DESERET EVENING NEWS.

TRUTH AND LIBERTY.

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THE EVENING NEWS,

[Published every morning except Sunday.]

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THOMAS FITCH INTERVIEWED BY A N. Y. "HERALD" REPORTER.

...tion. Thomas Fitch, leading counsel and attorney for Brigham Young, ...ged at the St. Nicholas hotel on Tuesday night, and left on Wednesday to keep ...ure engagement at Bennington, Ver...

...Mr. Fitch is directly from Salt Lake ...and acquainted more directly with ...Mormon situation in its legal aspects ...probably any person in the country, ...herald reporter was sent to sound him ...theorists.

...Mr. Fitch is about the Hiram Stillwell ...itable face. Bishop Sharp, Hon. W. H. ...ner and one or two Gentiles on good ...s with the Mormons had left their ...s upon the table. Mr. Fitch is a ...-eyed, Indian-looking young man, with ...chestnut brown eyes, a brown and red ...plexion and a black moustache. He ...very free and natural in his manner, ...avoided close inquiries as to the habits ...character of the federal officials in ...

...Mr. Fitch," said the *Herald* representative, "are you the lois counsel for Brigham Young?"

"No, sir, my firm (Fitch & Mann) probably load in his business at Salt Lake. ...ides, he retains Hempstead and ...Patrick, Snow and Hoge, Miner and ...Grant Leonard Young, our attorney ...Washington city is Curtis J. Hillyer, of ...ada. All the above are Gentiles ex...Snow, Young, Miner and Hoge.

"Was it by your advice that Brigham ...ung suddenly left Salt Lake for south...Utah?"

"Not especially. I think it was prudent, ...ever, under the circumstances. Brigham Young makes a sort of boat of the ...tonist and settlements every year as ...as St. George, on the border of Arizona, ...and started, when he ascertained that ...grand jury had indicted him for lewd ...scivious conduct and cohabitation, ...he immediately returned, waited quietly to be arrested, and on his following ...t he gave bail in the sum of $6,000. ...hearing that other indictments on ...were pendent, charging him with murder ...being prepared, he waited three ...ys longer. He then proceeded, finally ...for U. S. marshal Patrick and asked ...if he had any such indictments. Patrick replied that he had not. Mr. Young ...said he was prepared for the annual ...and as the court had indicated to his ...nsel a postponement of the trial on the ...ding indictment until late in the winter, ...thought of making no further delay, ...departed in his carriage in broad day...t. I saw him go myself. After he had ...e a day or more, Judge McKean took ...of his pocket an indictment like that ...there in county for a murder. He ...d a warrant upon it for his arrest. Pa...rick ...der. Hence the hue and cry over the ...ged flight. It is ridiculous, and has ...n telegraphed east to injure the old ...n."

"Was it legitimate for Judge McKean to ...p an indictment so long concealed?"

"No. Utterly unprecedented. The ...nd jury found the indictment on the 25th ...September; the warrant was delayed ...the 28th of October. Such concealment ...never used except when the defendant is ...posed to meditate escape, but there was ...ham Young waiting all the time to be ...ested."

"Will he probably return and submit to ...est and incarceration at Camp Douglas, ...the unbailable charge of murder?"

"He may; but I shouldn't blame ...if he refused to walk into this dead...fall."

"Why do you say deadfall?"

"Because, under the jury-packing system now practiced in Utah, and the rulings ...chargings of the court, he has no ...nce whatever. In fact, he has been ...nd guilty in advance; for when McKean opened this term of the court he said ...the institution and system of the Mormon church were on trial, and made a harangue against them."

"What is the general estimate of McKean among the legal fraternity of Utah?"

"He is a fanatic, without much knowledge of law, determined to secure conviction of these people at whatever cost. He ...eves that his end justifies the means; ...ks he is sustained by the administration; that it is his religious duty to crowd ...Mormons hard, and he has also, he supposes, a chance to gain a great political reputation. He is a very determined man, ...ssessed of unmistakable personal courage, ...not fit to be a judge. He is a preacher ...an agitationist."

"What are said to be his ambitions?"

"Political promotion in the East, either ...New York State or at the President's ...ands."

"Are the two other justices more impartial?"

"I have not sufficient knowledge on that ...ad to answer intelligently. Strickland ...quiesces with McKean uniformly. Hawley differs from McKean with respect to ...Mormons, only that he would reach the ...ents and less boldly and with more semblance of regard to legal precedents."

"Do these justices show any feeling of ...ntiveness as to the severe criticisms ...ed upon them by eastern jurists?"

"Well, they think that the American ...ople are indifferent about the means of ...tirpating Mormonism, so it be killed off. ...They do not know enough law to care for ...fessional estimation. They are popular...said to 'jump' infinite lady precedents ...th equal facility."

"What took you from Nevada to Utah, ...Mr. Fitch?"

"Mining litigation. I moved there May ...My connection with the Montana Bill ...probably followed from my position on the ...dom bill in Congress last winter, when ...made the only speech against its passage ...the Republican side. I suppose I was ...e to look the selection of Judge out of the ...ds of the local officers and out of the ...pe of the law of the Territory. It made ...e United States Marshal the despot of ...ah, and excluded from the jury-box ...ty-seven twentieths of the people. And ...Judge McKean, by his rulings, has ...ed the Cullom bill in advance of its passage by Congress, and Mr. Baskin, the author of that bill, is actually the United States attorney in Utah, getting convictions under it."

"You do not appear to place faith in the newspaper letters from Utah?"

"No. They are Munchausenisms, which tickle us at home, while they probably do hurt at a distance. The Federal officials write most of them. These old murders are supported by the evidence of the desperado who did them, and that of Yates happened fifteen years ago, in the Mormon war, which the administration of that time passed over. Is there any reason clearer than this that the present court has come to make havoc, and will go any lengths to do it? The very order and prosperity of the Mormons are hateful to them."

"Do you have any sympathy with polygamy?"

"None. In my speech in the Hawkins case I called it 'a cruel and encompassing system of barbarism,' whether endorsed by the old testament or the Mormon revelation. There are allowances for it there, however. When the Mormons went to Utah the women were in excess, and it devolved upon a man to take care of more than one to keep the unmarried from starving. It was preached as a religious ordinance to credulous people, and was practised remote from monogamous mankind. They did not begin it with criminal intent. Society has caught up to polygamy, and its hours are numbered; but what is the use of galloping over all law and decency to make martyrs and seed for it? Why treat it with the spirit of preachers and zealots, instead of as statesmen and surgeons? Save the life of Utah—its frugal and temperate labor, its acquisitions and its men for all the mines and settlements of the central continent! Those are my sentiments."

"What is the value of Utah?"

"Well, its mines are equal in value to those of Nevada, which have produced from $120,000,000 to $150,000,000. The real estate, capital, &c., are probably not less than $70,000,000. And this is Mormon work. Labor in Utah in the mines costs only two dollars a day, or half as much as all round us."

"Do you think an exodus from Utah was ever contemplated?"

"Yes. I know it was debated, but Brigham put his foot on it. It is not required. Every interest of Utah has been disturbed, however, by these crusaders."

"What is the solution of the thing?"

"Self-government. Admit them as a State, under a constitution enacted by themselves, relinquishing for all the future polygamous marriages. Follow the advice of Hamlet, 'Those that are married already shall stay married.' The mere discussion of this constitution prior to its enactment will shed more light on the error of the thing than all the judicial terrors of our courts, and if the Mormons ever agree to it it is in good faith and in perfect candor and simplicity."

"What will be the political complexion of such a new State?"

"Extraordinary. It is a State without partizanship, and it will vote for Presidential electors in the spirit of the old electoral provisions—that is, looking to the character of the electors only; and leaving them uninstructed as to their preference among candidates. You see all politics has been shut out of Utah. Our newspapers take no sides in it, and the Mormon people are of neither party."

"To return to the federal court, Mr. Fitch. Is it impartial among the lawyers?"

"That is don't become me to say. We had a funny thing there about the time I left. Mr. Miner, a Mormon lawyer, moved an arrest of judgment in the Hawkins case, and, among other things, said an officer of the court had played poker with the jury. The judge said this was slanderous, and unless apologized for Miner should be disbarred next day. I believe, however, it was confirmed on inquiry, and the judge, in his best elocution, forgave Miner with censure."

"Is the practice of McKean's court embarrassing?"

"Yes. Judge McKean is only a sort of missionary exercising judicial functions. We never expected him to be unprejudiced, but we suppose that he might like to appear consistent. You see, in the first instance, after hearing an argument upon the point at law he declared that he was a United States court, that the Territorial legislature had no power to prescribe rules for his court as to selecting juries, and that he would not draw juries by open venire, but by selection, as in United States Courts. We lawyers put up with this and expected him to hold on consistently to it, so that we should prepare our cases as for a United States court."

"How did he violate his decision?"

"Why, he resolved himself into a United States Court for all purposes prejudicial to Mormon defendants, and whenever the Territorial law was severer on them than the laws of Congress he resolved back again into a Territorial Court. For example, the United States laws give the defendant ten jury challenges and the prosecution only two; while the Territorial law allows six and six. The United States statute of limitation bars all but capital crimes after two years of non-prosecution, while the Territorial law bars nothing. Now, McKean wants a Territorial Court to challenge the jury and prosecute after many years by Territorial permission, but a United States Court to impannel a jury, etc. He plays shuttle with jurisdiction and demonstrated to Mr. Young's counsel and those of other indicted polygamists that he would be bound by neither law nor consistency, but would do whatever he had the physical power to do to secure a conviction. Therefore I say, as counsel to Brigham Young, that if he does absent himself from such a tribunal until the United States Supreme Court at Washington passes on a test case we have sent there, he will only anticipate the advice of his counsel."

"What is that case?"

"Engelbrecht vs Clinton and others—in all twenty defendants. The prosecutor is a liquor seller who defied the municipal license law of Salt Lake, and by the provisions of a Territorial statute brought suit for the destruction of his stock maliciously by Justice of the Peace Clinton and a posse Comitatus. The jury was packed by the Marshal's manner of drawing, and for $1,000 worth of property Engelbrecht got a verdict of $57,000. The Justice's process was legal on its face and not malicious. The verdict was therefore atrocious, though contributory of the law which allows three times the value of destroyed property. We expect an early hearing of this case to test the validity of the jury abuse which is involved in all the other trials."

"This manner of packing juries by personal selection gives great power to the Marshal, does it not?"

"Certainly. The Marshal (Patrick) is a good man and popular; but any of his deputies, no matter how corruptible, can also pack a jury. The facilities for corruption are, therefore, such that out of many great mining litigations in his court, not one has yet come to trial, the contestants not daring to proceed. Our community is filled with adventurers, attracted by the mines, who own nothing on the spot. A purchishable deputy marshal can make a jury of these, buy them beforehand, make his pick from them and effect the titles to property worth millions."

"How should the juries be picked?"

"According to the law of the Territory—by lot. The statute of the United States says the manner of choosing in federal courts shall assimilate to that of the State or Territorial courts within which the federal court happens to sit. Attorney General Hillyer, therefore, asked McKean to charge the marshal to select from the assessment roll by lot. McKean refused to assent. In Brigham Young's case the marshal went out and ransacked for twenty-three jurors; these out of the picked lot were discovered to be Mormons, and McKean sulled them off."

"What was the actual title of the offence against chastity for which Young was indicted?"

"Lewd and lascivious conduct and cohabitation—an old statute made to persecute Mormons recently. There is not one such statute in terms in any State code of Massachusetts—and this has been interpreted by the courts to apply only to open licentiousness, and not to secret cohabitation. The offence meant is against public decency, not chastity. The court wanted to indict Young for adultery, but could not get one of his wives to complain. They would not indict for polygamy, because the second marriage could not be proved, being secretly performed. The old man, therefore, is made to pass under a law he signed as a polygamist and which was passed by polygamists."

Here some interruption happened and we broke off a very interesting conversation.—*New York Herald, Nov. 16.*

[SPECIAL TO THE DESERET NEWS.]

By Telegraph.

[Per WESTERN UNION Telegraph Line.]

The Cream of the Dispatches.

Deak, the eminent Hungarian Liberal, is dangerously ill.

Reports of disasters to shipping come in to London, Eng., from all quarters.

Match for championship of the Tyne was won by the Taylor crew, who beat Renforth's by three lengths.

Sir Charles Dilke is causing a sensation by his speeches; he will speak at a mass meeting in London next week.

Lieut. Gov. Dunn, aged 51 years, died at New Orleans yesterday morning.

A consistory will be held at Rome to-morrow, when the Pope will pronounce an allocution.

Cha's. W. Seaton, of New York, is appointed chief clerk of Pension Bureau, *vice* May Johns.

Forty-three new cases of small pox at New York last week and twenty since Saturday.

The Legislature of Georgia want a special election for a successor to Bullock, and passed the bill over the veto.

St. Dominica, Vincent, Lucia and other islands felt shocks of earthquake on the 30th ult.

The captain of the steamer *Florida* at St. Thomas, demanded protection from the American consul, as he was ready but afraid to put to sea on account of the Spanish war vessel.

Thomas J. Durant, of Washington, formerly of Louisiana, is appointed U. S. Advocate, before arbitrators to settle claims of American citizens against Spain, in place of Caleb Cushing.

No charge in the case of the *Hornet*. The Spanish iron-clad *Saragossa* is expected at Port-au-Prince. The Haytiens are strengthening the garrisons and placing guns in position, and troops are getting ready for active service. Coffee has an upward tendency.

The revolutionary movement is becoming general in Mexico. Saltillo was severely pressed by revolutionists. Gen. Rocho was marching to its relief. Juarez has repeated his request to Congress for a parliamentary vote of extraordinary powers to the President.

The London *Economist* regrets the appointment of the U.S. Minister Schenck to lend an director of one of the new mining companies. It thinks a commercial occupation of any kind incompatible with diplomatic functions. The N. Y. *Evening Post* hopes Schenck will be recalled.

A passenger steamboat carrying petroleum contrary to the laws is subject to seizure; and when it is carried according to law it must be marked at what degree Fahrenheit it will ignite. The carriage of coal oil on passenger steamers is strictly forbidden. So decides the solicitor of the Treasury.

Pacific States Republican Association has elected Garfield, of Washington Ter., President, C. J. Hillyer, of Nevada, and G. L. Tibkenor, of Cal., Vice Presidents; L. S. Thompson, of Oregon, Treasurer; and J. C. Dejester, Washington Territory, Corresponding Secretary.

The steamer *City of London*, with freight from New York, to Norwich, was burned in the Thames river. There were only seven passengers, but of those William T. Norton, of the firm of Norton Bros., C. B. Rogers, of C. B. Rogers & Co., and Harrison R. Aldrich, all of this city, were lost. Of the officers and deck hands nine are known to be lost, including Wm. P. Ely, Hamburg, Conn., 2d mate, and M. W. Baker, engineer-in-chief. The boat carried a heavy freight which with the boat was a total loss. It is understood that the boat was insured for $100,000. The fire extinguishing and life saving apparatus were ample and in perfect order, but the rapid spread of the flames cut off the approach to the boats and the saloon where the life preservers were, and the passengers and crew had to save themselves by grasping such floating matter as fell overboard from the burning boat. The officers, particularly the captain and engineer, receive great praise for their coolness and bravery, the former lowering himself from the paddle box and heaving a line when all other avenues of escape were closed by the flames, and climbing the paddles, thereby saving a number of the exhausted; and the latter by giving up the life preserver he had secured to the only lady aboard, who was thus saved. The origin of the fire is not known, though supposed to be in the kitchen.

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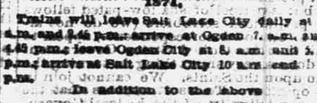

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MONDAY, JULY 17th

1871,

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WILL RUN

DAILY, SUNDAYS EXCEPTED,

Leaving Salt Lake City at 8 a.m. and 2 p.m., and Ogden at 6 p.m.

Passengers will please purchase their tickets at the offices. Fifty cents additional will be charged when the fare is collected on the trains.

For all information concerning Freight or Passage, apply to

D. O. CALDER,

Ticket and Freight Agent,

JOHN SHARP,

SUPERINTENDENT.

UTAH SOUTHERN RAILROAD

[redacted]

MIXED TRAINS

RUN

DAILY,

Leaving the Utah Central Depot, Salt Lake City, at 7.10 a.m.; Draper 8.00 a.m., and Sandy Station (nearest point to Little Cottonwood Canyon,) at 8.10 a.m.

FARES.

Salt Lake to Big Cottonwood Station	50 cts.
" Little "	50 cts.
" Sandy	$1.00
" Draper	1.25

Twenty-five cents additional will be charged when the fare is collected on the train.

THEODORE LITCLE,

SUPERINTENDENT.

D. O. CALDER,

General Freight and Ticket Agent.

Central Pacific Railroad

OVERLAND TRAINS

Miles	Stations	Ar. Daily	Lv. Daily	Express Daily Ar.	Express Daily Lv.
0	Sacramento	7.30 a	7.30 a	4.45 p	4.45 p
7	Junction	7.45 a	7.45 a	4.30 p	4.30 p
18	Roseville	8.15 a	8.20 a	3.55 p	4.00 p
30	Newcastle	8.45 a	8.50 a	3.25 p	3.30 p
37	Penryn	9.00 a	9.05 a	3.10 p	3.15 p
50	Colfax	9.35 a	9.40 a	2.35 p	2.40 p
105	Cisco	12.45 p	12.50 p	11.15 a	11.20 a
120	Blue Cañon	1.00 p	1.05 p	10.55 a	11.00 a
150	Truckee	1.50 p	2.00 p	10.00 a	10.15 a
188	Wadsworth	4.07 p	4.15 p	7.45 a	8.00 a
192	Battle Mountain	4.35 p	4.45 p	7.15 a	7.30 a
287	Elko	6.45 p	6.55 p	5.45 a	6.00 a
508	Ogden	10.00 a	10.15 a	1.00 a	1.15 a

C. CROCKER, A. N. TOWNE, Superintendent. General Agent.

PATENT CEMENT PAINT.

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