands, and, beginning in 1955, oil and natural gas were discovered on the land in Fall River County in the extreme southwestern corner of the state. Leases of these rights returned \$11,077.96 to the state until 31 May 1983 when production ceased. In fact, since 1965, when a parcel of land in Sully County was sold for \$1,763.81, the state has not owned surface rights to any Taylor lands.<sup>39</sup> It is not known when production of oil or natural gas on these lands will resume, nor is it known how much it has cost the state to administer the lands. Also uncounted are the amounts lost to the state in interest or real-estate taxes and the costs incurred in prosecuting the various lawsuits, although Crawford listed his expenses to 31 December 1896 as \$12,641.12. The state has also spent at least \$8,029.22 to protect its titles to various Taylor lands.<sup>40</sup>

Along with the yearly monies that the state has received from these lands and spent to oversee them, there is yet another his-

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29, 31 May, 13, 20 June, and 7 Aug. 1895; Crawford to J. A. Johnson, 13 June 1895, Crawford Papers. The lands were in Lincoln and Yellow Medicine counties of Minnesota and the following counties of South Dakota: Aurora, Beadle, Bon Homme, Brown, Brule, Buffalo, Campbell, Clark, Codington, Custer, Davison, Day, Deuel, Edmunds, Fall River, Faulk, Grant, Hand, Hyde, Jerauld, Lake, Lawrence, McPherson, Meade, Minnehaha, Pennington, Potter, Roberts, Sanborn, Spink, Sully, and Walworth. *Report of the Attorney General, 1894-1896*, pp. 10-11.

39. *Report of the State Treasurer, 1895 to 1983*, inclusive, but especially the years cited in the text; Jerry Ortbahn, Oil & Gas Administrator, South Dakota Department of School and Public Lands, to C. Perry Armin, 25 Aug. 1983. It is difficult to ascertain the exact dollar amount received from the sale and leasing of Taylor lands and properties because various types of proceeds, such as mineral leasing revenues, are not always credited separately to the Taylor lands in the treasurers' reports. Other types of revenues, such as those from the sale of lands, may appear in the general fund statement of the reports but not in the itemized statement, further complicating any attempt at a strict accounting.

40. *Report of the Attorney General, 1894-1896*, p. 33; *Report of the State Treasurer, 1896*, p. 34; *Report of the State Treasurer, 1900*, p. 24.



*The Arthur C. Mellette mansion in Watertown was turned over to the state as part of the settlement of Taylor's bond. The state supreme court later returned the house to Mellette's widow, and it is now open to the public.*

torical reminder of the Taylor case. It is a beautiful brick mansion with a three-story tower located on Mellette Hill in Watertown. Arthur C. Mellette, a local attorney who was the last governor of Dakota Territory (1889) and the first governor of South Dakota (1889-1893), built this home in 1885. He was one of Taylor's bondsmen, and, apparently alone among them, he cooperated fully with state authorities in turning over his property, including his residence, to the state. After Mellette's death in 1896, his wife, Margaret W. Mellette, contested the state's claim to the house, pursuing her case through several appeals. In 1907, the state supreme court rendered a decision that finally returned the house to Mellette's widow, stating that Mellette's obligation under his \$50,000 bond for Taylor had been more than satisfied by his surrender of other properties. Over the years, several families resided in the mansion until it was abandoned in the late 1930s or early 1940s. The city of Watertown declared the neglected property a fire hazard and ordered it torn down, but the house was saved when the



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Mellette Memorial Association organized in 1943 and began to renovate it for public viewing. The mansion has been open to the public since 1946.<sup>41</sup>

If Taylor's other bondsmen had acted as honorably as Mellette had, the state would have gained title to an additional 3,070.24 acres and 110 lots.<sup>42</sup> The legislative investigating committee of 1895 obtained sworn testimony from three bondsmen that, as soon as they had learned of the defalcation and before it was known publicly, they had either turned their property over to their creditors or had mortgaged it. The state, therefore, could only obtain title to these possessions by buying out the mortgagees, or it would lose its liens to the properties when the mortgages were foreclosed. The bondsmen stated that they took this step to protect themselves and to secure their creditors.<sup>43</sup> As one bondsman expressed it, "the State can stand" the loss, but it would ruin him.<sup>44</sup> It is probable that most of the other bondsmen disposed of their property in the same manner, although some of them had contributed money to the \$100,000 cash settlement.

The determination of the bondsmen to "get out from under the bond," as one of them stated,<sup>45</sup> and to fight the state was especially apparent when, on 3 June 1896, they appealed the judgment of

41. Wright Tarbell, "Arthur Calvin Mellette, 1889-1893," in *South Dakota's Governors*, ed. Charles J. Dalthorp (Sioux Falls, S.Dak.: Midwest-Beach Co., 1953), p. 3; John Drury, *Historic Midwest Houses* (Minneapolis: University of Minnesota Press, 1947), pp. 238-40; Smith, *South Dakota*, 3:546; Crawford to A. C. Mellette, 18 Feb., 23 Mar. 1895, and Crawford to G. W. Case, 18 Mar. 1895, Crawford Papers; *State v. Mellette*, 92 *Northwestern Reporter* (25 Nov. 1902-3 Feb. 1903): 395-96; *State v. Mellette*, 113 *Northwestern Reporter* (22 Oct.-31 Dec. 1907): 83-86. Taylor's own residence in Redfield was also given to the state, which sold the building in 1898 for \$1,400. *Report of the State Treasurer, 1898*, p. 63.

42. *Report of the Commissioner of School and Public Lands, 1938-1940*, pp. 452-53.

43. *Senate Appendix*, pp. 37-38, 57, 117-19. See also *South Dakota, Journal of the House, 1905*, 9th sess., 59-60, and the statement, "much of this property had been conveyed away, a few days before the defalcation was discovered," in Crawford to Glenn W. Martens, 11 Feb. 1913, Crawford Papers. Relating to the mortgage foreclosures of the bondsmen's property is the case of *State v. Kemmerer*, decided in the state supreme court on 31 December 1900. Here, Abram Kemmerer, one of Taylor's bondsmen, had mortgaged a quarter section of land prior to conveying the property to the state. The mortgagee had foreclosed and assigned the certificate of sale to Mrs. Kemmerer. The court ruled that this assignment overrode any lien or title that the state had to the property and awarded the farm outright to her. *Northwestern Reporter* 84 (24 Nov. 1900-16 Feb. 1901): 771-73.

44. *Senate Appendix*, p. 119.

45. *Ibid.*, p. 103.

\$344,277.45, which had been rendered against them the preceding May, to the state supreme court. They based their appeal on the ground that the state had set the treasurer's bond for \$250,000 and that that sum had been met by the payments of cash and property on 7 August 1895. The supreme court denied this claim, affirmed the judgment of the lower court, and returned the case to the circuit court. Here, curiously, the bondsmen won their appeal, in effect, when Judge Gaffy ordered that the judgment had been satisfied by execution (meaning the money and property that had already been signed over to the state as well as some liens on bondsmen's property) to the amount of \$237,786.11.<sup>46</sup> It is not known how Judge Gaffy arrived at this figure; he undoubtedly used interest and appraised property values, but the fact that most of the possessions were encumbered by mortgages probably influenced his low valuation as well. He might also have agreed with the testimony given in 1895, by one of the bondsmen, that the properties were "pretty poor stuff"—that is, they were not worth the value of the bond, whether it was \$250,000 or \$350,000.<sup>47</sup> In any event, liens that the state had attached to the bondsmen's property expired after ten years (from June 1895), and the state did not receive anything further directly from the bondsmen.<sup>48</sup>

Nevertheless, the state did not abandon its attempts to get more money, as can be seen in a revealing letter that Taylor wrote to Crawford, then a railway attorney, in November of 1898. "I am very much worried," Taylor began, "over the situation in which I find some of my bondsmen because of the judgments still standing against them. . . . In the cases of Messrs. McChesney and [F. W.] Brooks, I want to remind you of the fact that they contributed funds toward the cash paid in the settlement arranged in June [1895] and paid in August of the same year, and, as you know, for the purpose on their part of freeing themselves from further liability on account of my bond." After stating these facts,

46. *State v. Taylor et al.*, 72 *Northwestern Reporter* (7 Aug.-11 Dec. 1897): 407-9; *Report of the Attorney General, 1894-1896*, p. 13; *Report of the Attorney General, 1897-1898*, pp. v, xx; Clerk of Courts, Hughes County, to Crawford, 22 Sept. 1900, Crawford Papers.

47. *Senate Appendix*, p. 116. See also p. 41 and South Dakota, Legislature, *Inaugural Address of Governor Andrew E. Lee to the Fifth Legislative Assembly, State of South Dakota, January 5th, 1897*, p. 15.

48. *Journal of the House, 1905*, p. 60.



Taylor pressed for action: "Now there is a judgment against both McChesney and Brooks which should, in all fairness, be gotten out of the way. What are you willing to do to assist me in obtaining the justice due these men? In Mr. McChesney's case the State was defeated before the New York Courts and yet a judgment still stands in South Dakota. *I have fulfilled my part of the agreement* and cannot but feel you will be ready to assist me in saving my friends further loss and annoyance on my account."<sup>49</sup> The state's efforts to obtain anything more from McChesney and Brooks were ultimately unsuccessful.

To insure that an event such as the Taylor defalcation would not happen again, the state of South Dakota instituted various reforms. The legislature of 1895 passed a law requiring the state treasurer to keep a bank account book "to be open at all times to the inspection of the Governor or any person entitled to know the condition of the public funds." The treasurer was further required to "make a sworn statement to the Governor at the close of the last business day of each month, showing the condition of the funds in his possession, giving the names of each bank in which he has deposits, showing the amount in each bank standing to the credit of the State." Banks, likewise, were to report to the governor, "showing the amount of public moneys received and the amount withdrawn during the preceding month and the amount remaining . . . at the close of the last business day of each month."<sup>50</sup>

In the election of 1896, a combination of Populists and Democrats gained a narrow majority in the legislature and won the offices of governor, attorney general, and railroad commissioners.

49. Taylor to Crawford (emphasis added), 16 Nov. 1898, Crawford Papers. No reply to this letter has been found. Additional indications that Taylor believed that Crawford owed him a favor can be seen in a letter that Taylor wrote to Crawford, then a United States senator, asking him "if it be in your judgment a consistent request, as it appears to me to be such," to intercede with the navy to give a light sentence to Taylor's nephew, James T. McCoy, who had been sentenced to prison for desertion (Taylor to Crawford, 17 July 1909, Crawford Papers). Crawford promised to do all that he could. See Crawford to Taylor, 20 and 26 July 1909. Also, Charles T. McCoy, then a Washington attorney, wrote to Crawford in 1913, asking him for "a good strong letter" of recommendation to the Canadian Pacific Railway Company (McCoy to Crawford, 4 Dec. 1913, Crawford Papers). McCoy hoped to become the railway's Washington representative. There appears to be no reply to this letter in the Crawford Papers.

50. *Report of the Treasurer, 1895*, p. 5.



Populist governor Andrew E. Lee persuaded the legislature to require the state treasurer to show all state funds in cash. As a result, in January of 1897, the public was treated to the sight of nearly three hundred thousand dollars being brought to Pierre under the protection of armed bank messengers and a company of national guardsmen. The money was duly counted, piece by piece, and then returned to the banks. High drama attended the return trip when the eastbound train carrying the money became temporarily snowbound near Highmore, where neither rescuers nor would-be robbers could reach it.<sup>51</sup> Needless to say, this event was not repeated, and lawmakers wisely decided that a count of the actual cash was not necessary.

Governor Lee also persuaded the legislature to pass a law permitting the state to sell or lease the Taylor lands<sup>52</sup> and to establish a three-man investigating committee and a public examiner to "expose all irregularities whether in state offices or in public institutions." For some unknown reason, possibly because the Republicans were a strong minority in the legislature and the Democrats and Populists were not always united, the commission "failed to function." The public examiner, however, "undertook numerous investigations," resulting in one dismissal on "charges of corruption."<sup>53</sup>

In 1903, the legislature passed a law raising the bond of the state treasurer and his deputy from \$250,000 to \$500,000, where it has since remained. The legislature of 1909 made it a felony punishable by a term of imprisonment not exceeding two years and/or a fine not exceeding \$5,000 for the state treasurer or any official to loan, use, or illegally remove from justified depository banks any money belonging to the state. The legislatures of 1909, 1911, 1917, 1919, and 1939 created and continually amended a law to provide that the state would receive the interest on any state money on deposit. Finally, in 1971, the lawmakers passed an investment law that radically altered the state's accounting and in-

51. Schell, *History of South Dakota*, pp. 234-39; Robert F. Karolevitz, *Challenge: The South Dakota Story* (Sioux Falls, S. Dak.: Brevet Press, 1975), pp. 214-15. In the election of 1896, Crawford ran for a seat in Congress on the Republican ticket, and, probably because of his relationship with the Taylor "deal," he received fewer votes than any other Republican running for statewide office. South Dakota, Legislature, *South Dakota Legislative Manual, 1951*, 32d sess., p. 252.

52. *Report of the Attorney General, 1899-1900*, p. 244.

53. Schell, *History of South Dakota*, p. 238.

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*In January 1897, Governor Andrew Lee had the state funds brought to Pierre to be counted piece by piece. A military escort (above) accompanied the funds that traveled from Chicago banks. The money from three Pierre banks was carried to the statehouse in satchels (below).*



vestment procedures, and management of state money became much more sophisticated and rigorous.<sup>54</sup>

In spite of such precautions, it is a wonder that more defalcations have not occurred through the years. Yet, on the state level, there has been only one other default. In 1925, the treasurer of the rural credits board, Adolph Ewert, absconded with more than \$211,000 on desposit in his own bank; he was convicted and sentenced to the penitentiary in February 1926.<sup>55</sup> Certainly, given the temptations and the lack of really strong punitive measures, the people of the state can take pride in the honesty and integrity of their officials.

The man who started it all—Walter William Taylor—served his eighteen months in the state penitentiary. After his release, he moved to Chicago, from where he had written his 1898 letter on behalf of his bondsmen. Little is known about his subsequent career beyond a bare outline. He became the secretary of the Cycle Skate Company of Chicago, a business venture that was apparently destroyed by fire within a few years. At some period, he engaged in selling irrigated lands in the West, but, from 1909 to 1911, he was in Chicago working as a clerk. Just before his death, he lived for about a year in Glenwood, Illinois. He died, apparently of alcoholism, in New York City on 21 December 1916, and he is buried in Springvale Cemetery in Lafayette, Indiana.<sup>56</sup> His name, however, lives on in the annual reports of the state treasurers of South Dakota.

54. South Dakota, *South Dakota Compiled Laws, 1974 Revision, Annotated*, vol. 2, chap. 3-5, p. 363; chap. 4-5, pp. 511, 514-21; and chap. 4-6, p. 524; Pamela J. Cleveland, South Dakota State Treasurer's Office, to C. Perry Armin, 11 July 1983. All other state employees are covered under a blanket bond of \$100,000.

55. Schell, *History of South Dakota*, p. 279.

56. Taylor to Crawford, 16 Nov. 1898 and 17 July 1909, Crawford Papers; Smith, *South Dakota*, 3:546; Chicago city directories for 1909, 1910, and 1911; *Lafayette Courier*, 21 Dec. 1916; Sexton's Records, Springvale Cemetery, Tippecanoe County Historical Society, Lafayette, Ind.



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