EVENING NEWS Saturday Oet. 2, 1886 ORSON ARNOLD'S TRIAL He has Acknowledged One Wife Only, **But the District Attorney Wants**

him Convicted for Visiting his Former Polygamous Wile and her Children.

DICESON SAYS THOSE WHO PROMISE MUST DIVORCE THEIR POLYG-

AMOUS WIVES!

THE COURT MUST ANNUL AN UNLAW-FUL CONTRACT!

In the trial of Orson P. Arnold, on the charge of unlawful cohabitation, yesterday alternoon, by request of the District Attorney, all of the witnesses except the one testifying were excluded from the court room

Orson P. Arnold, Jr., was the first witness called for the prosecution. He testified-The defendant is my father; my mother lives in the Thirteenta Ward: I have not lived at home during the period named in the indictment; I visit mother about once a week; have seen father at mother's house during meal times; father has been away from home some of the time since May, 1885; he was away from home two or three months, I think; I know Fanny Linnell Arnold; she lives on First West Street, in this city; she had lived there for six or seven years; I have been at her house several times during the time since the month of May, 1885; I have seen her there every time I went there; she has four children; the eldest is about 10 years old-the youngest is about 8 years old; it is a boy, I think; I never heard it called by name; have seen my father at Fanny's house since the 1st of May, 1835two or three times; we have passed there several times; we have passed there several times in a buggy, when he would call in and I would wait for him until he came out; I never left him there nor called for him; I do not think I would have forgotten it if I had done so-either before or since May, 1995. It is some time given I saw 1885; it is some time since I saw father at Fanny's, (after some hesitation) about a month ago; the last time I saw him there was when l leit him in a buggy : I waited for him to come out, as we went there to-getker; he was absent about five minutes, when he returned; I have been there with him three or four times during the past year-twice in the past two months; I am merely guessing at it now; I don't remember

having seen him there since the first of January and the 11th of May this

source, when Mr. Dickson retorted by was absent in February and April, stances were innocent, and he was saying he had no right to accuse the clerk of the grand jury of making false entries. The objection of the defense he was in Ogden in 1885, when they were

was overruled by the court. Witness, to Mr. Dickson—I don't think I told the grand jury that I had seen father at Fanny's house within the and took his meals at home; he al-

came out about 11, went up to the Con-tinental; followed him back to the house, and I saw him enter it; I then passed on to First North Street; do not know where went. The prosecution then rested their case and court adjourned to 10 a.m. to-day. This morning the defense recalled E. A. Franks for further cross-exami-nation. He testified—On the 17th of January last, when I saw the defend-ant go from Fanny D. Linnell's house, he went to the Continental Hotel; he called at the telephone for Dr. Benedict; he next went into the bar-room, and then returned to the house; there was a light there; he went in at the front door; on the 15th I watched him go to the house; there was a light there then. Dr. H. J. Richards was called for the defense, and said-I am a practicing physician and surgeon; about the 20th of July, 1885, I was called to visit the of July, 1885, I was called to visit the defendant's sick child, at the house on First West Street; I prescribed for the child, and advised them to keep it out doors as much as possible and take it out riding; it was quite ill. To Mr. Dickson-I left the city for a few weeks a couple of days after I at- a fix if he should be converted and tended the child. James Jack testified-I am acquainted with defendant; his business office is at the same place as mine; he uscally comes between 7 and 8 e'clock verdict but that of rot guilty. Faunle D. Linnell testified-I had sickness in my family last January: Dr. Benedict called there with Mr. Arnold on one occasion; two of the children were ill with sore throat; it was about the middle or latter part of the Court. The visits he had made to January; we feared an attack of diph-To Mr. Dickson-Dr. Benedict was there once at night; it might have been 10 p.m.; he came several times in the daytime; the children were sick

up; do not know where he went after he left the hotel; on the night of the 17th he went into the house about 9; he

during the remainder of that month. To Mr. Rawlins-Diphtheria was prevalent at that time, and I feared it. H. G. McMilian testified—I remem-ber when Mr. Arnold pleaded gullty to the charge of unlawiul cohabitation; it was in April, 1885. Mr. Rawlins—Did Mr. Arnold make any statement to the court as to his intentions?

Objected to by Mr. Dickson. Objection sustained. Mr. Rawlins argued that it was mate-

rial evidence in the case, as the promise made at that time was a disclaimer of defendant's relationship with his plural wife. It would be but the in-ference that he had held her out to the world as his wife since that time. Had it been his lawful wife the divorce would have been admissible, but as in their mother out riding. And what a this case the marriage was not legal, terrible offense in the eyes of the District Attorney! If the jury gave a verthe only way possible for him was to dict of guilty in this case, it would mean that if ever a man who promised to obey the law make a public declaration, which he had done. They wanted to show that he promised to obey the law. Mr. Dickson said the question re-lated to a period prior to the first date

in the indictment, and way not material. The Court ruled that this evidence might be admitted

by Pagan kings, and was not entitled to any respect. But this was not the law. These parties had been husband and wife, that relation-ship terminated April 13, 1885, and had not been resumed. The acts of the defendant under these circum-Witness, to Mr. Rawlins-Mr. Ar-nold promised the Court that he would obey the law in future; this was on Jear. Mr. Dickson here began to refresh the witness' me ory from the grand Jury notes. Mr. Sheeks objected to his doing this from such an upreliable

therefore entitled to acquittal. Mr. Dickson closed for the prosecution. He opposed giving the instruc-tions asked for by the defense. In ad-dressing the jury he said the laws think I told the grand jury that I had seen father at Funny's house within the first two or three months of this year. To. Mr. Rawlins-When father called on Fanny he did not tell me what he To Mr. Dickson-I was at Ogden

pointing out the absurdity of the Dis-

trict Attorney's claim that the defend

cure a conviction, the steps of the de-

endant had been dogged for weeks by

was now scarcely worth the living, since she had been deprived of the care of a husband. Yet the District At-Rooms, at 11:30 to-morrow, the funeral services over the remains of the late Mrs. Alice Dobson will be conducted. orney says the law will not permit it that it would not permit the woman to receive any attention whatever. The man who, under the evidence A SHAWL which has been found in front of the NEWS office can be obtainin this case, came to the conclusion that the defendent was guilty, must himself be of that corrupt nature that ed by the owner by calling for it.

CHAS. F. ROSE, indicted for grand he would perform an act that no de-cent man would be guilty of. If the larceny, in having stolen a horse from John Allen, pleaded not guilty to-day law was as inhuman as the District Attorney said it was, the man who in the Third District Court.

conformed to it and disregarded the On Tuesday next, at 2 p.m., the life of his offspring was nuworthy the name of a man. If the defendant was general meeting of the stockholders of convicted under the evidence in this convicted under the evidence in this case, it would be impossible for him to say that he would obey the law because he could not learn what that law required. The Court had said he could visit, and now the prosecution wanted him sent to the penitentiary for doing so. If he was convicted, it would stop all progress at bringing people within the law. The example in this case would be pointed to for the effects of promising to observe the law. Z.C.M.I. will be held in the Social Hall. The election of officers for the ensuing year constitutes part of the the business to be transacted.

RELIGIOUS services of the Church of Jesus Christ of Latter-day Saints will be held in the Tabernacle to-morrow atternoon, commencing at 2 o'clock. effects of promising to observe the law. At 10 a. m. services in German will be conducted in the City Hall, and in Scandinavian in the Social Hall.

THOMAS W. JENNINGS has just received at the Emporiem Buildings, a mammoth stock of stoves, ranges, and baptised, "that is if they would not hold him under, which I think they all kinds of cooking and warming apparatus, to which he invites attention in to-day's NEWS. Those who want The court took recess until 2 p. m. This atterneen F. S. Richards made a powerful argument before the jury, bargains in that line would do well to

call at the Emporium and inspect the stock. Dealers at a distance will also be promptly and fairly dealt with.

GRAND OPENING

Of Fall and Winter Millinery to comonly those which were justifiable, and it was beneath the dignity of the gov-ernment to vindictively pursue a man mence on Monday the Fourth and con-tinue through the succeeding cays, when there will be an elegant display of imported millinery goods, the best for visiting and nursing his children when they were ill. In order to proever brought to this market. A call from the ladica is respectfully solicited. MRS. C. E. DYE, d3t Millinery Parlors, 16 Main St.

deputy marshals, and the worst that could be said of nim was that he was d3t

giving aid to a sick child. The honor of the prosecution of the de-fendant was shown in the course followed by the officers. He had promised to obey the law, and then the deputies had hounded him Our readers who own horses will do well to read carefully the advertise-ment of the Putnam Nail Co. of Bos-ton. That cut and rolled nails are dangerous is obvious to any one who night and day, to find something against him. Had he visited his childlooks into the subject. Horse curners are the most interested. The loss of a ren by stealth, that would have been valuable animal may be the penalty of brought against him. But he had visneglect as rolled or cut nails are liable ited them openly, as he had a right to do, under the instructions of the court, and for that he was relentlessly followed by the District Attorney. There was one thing he did besides vis-iting his children, and that was to take o sliver in driving and thus ruin a horses' foot. The Putnam Nail is Forged Hot from the rod and Hammer Pointed, and is

thus made on the same principle as the old hand made nail. Cheap cut nails can be distinguished

by the sheared edge near the point. The Putnam Nail is sold by Z. C. M. I. and its branches.

DR. FREEMAN

promised to obey the law should be in the presence of his former wife, or should visit his Will return Wednesday, Oct. 6th, and remain at the Clift House a short time where he will treat all cases in any way deformed or crippled, also all chronic troubles. children under her care, he was guilty of a crime. If this was true, the law was more cruel than the most troubles. etf tyrannical edicts that had been issued

Ladies. If you wish to see a beautidon't fail to call at, THE WALKER BRO.'S CO.



New Carpets from 25 cents per yards Curtains and Portieres. At AUERBACHS'



went for; he sever said anything to me; I suppose he went there to see the children; there has been but little or no association between the two fami-

Fanny D. Linnell was called and said-I was married to the defendant 14 years ago; he has been at my house to see the children quite often, gene-rally as often as once a week; he has been away during the present year-I without his evidence. do not remember the exact date; could not tell anything about it; he did not tell me where he was going; the has not tell me where he was going; the has hat to the jury, claiming that the de-fendant's conduct had been such as to lead the neighbors to believe that his have to suffer, but that could not be have to suffer, but that could not be year; I went to Ogden with him in May, 1885; I left there in commay, 1885; I plt there in com-pany with him and came back with him; we stopped at a hotel; we had dinner and supper there; I had my meals sent to my room; he did not eat with me; I do not know where he slept; he came into the room with the waiter when the meals were brought watter when the means were brought up; he may have been there in the morning before we went to the train; he did not stay; a year ago-the last summer-we were out driving; it was when my baby was sick; I could not say how many times it was in the sum-

mer of 1585; I have not been out with him since that time; have never been

at the Theatre with him since the 1st of May, 1885; he took me home from there once or twice in company with my sister; he was at my house during the latter part of January-when there

was sickness. To Mr. Rawlins-I remember the time when Mr. Arnold pleaded guilty to anlawful cobabitation. At that time it was understood that we were not to hold the relations of husband and wife any more; since that time he has been there but once at night—when my baby was ill; my family is dependent upon him for a living; he has provided us with a nome; whenever he called it was in the day-time; it was during the illness of the baby that we went out riding with it; it was by the advice of a gbysician that we took the baby out; he took meals there, at my invitation, to meet and talk with the children; the time he stald all night was when the baby was sick; he sat up with it; time when Mr. Arnold pleaded guilty baby was sick; he sat up with it; sometimes when he called he never entered the house; his visits were on business, and to look after the children: there has never been any association batween the two families; could not say what the exact date of the visit to Ogdea was; he asked me if I would like to go to Ogden, and I told him yes; he was only in my room on the occa-sions mentioned in my an wers to Mr. Dickson; have never lived with the de-Dickson; have never fived with the de-fendant as his wife since the 1st of May, last year. To Mr. Dickson-He may have ac-

companied me to the depot when we went to Ogden and drove me home

when we returned. Alicia Arnold testified—The defen-dant is my father; I have lived at my mother's during the past two years; father has been home every night, save one, whenever he was in the city, and that was when he stopped at the other house-the occasion of the child's sickness

Eliza Gardner was the next witness. She said: I live in the Fourteenth Ward; know Fauny Arnold; my residence is three blocks away from her place; previous to two months ago I lived close to her house-next door; I know defendant; have been acquainted with him two years; I saw him at Fanny Arnold's frequently during last summer-could not say how often; he was there sometimes in the afternoon and other times in the morning; have been in the house since the 1st of May, 1885, and have seen defendan; there; have pever seen the defendant there at night; he usually went in the back door, and came out the same way; the house fronts on the street; have seen Mr. Arnold there during the present year. To Mr. Bawlins-He came to the house the same way visitors usually

Fanny D. Arnold was recalled by Mr. Dickson and said-I invited the defendant to come and take meals with

with him on several occasions, and It might be true that innocent children sometimes stayed over night. were compelled to suffer, but that could not be prevented. As for the woman suffering, she knew when she Mr. Rawlins stated that the defense had one other witness whom they

married the defendant that it was a felony, and must bear the suffering therefor. They both committed the deed and must bear the cross, however wished to introduce-Dr. Benedict; Capt. Greenman had been looking for him but had not succeeded in finding It was learned that Dr. Benedict was at South Jordan, so the defense rested heavy it might seem. It had been said her life was not worth living when she was deprived of a husband, but she only had herself to blame for the pain they suffered.

relations with his former plural wife had not terminated. Mr. Dickson did not believe the defendant bad kept his promise to obey the law and abandon bis second wife for but that made no difference. It 24 hours. Deputy Franks had watched might be, as suggested by Mr. Rawlins, him visit the plural wife on two even- that the District Attorney might be him visit the plural wife on two even-ings in January. The conduct of the defendant, as shown by the evidence,

was such that the jury should convict tim. Mr. Rawlins said the defense had some requests to make of the Court in They wanted, the following instructions given: Converted and shake hands with trait-ors. If he did he should be the law. He did not want the defendant convicted for visiting his sick children. It was not necessary for him to do as he did. He might out riding, and not gone gone himself. If he had only visited the house when

1. Cohabitation in the sense of the law means to live or dwell together as husband and wife, and before you can find the de-fendant guilty, you must be satisfied from the evidence beyond a reasonable doubt, that the defendant, while living with his lawful wife. Alicia Arnold, also lived or dwelt with Fanny Dora Linnell, within the period mentioned in the indictment, ashis wife.

been sometimes known as or called Mys. Arnold, you should find the defendant not guilty. 4. If you find that the defendant merely visited the house of Fanna Dora Linnell for the purpose of seeing or inquiring after the welfare of her or his children, or ascertain-ing their wants, but not for the purpose of marital association or holding her out or acknowledging her as his wife, and that he did not hold her out or claim, her as such, you should find the defendant not guilty. 8. The word visit, according to its ofdi-nary and usual signification, means to keep up the interchange of civilities; to practice going to see others. 6. If you should find that the defendant passed aright at the house of Fanna Dora Linnell, in caring for and nursing a sick child, the circumstance ought not to be

sion that the relation of husband and wife was still maintained. The jury might say that when the woman or her

Linnell, in caring for and nursing a sick child, the circumstance ought not to be considered against him. 7. The jury should not convict the de-fendant unless you find beyond a reason-able doubt that the defendant within the time specified in the indictment, lived with or held out as his wife Fanny Dora Pincell. What is meant by holding out in this zense is such language and conduct on the part of the defendant as would lead the world to believe that the parties were associating and living together as husband and wife. children were sick he might visit them, but not at any other time. He could provide for them when in health, could provide for them when in health, but must abstain from visiting them while they are living with their mother. He could send his lawful wite and have her bring the children to him, where he could give what case he chose, but that was as far as he could be permitted to so unless he bad the unlawful merriage

Mr. Rawlins said the Supreme Court go unless he had the unlawful marriag, annulled. The law was not aimed a had fixed the meaning of the word co-habitation as dwelling together as busband and wife, and this definition annulled. The law was not aimed at meretricious intercourse, but to break up the polygamous household, and put away the semblance of polygamy fiom this community. Young people growing up in Utah could not learn to respect the monoga-mous home if the polygamous home was permitted to exist by its side. It was the evil example of polygamy that was sought to be removed, and the status of the polygamous family must be dissolved. In the present case there was no evidence that there had been had a special bearing on this case. The defendant had disavowed his relation with the polygamous wife, and had on-ly visited his children. It would be ny interasonable to say this constituted a crime. The children were legitimate, having been made so by the Edmunds law. Because the polygamous wife had been called Mrs. Arnold was not a had been called Mrs. Arnold was not a reason for conviction, for ithe defend-ant could not help that. He had ceased to claim her as his wife. A public avowal of this act had been made in Court, thereby removing all possibili-ties of leading people to believe that they still maintained the relation of husband and wife. There was no habit and repute of marriage in the case on was no evidence that there had been any change in the manner of living after the defendant made the desired prom-Mr. Sheeks corrected Mr. Dickson this statement, but the latter reas-The District Attorney said the visit Ogden within a month of the time of and repute of marriage in the case on

trial In addressing the jury, Mr. Rawlins argued that the agreement between the defendant and his polygamous wife, and the former's promise made in court, dissolved the polygamous rela-tion existing between them. Their children, however, were legitimate In addressing the jury, Mr. Rawlins

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