DESERET EVENING NEWS.

TRUTH AND LIBERTY.

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THE EVENING NEWS

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EASTERN.

FIRE AND FEVER.

Incendiaries at Work in the Afflicted Memphis.

MEMPHIS, 20.—Two alarms of fire were sounded in quick succession this afternoon, one at 320 Front street, at L. W. Wells & Co's commission house, which for the time threatened the whole block, and *Avalanche* office, but which was soon gotten under control. The second alarm was from Fannie Freeman's house of ill-fame, but it was also stopped before much damage was done. Rumors of incendiarism are current.

Twenty-seven cases in all are reported to the board of health today, 12 white and 15 colored. Two deaths since noon—Ernest P. Leak and George Von Crinck.

Hon. John Johnson, superintendent of quarantine, will recommend to the State Board of Health that the hours for citizens to be kept in their homes, be changed from 6 p. m. to 4 a. m., to 8 a.m. and 6 a. m., commending on Friday.

The daily mail service will be resumed over the Louisville & Nashville Railroad.

The Howard's Association will to morrow appeal for assistance.

The thermometer ranged to-day from 64 to 87.

Galveston, 20. — The board of health has unanimously resolved to allow the steamer *Colorado* to enter port, the governor approving.

Houston has declared quarantine against this city, yet Galveston is perfectly healthy.

The Fisheries Question.

WASHINGTON, 20.—The claim for $103,000 damage on account of illegal interference with American fishermen at Fortune Bay, which has been presented to the British Government, is not the claim for restoration of that or any other part of the Halifax award, upon the ground of non-fulfillment of conditions.

The present claim is for specific grievances, and is to be considered without reference to the amount of the Halifax award, with which it has nothing to do. Minister Welsh was instructed to base a claim for $103,000 upon the actual loss and damage sustained by American fishermen in consequence of the violent invasion of their treaty rights at Fortune Bay, and to obtain some security against a reoccurrence of similar offences in future. Advices received by the State department from the North American coast represent that although no actual violence has occurred this year, our fishermen are deterred by apprehensions of violence from approaching the shore and carrying on their business with the freedom guaranteed to them by the treaty, and that we are therefore deriving no benefit from our agreement with the British government and getting no return for our money. The state of feelings which prevails between our north coast fishermen and British American fishermen who consider themselves justified in raising a force to carry out local prohibitory laws, is regarded by our government as extremely dangerous and liable at any moment to lead to bloodshed and serious international misunderstanding and is therefore very anxious that some steps shall be taken by the British Government to do away with the local prohibitory laws of the Canadian provinces which now practically override and nullify the treaty provisions of far higher authority.

Important Government Claims.

The President has approved the decision of the Secretary of State in the Benj. Weil, and La Abra Silver Mining Company. The awards are under the claims of the convention with the United States. Weil's claim is the value of 1,900 bales of cotton, said to have been captured and appropriated in Mexico, and the La Abra claim is for a silver mining company. The Secretary says, while neither the principles of public law nor considerations of justice or equity require or permit as between the United States and Mexico that the awards in these cases should be re-opened and the cases retired before the new international tribunal or under any new convention or negotiation respecting the same between the United States and Mexico, I am of the opinion matters brought to the attention of this government on the part of Mexico, do bring into grave doubt the substantial integrity of the claim of Benjamin Weil, and the sincerity of the measures of damages insisted upon and accorded in the case of the La Abra Silver Mining Company, and that the honor of the United States does require that these two cases should be further investigated by the United States to ascertain whether this Government has been made the means of enforcing against a friendly power the claims of our citizens based upon or exaggerated by fraud.

California Constitution Attacked by the Bar.

SARATOGA, 20—In the address before the American Bar Association, to day, President James O. Broadhead reviewed the special features of the California constitution. Referring to the Chinese section, he said: "It is difficult to apprehend how the prohibition contained in the Fifteenth Amendment is avoided by declaring beforehand, that if the Chinese are permitted by the naturalization laws to become citizens, they shall, nevertheless, not enjoy the elective franchise. This attempt to repeal the Fifteenth Amendment will not, in my judgment, stand the test of judicial scrutiny. If they had said in the constitution that no man wearing a queue should enjoy the elective franchise, the prohibition might have been avoided, because the Fifteenth Amendment to the Constitution says nothing about queues, but it does protect all races and colors when they become citizens. In all civil actions, three-fourths of a jury may render a verdict before drawing their salaries. The Justices of the supreme Court and the Judges of the Superior Courts are required to make and file an affidavit that no case remains undecided in their courts which has been submitted for 90 days. (This sentence elicited cheers from the audience.) Many of these provisions of the constitution of California partake of the character of ordinary acts of legislation. They are, in fact, laws and ordinances adopted without the concurrence of the legislative and executive departments of the government, and yet operating directly upon the individual.

Business Report.

NEW YORK, 20. — To-morrows *Public* will have the usual table of exchanges at the various clearing houses, showing the course of business for the week ending the 16th, as compared with the corresponding period last year. From this, New York shows an increase of 76 8-10 per cent.; Boston, 35 1-10; Philadelphia, 18 5 10; Chicago, 16 1 10; Baltimore, 25 6-10; Cincinnati, 8 8-10; Louisville, 10 5-10; Pittsburg, 30 4-10; Cleveland, 2 5 10; New Haven, 28 7 10; Lowell, 3; Syracuse, 3. St. Louis and Indianapolis are about the same as last year, while the following towns show losses: San Francisco, Milwaukee, New Orleans and Providence.

More than 24 per cent. of New York's great increase is due to stock operations. No important conclusions can be drawn from a single week's returns, excepting as it shows the continuance of a remarkably large movement at the chief commercial cities. On the whole, the business of the country is remarkably large and healthy for a midsummer month.

Canada Railway Schemes

The Dominion ministerial journals which have all along been encouraging the belief that the home government would lend its aid to the Canada Pacific Railway, are beginning to change their tune, since Parliament has adjourned without doing anything. They charge the mother country with indifference to their interests, and this in conflict with the new intimations that the means can be got in the United States, it may be necessary to seek alliance with the United States, and let the mother country go. The *Bulletin* thinks, however, if subscriptions to the Canadian Pacific loan were opened to-day, it is not probable they would meet with better success than De Lesseps Inter-Oceanic canal.

Wool Market.

BOSTON, 20.—Wool improvements noticed last week continues and is sustained with firm and buoyant tone. Supply of No. 1 fleece and medium grades of all kinds are passing into the hands of manufacturers; fine fleeces are more inquired for and are decidedly firmer; California wool is in demand, and choice Northern is held quite firm, with sales at 20 @ 32. There are no important movements in pulled wools. Stocks are light and firmly held. Sales of super and X at 35 @ 46. Good and choice super 40 @ 45.

Disastrous Fire.

DETROIT, 20.—At 11.30 this morning a fire broke out in a large saw mill and the salt block of Sanborn & Bloss, at Carrolton, opposite East Saginaw, Mich., and in 30 minutes had consumed the mill and salt block, two drill houses, a salt shed containing 4,000 barrels of salt, and several dwellings, 6,000,000 feet of lumber and 3,000 cords of wood. The fire is not yet under control, and the village of Carrolton is in great danger, as a strong breeze is blowing in the direction of the town. The loss by rough estimate is $130,000; insurance $70 000.

Later.—The fire was driven by a strong wind and nearly destroyed the town, but the wind suddenly veering, gave the firemen an opportunity to check the flames, which they improved. The losses were staves, salt, lumber, cordwood and five dwellings, besides Sanborn & Bliss' saw mill.

Paine Tells Why he Did It.

FALL RIVER, 20. — Paine's confession was handed in by his son to the meeting of the board of directors. He says the company expected that he as treasurer should support himself and family on $2,500 a year salary, at a time when the price of living was twice what it is now. He therefore drew and charged himself on an open book account with enough to supplement his salary, hoping that when the stock of the concern, of which he held 23 shares, should pay dividends, he might refund the amount. In 1872, the amount reached $34,658, which, by means of dividends and increased salaries, he reduced to $10,377 in 1875. It has since increased to $17,000 or $18 000. The total amount is now $78,000. Paine is still missing.

WESTERN.

Murray Quite Confident.

SAN FRANCISCO, 20.—The *Call* publishes an interview with Adirondack Murray. He says he came to this Coast to introduce the buckboard and see the State. When he left home, he thought business affairs in a snug condition. The trouble was caused by a personal friend suing on a small debt, and attaching property, when the usual rush of creditors was started. His entire indebtedness does not exceed $19,000, and the property, if sold under the hammer to-morrow, would pay them off and leave him a handsome surplus. He intends to return East in a few days and put his affairs in shape.

That Mormon Circular Once More.

[N. Y. *Graphic* August 14, 1879.]

Some of our esteemed contemporaries seem to be laboring under a grave misapprehension as to the terms of the law of Congress prohibiting bigamy in the territory of the United States as well as of the actual point idecided by the Supreme Court of the United States in the Reynolds case.

The Revised Statutes of the United States section 5 352, which covers the operative parts of the act of the 1st of July, 1862, provide as follows: "Every person having a husband or wife living, who marries another, whether married or single, in a Territory or other place over which the United States have exclusive jurisdiction, is guilty of bigamy, and shall be punished by a fine of not more than $500 and by imprisonment for a term of not more than five years." And then follow some exceptions, which are the usual statutory exceptions in all the States.

Now, it will be noticed that while this statute may be aimed at Mormon polygamy, the "peculiar institution" is not mentioned in it. The statute covers the ground of the English and State statutes against bigamy. And every Gentile who has been indicted for bigamy in the Territories of the United States since its passage in 1862 has been indicted under it.

The laws of the United States do not make Mormonism a crime. And any act of Congress for that purpose would be unconstitutional and void. The laws do not make the entering into the plural marriages of the Mormons a crime. They do not mention Mormonism, Mormon polygamy or Mormon plural marriages at all. But what has the Supreme Court of the United States decided in the Reynolds case? Simply this, that in a trial for bigamy under this statute, religious belief, no matter how sincerely held, is no defence, and that in excluding this defence the law is not unconstitutional. The Court of last resort decides that when a Mormon "seals" a second wife, the first being then living and not falling under the exceptions of the statute, he commits the offence of bigamy, notwithstanding the fact that the Mormon religion and sacred books and revelations enjoin polygamy upon certain classes of persons, and notwithstanding the further fact that the offender has acted from conscientious motives in entering into a second marriage.

The law defines bigamy. And the Supreme Court of the United States decides that that law cannot be violated with impunity, even on religious grounds. This is the whole matter in a nutshell. The laws of the United States have not declared Mormonism to be a crime. The Supreme Court of the United States has not held that that was the logical and necessary implication in any statute of the United States. It has simply been decided that a Mormon can commit bigamy like his Gentile neighbor, his religious belief not furnishing him any immunity in this regard. If, then, the State Department circular asserts that "Mormonism has been declared a crime in the United States," it asserts what is not true, and what we shall require the official text of the circular to convince us Mr. Evarts uttered.

The doctrine of "attempt" is well known in the criminal law. As far as the "Mormon circular" has any basis it rests upon that. But to sustain the charge of attempting to commit a crime, the crime must be one known to the law, and some steps must have been actually taken towards committing it. Intention to commit an offence is not enough—there must be some act. Indeed, there seems no way of proving the criminal intention but by the act. Is the mere act of proposing to leave Europe for the United States, and of ultimately settling in Utah Territory, an overt act towards the commission of bigamy under the statute of the United States? It certainly is not. There are many Mormons who are not polygamists, and many persons have left Europe intending to settle in one place and have actually settled in another. As long as crime rests in intention there is always room for repentance. And then who knows that these emigrants intend to commit any crime in the United States or anywhere else? A single man or single woman cannot commit bigamy or attempt to commit that offence by meditating matrimony at a future day with some eligible person of the opposite sex.

The fact seems to be that the circular, if its substance has been correctly given in the press dispatches, is based on a misconception of the law, and that it asks of foreign nations an impossibility. It proposes to work out the doctrine of constructive crime to a length that would shock even the partisans of the doctrine of constructive treason. As well reason that because Irishmen sometimes get into quarrels and have to be punished for assaults and batteries, or because Germans sometimes drink beer on Sundays, that all Irishmen come to this country to break the peace or that all Germans come here to violate the Excise and Sunday laws, as that because some Mormons violate the law against bigamy that all persons intending to emigrate to Utah intend to violate that law. Let us avoid cant in our international relations. We cannot permit our country to become a penal colony. But every one is presumed to be innocent until he is proved guilty. The mere suspicion that a person may commit a crime at some future time does not make him a criminal now. Acts, and not thoughts or intentions, should fall under the penalties of the criminal law. If this distinction is borne in mind, the "Mormon circular" has not a leg to stand on; that is, if its substance has been correctly given in the press dispatches. By all means, punish crime, but let us have thought and expatriation free.

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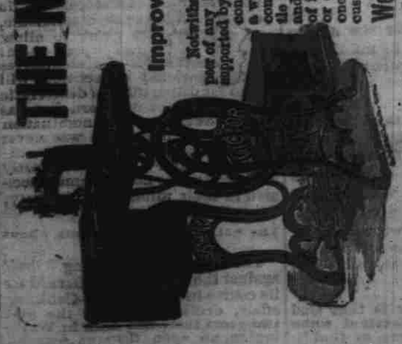

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