EVENING NEWS Published Daily, Sundays Theopted, AT FOUR O'CLOCE.

the second se PRINTED AND PUBLISHED BY THE DESERET NEWS COMPANY CHARLES W. PENROSE, EDITOR. June 4, 1886 Friday .

WHAT HAS BECOME OF "HOLDING OUT?"

WHAT has become of the "holding out" theory? For a long time the definition of unlawful cohabitation, under the Edmunds Act, was "the holding out to the world and living with more than one woman as wives," This suc ceeded the ruling, in the Rudgar Clawson case, that "evidence to convict must show a reasonable probability that there had been sexual commerce between the defendant and his plura. wife." The last named but first enun clated construction of the law de livered by Judge Zane, was entirely overthrown by that weathercock juris: turned in any desired direction by the Dicason wind, as soon as a case was brought in which nothing of the kind hau occurred. To secure a conviction another construction of the law was necessary and it was forthcoming with

the demand. "Holding out" was then pronounced a chief constituent of the offense and became a public by-word. It figures with success in a large number o cases, and was clung to by the prosecuting officer and the courts as the one thing needful to cinch the pluralwived "Mormons." It was pronounced an essential to conviction and was relied upon in every plea ano charge to a jury in a case of unlawfu cohabitation. The Supreme Court of the United States snapped at the phrase, and adopted the "holding out" theory as the very thing to operate against the "Mormons," and confirmed its application in th in ruling in the Canpon case. Judges Miller and Field, however, dissented from it and avowed their adhesion to the common sense, established and legal and popular definition of the term unlawful cohabitation, given at first by Judge Zane in the trial of Rudge Clawson.

even the holding out theory would not work very well, new turns had to be taken, the judicial vane was moved to fresh points, and the "holding out" essential became a non-essential. The latest quirk is jembodied in the term "association." No need to "hold out" a woman as a plura. wife; no need to live with her; all that is necessary is to "associate with her as a wife" and that is amply

more than one woman, either in public These are potent reasons, and cause or in private? Is not the language nn- us to endorse the later action of the derstood to mean a continuous living brethren as commendable on account together in sexual relations? Will Judge of its prudence. Zane dare declare, to the contrary? The final reason given for the postponement is perhaps the most potent Such being the fact, is it not double-

dealing and pettifogging, to say noth- of them all. It is to the effect that ing of the unlawful addition made to owing to the present trying phase the law, to so wrest the language of an through which the Church is pass-Act of Congress as to make "it mean ing it is necessarily a general something altogether different to that time of sorrow. It is exceedingly

ine, "John "and Walter" Steadman; White; Ann White Mathew

Orden.-Ell Blakeley and Susannah, Squire P., Ell, Jr., James and Jane Elizabeth Blakeley; Lucy Bacon; Elizabeth and Ann Icabella Rutter; Esther Lee; Jane Aspey; Alma Blakeley; W. Leeks: Porter, Margret, Willie and Louisa Porter; Rueben Hichardson; Frances Brass; Thomas Bond; Wm. Payne; Hannah Shorten.

Montpelier .- Louisa Osborne. Juab.-George, Andrew, Jane Alex., Annie Janet and Jane Easton; Jas. and Andrew Monson, Wm. Latimer; Mary Yates: Jesse and Aan Hopkinson.

Jones: Rose Chester: Eliza Jones; Thos. H. Kenbottom; R. R., Elizabeth becca Hodson; John, Phebey; and Re Mary Pugmur; Lizzie Mordue. Lehi.-Thos., Jane, John and Wm. Patterson; M. A., M. G., W. and Kid

Nephi .- Wm., Ann, Maria, Lydia Wm., Henry and Emily Rowbury Benj., Esther and Hannah Price. Franklin.-G. F. Annis; G. F.Jr. and Ada Balmor; Mark, Eliza, Mary, Mark

Salt Lake City .- Magdalena Rohrer; Margaretha Friedli and Kari); Maria Hoffman; Jacob Zehnder; Mary and Mary_Jr. Schneider; Barbara Ott; Eliva, Walti, Adolph, Brot, Anna, Steingruber, Nicolaus and Stephau Falkner; Catherina, Albert and Hugo Zudkochwordt; Helen Ridelbauch Ogden --George and Susan Bragger; Rudolph Nuenschauder; John Balli Saml. Christian; Conrad, Margaretha and Cristme Muller: Louisa Frantvein.

Radolph and Christian Schwendunaun:

redrick and Karl Gilgen Milford .- Heary Gubler.

Serge

Lidia, Elise, August and Albert Hofer; August Hauptfleiser. New York-Wm. and Janet Aguie C.

BY TELEGRAPH





in public or private which Judge Zane tortures into unlawful cohabitation. Is it not pltiful to see such casuistry t. There is no consistency in it. is a subject that cannot be "construed and pettifogging resorted to by the There is no law in it. The object is to by the courts," so those who read can judiciary? To behold learned expounbreak up the religion which permits place their own construction upon it ders and administrators of the law, perverting common terms for the purpose of inflicting penalties on persons who, by the ubmost; stretch of propriety, can only be found technical offenders against the law?

It the Congress of the United States their ire and it against that that all times, perhaps our vulgar contempohad intended any such monstrous provision as that evolved by the Utah their shafts are aimed, all their crafti- rary will get used to its own enuncia-Courts out of the third section of the ness is exercised and all their perver- tions and not be so dreadfully worried Edmunds Act, terms would have been | sions of law and language are directed. | over letting the feline out of the sack. Here it is, like Banqo's ghost? " Holding out " has gone the way of used therein to convey that meaning. But how does the law stand? Simply other dead definitions of the District Courts; how long the present phrase, thus: "If any male person, in a Territory or other place over which the United States have exclusive jurisdiction, shall hereafter cohabit with more than one woman he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than three hundred dollars, or by imprisonment for not more than six months, or by both said punish-ments, in the discretion of the Court." "Cohabit with more than one woman" is the language of the law. To this 'the Court has added "as a wife." That is judicial legislation. It is no more IN yesterday's issue (June 3d) apa part of the law because Judge Zane peared a card from a number of has put it in by the prompting of At- brethren who had interested themtorney Dickson, than if it had been put | selves in arranging for a reunion of the there by a juror, a defendant or a by- people who had been associated with stander in the Court. The law was en- one of the "Old Country" conferences. acted for the District of Columbia and The occasion proposed would have infor the arsenals and dockyards, as well volved considerable expense to quite a as the Territories of the United States, | number who would have been likely to and applies to places where there are no "Mormons" or persons who prac-tise plural marriage as a religious ob-servance. What does "cohabit with more than one woman" mean in the District of Columbis and in the United States possessions anywhere? Is there any quibble about it there? Does it mean simple association of a man with and applies to places where there are participate, especially those who would

sion to prosecuteor, interfere with them. coutrol they are after. If we repro-It is the "marriage relation" that excites duce the editorial referred to a few

throat. "Agee died in five minutes. Gentry was a democrat and Age re-publican. A political dispute was the occasion of the murder. Agee is the brothar of the Lieut. Governor of Neprasks.

A Pertinent Question on Preemption, Timber Culture, cic.

the plural family relation. Those who Besides the murderous character of the WASHINGTON, 4-Ingalls offered forsake it and repudiate their plural enunciation, it proves what we have resolution, which, on objection by Beck, went over till to-morrow, calling on marriage vows, can, if they wish, revel always held, that the people in the East in licentiousness and wallow in the have been deceived by the polygamy the Secretary of the Interior to inform the Senate whether a certain circular mire of unbridled lust, and the zealous bugbear. The schemers care nothing had been issued by the Commissioner courts and attorneys will'find no occa- about polygamy. It is the political General of the Land Office with the approval of the Seceretary of the Interior. The resolution recites in full the recent circular to registers and receivers of the land offices, stating that no new applications for entry under pre-emption, timber culture or desert land acts will be received pending leg-STARADE. on those acts. The resolution then "The Pope of Utal should, in his proceeds to direct the Secretary underground retreat, read thoughtfully of the Interior to Inform the Senate by Courts; how long the present phrase, "associate" will hold out, no living soul can determine. It will have its sway until a new phrase is needed, and the constructors will continue to multiply interpretations until they go the way of other persecutors of the "Mormons" and cannot "hold out " any longer.
A PRUDENT RECONSIDERA-TION.
IN yesterday's issue (June 3d) appage are d a card from a number of Home Rale for Scotland. it grows dangerous enough, if no other remedy can be found, the one resorted to in Illinois will be invoked again." AVOID GLASGOW, 4.—The Highland Reform League, at a meeting is t a ght adopt-ed resolutions favoring home rule for Scotland and the establishment of a separate Scotch legislature. LIST OF EMIGRANTS Posing to Gain a Nomination. Passengers per S. S. Nevada, May 22, LONDON, 4.—The Pall Mall Gazette, commenting on Blaine's correction of the report of his Fortland speech, says: "It is quite in accordance with Blaine's character to hurl insults and then 're-tract them. Blaine is a public man, whose support is almost dis-credited. He is now posing to gain the next nomination of the republican party to the presidency. If he succeeds, it is pretty safe to say America will repeat the rebuff it gave him two years ago." 1886.

THE PRODUCERS OF

HAVE & RECORD OF 46 YEARS SUCCESSFUL BUSINESS. Antedating and Excelling all Competitors.



TEASDEL'S

Liverpool Salt