

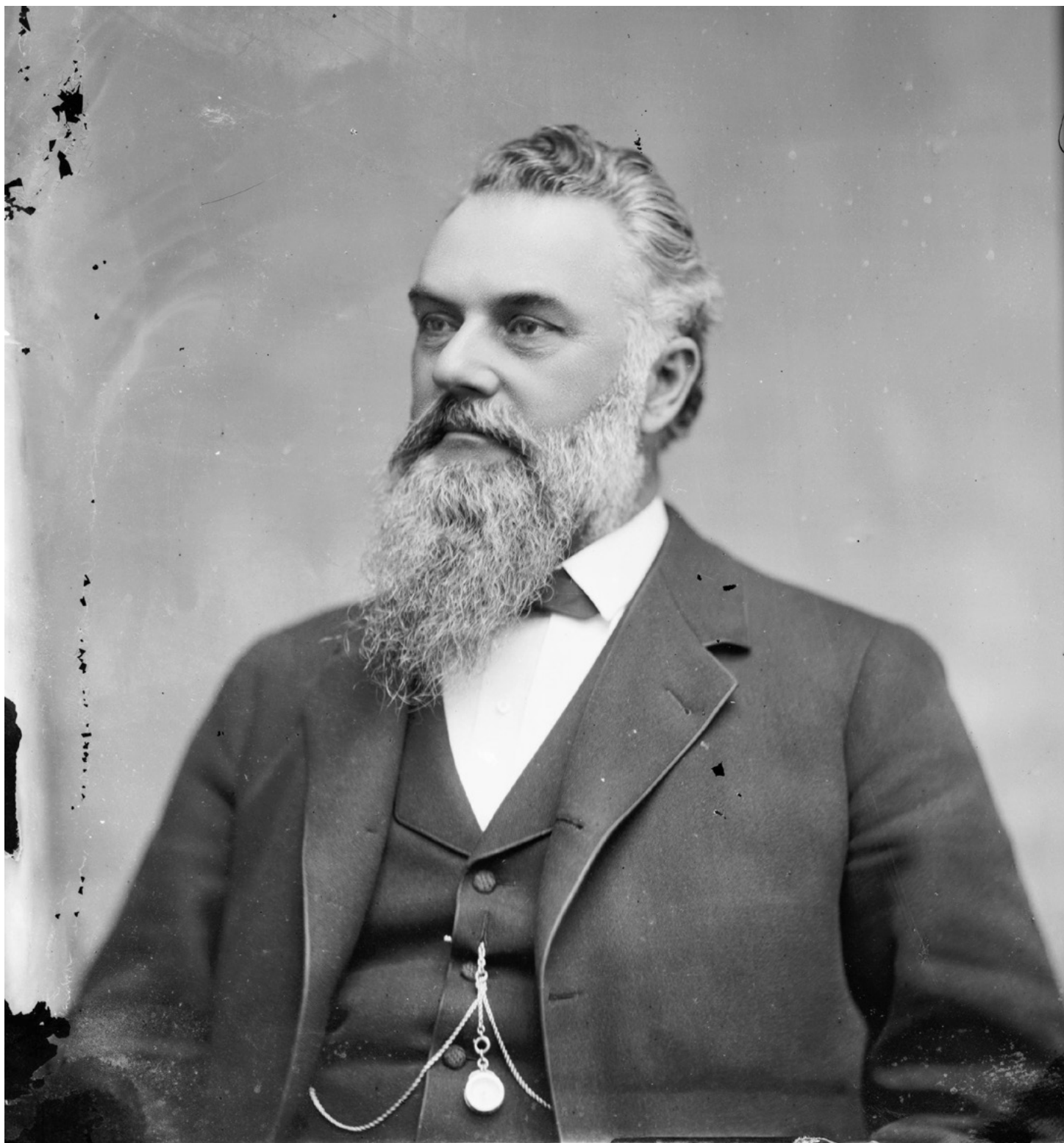
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Photographic Evidence in the

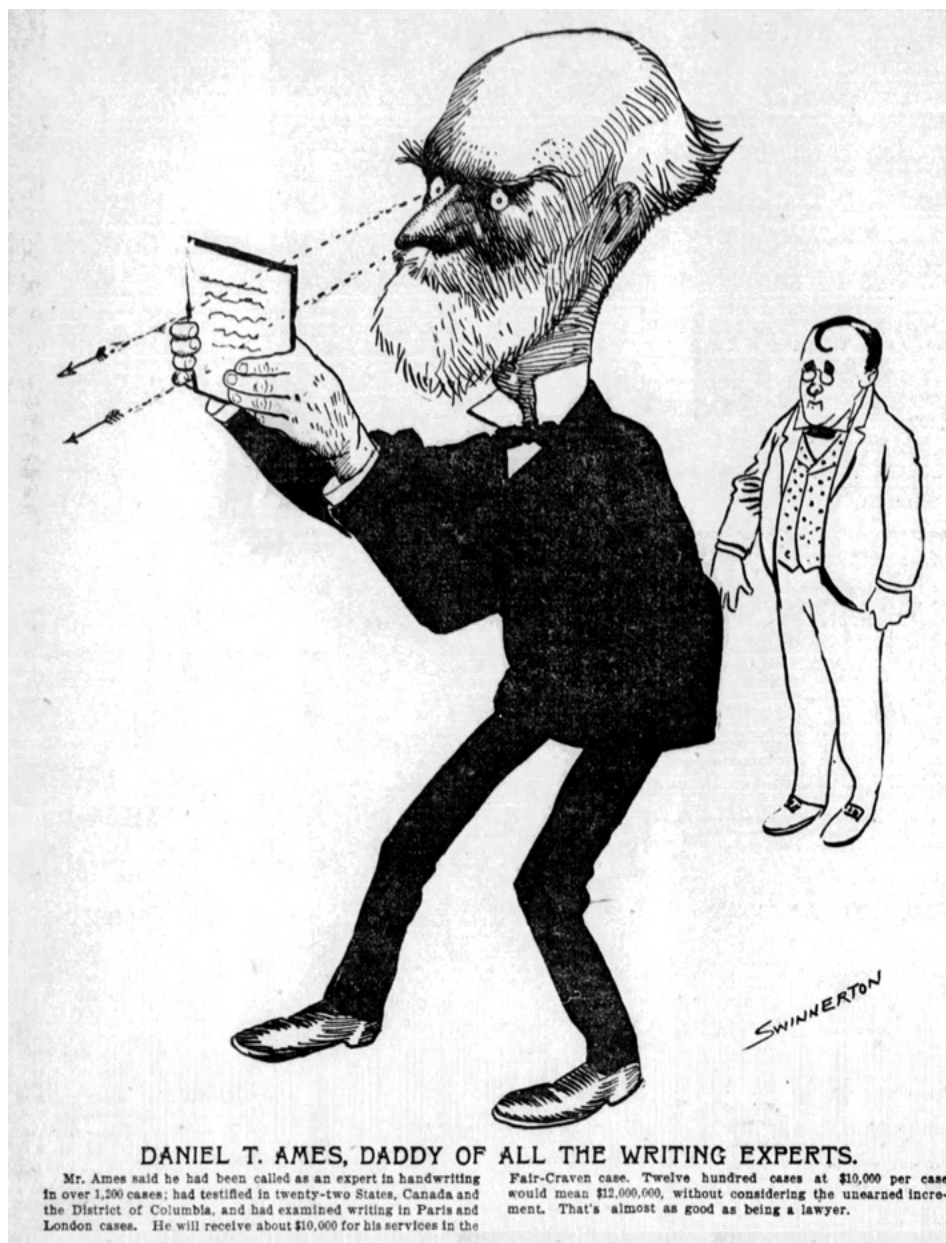


Fair Trial

In fin-de-siècle San Francisco, the battles over the estates of Gold Rush millionaires filled the newspapers, and when James G. Fair, one of the owners of the Comstock Lode, died in 1894 he was rumored to have left behind the biggest fortune yet. Fashionable onlookers packed the galleries of the new courthouse on Market Street. Dramatic scenes were expected. Fair's three legitimate children were unhappy with their father's will, which called for his fortune to be meted out to them as an allowance through a trust administered by four advisers. Charles had gambling debts to pay off, and the two daughters, Virginia and Theresa, had society ambitions back East. They immediately began searching for ways to improve their fate. Such an opportunity quickly arose in the form of a rival will. This was one written in Fair's own hand, in pencil, and dated after the original will. That this document arose not from a former mistress, or from a rumored illegitimate son in Oakland, but from the well-respected principal of Mission Grammar School, came initially as a surprise. Nettie Craven was a friend of Fair's, and he had written this version of his will in her presence, she claimed, after convincing him to make a gift to the Teacher's Pension Fund. Besides this addition, the only significant difference between the two wills was the elimination of the trust: after the various bequests, the rest of Fair's fortune would go directly to his children.

The three young Fairs embraced Craven's handwritten document, declaring

Left: Mathew Brady Portrait of James G. Fair by Mathew Brady, Library of Congress Prints and Photographs Division. Brady-Handy Photograph Collection.



Ames inspecting the Pencil Will. The article claims he has testified in over 2,200 cases. "No Baroness In Theirs," *San Francisco Examiner*, May 28, 1897.



EDITOR'S NOTE

Tory Jeffay is a postdoctoral fellow in the Society of Fellows at Dartmouth College. She holds a PhD from the Department of Film and Media at UC Berkeley with a Designated Emphasis in New Media and a BA in Film Studies from Yale University. Her book project, "Rogue Images: The Birth of Visual Evidence," looks to the history of photography and film as evidence before Rodney King to better understand contemporary politics of digital media evidence and the inherent epistemological fallibility of photographic media.

*Her essay "'Flat-Out' Formalism: Strong Island as Trans-of-Color Critique" won the Society for Cinema and Media Studies Queer and Trans Caucus's Chris Holmlund Graduate Student Essay Prize and was published in the *New Review of Film and Television Studies*. Her work has been supported by grants from the California State Library, UC Humanities Research Institute, Berkeley Center for New Media, the Center for Japanese Studies, and the UC Berkeley Graduate Division. Prior to her studies at Berkeley she worked as an editor of documentary films.*



Second-Sight and Fortune-Tellers. See Examiner Want Ads.

The Examiner.

VOL. LX SAN FRANCISCO: TUESDAY MORNING, MARCH 19, 1895. NO. 78.

WANT A BIKE? Read the Examiner Bicycle Ads.



JAMES G. FAIR'S UP TO DATE WILL.

A Holographic Disposing Document Found in the Custody of a School-Teacher.

It Contains No "Trust" Clause, and the Three Children Unite in Offering It for Probate.

MR. LLOYD'S STORY OF THE MAKING.

Mrs. Nettie Craven and Mrs. James Haskins, the Witnesses to the Dead Millionaire's Writing, Preserve Silence.

Another will purporting to be the last disposing document of ex-Senator James G. Fair was offered for probate in Judge Black's court yesterday by Reuben H. Lloyd, attorney for Theresa A. Oelrichs and Virginia Fair, and Knight & Haggerty, attorneys for Charles L. Fair.

This will, which is in the handwriting of the dead millionaire, was produced by Mrs. Nettie R. Craven, principal of the Mission Grammar School of this city, in whose presence the will is alleged to have been written at the house of Mrs. James Haskins, who also witnessed the execution of the document, which, if found to be genuine, will take the place of all other wills made by the late business king.

By the term of this will the trust clause in the one offered for probate by the four executors is done away with and the money goes to the three children absolutely after certain bequests are paid.

The introduction of this will has entirely changed the front of the great legal fight. It looks as if Charles L. Fair will not have to contest that will containing the dreaded forfeiture clause.

If there be any contest now it must be commenced by some one of the four men who hoped to become executors, special administrators and finally trustees of the great estate left by the dead man.

Whether the genuineness of this last will can be maintained in court is a question over which the lawyers will probably wrangle for months to come, but if it is a forgery, then that fact will have to be established by the executors or some one interested in the estate. That this will be easy to do so one at present is prepared to say.

The current rumor, and the rumor has never been positively denied, that the executors claim to have a number of wills made by the late James G. Fair in their possession. He had a fondness for will-making, and the statement has been made that, even if Charles Fair contested the will the executors presented for probate and succeeded in having it set aside, that such a proceeding would be of no

FAC-SIMILE OF THE DOCUMENT THE NATURAL HEIRS OF JAMES G. FAIR PRESENT AS THEIR FATHER'S LAST WILL.

S. F. Sept. 24th 1894
This is my last will & testament. I make all for my will by me made. I bequeath to my sister Margaret J. Crothers 200,000 dollars to be shared Equally by her & her husband & children. I bequeath to my brother William Fair 50,000 dollars to be shared Equally by him & his wife & children. I bequeath to my brother Edward Fair 25,000 dollars to be shared Equally by him & his wife & children. I bequeath to my sister Mary Anderson 200,000 dollars to be shared Equally by her & her husband & children. I bequeath to my brother Andrew Fair 50,000 dollars to be shared by him & his wife & children. I bequeath to my niece Josephine 10,000 dollars to be shared by her & her children. I bequeath to my nephew James H. Fair 10,000 dollars to be shared by him & his wife & children. I bequeath to the Roman Catholic Archbishop of S. F. 50,000 dollars to be divided by him among the Roman Catholic orphan asylums of S. F. I bequeath & direct my executors to pay in Equal proportions 25,000 dollars to the Hebrew orphan asylums of

S. F. - I should an act be passed by the Legislature of this State creating a Pension Fund for or aged teachers & bequeath to said Fund & direct my executors to pay to said trustees of said Fund the sum of 50,000 dollars to be used for the Pensioning of aged teachers who have taught 25 years or more in this State. I bequeath to & hereby direct my executors to divide among the Protestant orphan asylums of S. F. the sum total of 50,000 dollars & give to my son-in-law Herman Adrichs 50,000 dollars & give to Herbert Blake 5,000 dollars & give to Chas. E. Stewart 3,000 dollars & give to James August & Louis to each the sum of 10,000 dollars each. I give to my son Chas. L. Fair the sum of 50,000 dollars & direct my executors to pay this to him before the final division of my estate - all the rest of my estate goes to the trustees of whatever kind I bequeath to my three children, Theresa A. Oelrichs, Chas. L. Fair & Virginia Fair - share or share alike & if their children or forewar I should any child die without issue said child's share shall go to the surviving children & share or share alike & appoint as my executors James S. Argue - those others & Dr. Livingston & require of them no bond or bonds of any kind. San Francisco Cal. Sept. 24th 1894. James G. Fair

it undoubtedly written in their father's hand, while the four advisers who stood to benefit from lifetime appointments administering Fair's estate condemned it as a forgery. Facsimiles of the document ran in all the local papers, on the front page of William Randolph Hearst's more sensationalist *Examiner* and tucked deeper within the more respectable *Chronicle*. Over the next seven years, Fair's scrawl, with its misspellings, irregular spacing, and particularly vexing styles of

the lower-case q, would be reproduced in thousands of photographs, picked apart and reassembled by myriad experts in an interrogation of what both handwriting and photography could prove.

Fair's children embraced Nettie Craven's pencil will because it favored them and seemed to offer no advantage to her, despite some questionable elements of her story. However, Craven was not done producing documents. Several months later, she presented two deeds to valuable San

Francisco property that had been transferred to her by Fair. The children were outraged at the deception, but to turn on Craven would mean settling for an allowance rather than their father's full fortune. More vexing still was the fact that they would also have to declare a forgery the document that they had already loudly proclaimed to be written in their father's own hand. However, on June 26, 1896, Nettie Craven shocked them further, taking the stand and giving her full name as

Mrs. Nettie R. Craven Fair. She presented a marriage contract and letters from Fair to prove her claim as the millionaire's widow. The marriage had neither witnesses nor officiant. The only evidence was a contract written by Craven and signed by both her and Fair. The handwriting alone would have to testify. Gambling on the possibility that the trust provision of the original will might not withstand legal scrutiny, the children reversed their stance on the pencil will, admitting that while they had initially believed the pencil will to be genuine, they had since obtained new evidence proving they were mistaken.

Aware that the public was unconvinced by their about-face, the Fair children set out to produce this new evidence of forgery. To do so, they relied on a trio of experts: two of the country's top handwriting experts, Daniel T. Ames and David N. Carvalho, as well as a self-described photographic expert, Theodore Kytka. Craven's lawyers hired their own. Press coverage tended to report on the activities of the clashing experts with a mixture of curiosity and suspicion. That each side's experts would come to conflicting conclusions was presumed from the start. What remained to be seen was their methods. An early report from the *Examiner* noted the preponderance of "scientific-looking fellows who take Fair's queer-shaped letters, smash them into atoms and then hand in very long and very learned reports on the debris."¹ The quantity of evidence produced by these experts in the process was enough to "bury the Court and jury out of sight."

To the experts, that Fair's children would initially fail to recognize that the pencil will was a forgery of their father's hand was completely explicable. The traces of the forger's deception were visible phenomena, but only to the trained eye. Fair expert Daniel T. Ames described handwriting expertise as a matter of superior vision, as satirized in a newspaper illustration from the trial that depicted Ames' penetrating gaze as literal arrows shooting through a document as a



Theodore Kytka with his giant camera. The large windows allowed the document to be illuminated by natural light. An enlarged signature of James G. Fair is mounted on the back wall. Scrapbook 88. San Francisco and California Scrapbooks Collection. San Francisco Public Library. San Francisco History Center.