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Current Comment---Timely Topics

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Republican in Politics.
Published every Friday at The Independent Printery, Hillsboro, Oregon.

OFFICE:

Hillsboro: Masonic Temple.
Phone: Main 165

Circulation guaranteed to exceed 2000.

ADVERTISING RATES: Display, 60 cents an inch, single column, for four insertions; reading notices, one cent a word each insertion (nothing less than 15 cents); professional cards, one inch, \$1 a month; lodge cards, \$5 a year, payable quarterly, (notices and resolutions free to advertising lodges).

FRIDAY, FEBRUARY 26 1902

A STATE SCANDAL.

The taxpayers of the state will read with interest the following communication from Attorney L. H. McMahon, of Salem, to Governor Chamberlain. The executive did not comply with the request that the superintendent and warden be dismissed, and so suit was brought in the Marion county circuit court to compel these officials to make an accounting with the state. A number of minor matters are mentioned in the letter, which, of course, were too trivial to appear in the complaint, but, at the same time, are a proper subject for investigation by the governor, but he is himself drawing a yearly compensation for his oversight of the penitentiary, which many believe has no more warrant in law than the illegal perquisites which it is alleged the families of Messrs. James and Curtiss are now enjoying.

The present high tax rate over Oregon is mainly on account of the state tax, and the people would welcome any little economy which without impairing the efficiency of the state government would reduce its cost, and Mr. McMahon is suggesting a retrenchment which would be very popular.

His letter, which has not been published in the Portland papers, says:

The legislature of 1903, in a non-partisan spirit, which redounds to the credit of the republican majority, authorized you to contract for and hire the convict labor at a price not less than thirty-five cents a day, and out of the money thus obtained create what is now designated "penitentiary betterment fund." The fund thus created is to be used under your personal supervision "in making improvements upon, adding to the buildings, and other improvements as needed from time to time." The emergency

clause provides that "in as much as the safe keeping and custody of the prisoners within the penitentiary depends upon the keeping in repair of the prison and its appliances, which are now in many places in a state of decay, and the peace and safety of the public depends upon the safe detention of said prisoners, this act shall take effect and be in force from and after its passage."

The law is not ambiguous. It plainly states for what purpose the betterment fund is to be used and it limits your supervision and authority over its use to such improvements on and additions to the prison and its appliances as are necessary to the safe keeping of the convicts. It is a special fund, created for a special purpose, and any encroachment upon that fund for any other purpose than that so clearly stated in the act is in morals a betrayal of trust and in law malfeasance in office. Yet the records in the office of the secretary of state disclose the fact that Superintendent James and Warden Curtiss have paid out of that special fund approximately \$1850 for velvet carpets, \$40 davenport, \$18 rocking chairs, \$58 china closets, \$12 pillows, blankets, sheets, towels, rug, after dinner coffee sets, and, in short, such comfortable and luxurious furnishings as only the extremely wealthy can afford, not omitting such small things as doilies and finger bowls!

Further investigation discloses the fact that these things are now used by Superintendent James and Warden Curtiss in private residences belonging to the state, and that their families, who are in no wise employed by the state, are using these comforts and luxuries in every day unofficial service.

Section 3664 of the code provides that, "The salary of the superintendent of the Oregon penitentiary shall be \$1500 per annum, to be paid quarterly, as the salary of the other state officers are paid."

Section 3665 provides that "The salary of the warden shall be \$1200 per annum paid quarterly."

Section 3666, "The assistant warden shall receive an annual salary of \$900 payable quarterly."

Notwithstanding the plain provisions of the law regarding the salaries of superintendent and wardens and the fact that where the legislature fixes a definite salary it inhibits all other forms of compensation, the superintendent and his warden, Mr. Curtiss, supply their families with groceries, meats and

provisions at the expense of the tax payers, paying therefor out of the general fund. I have diligently searched the code, and I find no more warrant of law for the superintendent and warden to thus support their private families than I do for the secretary of state, the state treasurer, the supreme judges, or the elevator man at the state house. And records show that not only do our tax payers pay for the ordinary necessities consumed by these unofficial persons, their visiting friends and relatives, but they are also charged with all the luxuries obtainable in the way of berries, lemons, oranges, bananas, etc., powdered sugar, chocolate, porterhouse steaks, etc. It is a fact, however, that while this rule obtains in the case of Superintendent James and Warden Curtiss it is not followed by the assistant warden, the commissary, the farmer, or any other officer, who on meager salaries pay house rent and grocery bills.

I now desire to direct your attention to section 1692 of the code, which provides that "If any officer of this state shall willfully and knowingly charge, take or receive any fee or compensation, other than that authorized or permitted by law, for any official service or duty performed by such officer, such officer upon conviction thereof shall be punished by imprisonment in the penitentiary not less than six months or more than one year," etc.

Section 2176 defines the word "willfully" as follows: "The term willful when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or omission referred to and does not require any intent to violate law, to injure another, or to acquire any advantage."

It appears to me under section 1692 Mr. James and Mr. Curtiss are subject to indictment for malfeasance in office. However, there is more. The code, section 3662, provides: "The superintendent, warden and assistant warden shall not receive the labor of any prisoner for their individual profit or use."

In defiance of this law and the oath of office to the effect that they will support the laws of this state and faithfully and honestly discharge the duties of such officers (code, section 3661) the superintendent and warden use convicts for menial services in their respective families. These convicts, without compensation to themselves or the

state, do all the household work for those officials and must come or go at the beck or nod of the ladies of the household, who are in no wise employed by the state and in law have no authority whatever. Yet we find that one trusty was rejected as a household menial because, forsooth, he did not satisfactorily prepare the bath for the warden's wife.

Not only do these cooks, scrubbers, sweep, make beds and attend to the toilet, but they use one for a coachman to convey them with state teams upon their rounds of social duties, both night and day. Even the son of Mr. James has been at liberty to take the state team and with girls go for midnight drives.

These officials and their families appear to believe that the penitentiary is maintained mainly for their profit and indulgence, for not only have they indulged in the extravagances heretofore enumerated, but the cream from the cows, owned by the state, fed by the state and cared for by the convicts, is taken for the use of these predatory families, while skim milk is the portion of the guards, the inferior officials and the patients in the hospital!

The state hens yield up their eggs practically for the exclusive benefit of these families—at least one dozen a day for the superintendent and warden being a standing order; and the guards get eggs only by paying for them. These illustrations are not exceptions to the general rule, for you will find by investigating the records in the office of the Secretary of State that the coffee furnished the convicts costs 10 cents a pound; that furnished the guards, 15 cents a pound; and that sent out for the use of the superintendent and Warden Curtiss, 40 cents a pound.

When Governor Pennoyer first assumed the duties of his office he appointed Hon. Robert Clow superintendent, and Mr. Clow shortly after his appointment took three state teams and six convicts to his Polk county farm, and used them for the purpose of removing his household goods and hay to Salem. For this, Governor Pennoyer removed Mr. Clow from office and appointed Hon. Geo. S. Downing superintendent. Mr. Downing remained in that office until Governor Lord appointed Hon. A. N. Gilbert superintendent, and you can learn that neither of these gentlemen supported their families at the expense of the state, used convicts for servants, or claimed to have any right so to do. It remained for Mr. James to be the first democratic superintendent to thus assume that there are no limits which official conduct cannot be allowed to transgress.

On November 9, 1902, Mannie

Howard was committed to the penitentiary for a term of five years. He came from Baker county, the home county of Mr. James, and I am informed that Mr. James, Mannie Howard and Howard's mother were acquainted previous to Howard's conviction. Some time after Mr. James was appointed superintendent, Mrs. Howard visited Mr. James and his family. The valuable gold scarf pin Mr. Curtiss wears was presented at that time to him by Mrs. Howard, who also presented to Mr. James a pair of valuable portiers. As to what other presents, if any, Mrs. Howard (who is reputed wealthy) made I am not advised, but I do know that in less than one year after his commitment, and shortly after Mrs. Howard's visit, Howard was taken out of the shops and made a flunkie in the chapel. Within less than one year after his commitment Howard was put on double time and this month was given the highly desirable position of coachman to the officials and their families. This, too, notwithstanding the fact that less than two months ago Mr. James stated to me that their rule was no convict could be put on double time until he had creditably served one-half of his time.

I do not know that the gifts made by Mrs. Howard to the superintendent and his warden effected the unusual change in the prison status of Mrs. Howard's unfortunate son. I do know, however, that officials who would through weakness or cupidity allow themselves to be placed in a situation so compromising are not proper or competent men to occupy the positions these men occupy. We have here a fact, so suggestive by inference, that no explanation suffices. Does this administration dare challenge public criticism upon such conduct? The distressed and loving mother, with her offerings in behalf of an erring son, who will condemn her? But what will the public say of those who accepted her offerings? With the mother there could have been but one object in view. To accept the presents and not respond to her desires would be morally unthinkable, to grant her wish would be a penal offense. Doubly wrong was the conduct of Mr. Curtiss in accepting this gift, for even the excuse of former friendly acquaintance with Mrs. Howard did not pave the way for it.

With the consent of Superintendent James, Mr. Wilson, who is bookkeeper at the penitentiary, keeps two horses for his private use. A convict is used to regularly exercise Mr. Wilson's favorite trotter, to groom him, to harness and hitch him up at the instance of

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