A SUITABLE ESTRAY LAW NEEDED.

A NEW estray law is greatly needed in this Territory, which shall be valid, and of a character to suit the requirements of the people. The present law is bungling in construction, and unsatisfactory in its operations. In addition to its other defects it is open to the charge of being unconstitutional in its method of confiscating private property—unclaimed estrays—to a public use, viz., the benefit of common schools, without compensation to the owner; and there was lately rendered by Judge Zane a decision invalidating the provision which empowers appraisers to fix the amount of damages done by trespassing stock. To determine the amount of damages, in a legal action, is a judicial act, which can be performed only by a court provided for by the laws of Congress relating to this Territory. The Territorial Legislature is powerless to confer judicial functions on any person, officer, committee or board, no matter by what name known, or for what purpose constituted. All of the judicial power of this Territory or which can lawfully be exercised within it, vests exclusively in the courts.

This position is in harmony with sound logic, and has been repeatedly affirmed by the courts. Notwithstanding this, a bill was introduced into the House on the 17th inst., by the live stock committee, amending the present estray law, which retained the unconstitutional feature of giving judicial powers to appraisers, and the questionable one of confiscation.

The estray law, like the school law, has not heretofore received the intelligent consideration from our legislators which it requires. In framing a statute designed to cure existing defects in it, provision should be made for the owner of trespassing animals and the party damaged to settle if they can and will; and to refer the matter to the justice of the peace of the precinct in case legal proceedings become necessary. If, however, the amount claimed as damages should equal or exceed $100, the case would have to go to the District Court direct, if the parties failed to agree.

This question of estray and trespassing animals involves grave considerations of constitutional law and public policy, and is no trifling matter to be disposed of by means of a few sections of a statute, drawn hastily and carelessly, and without due regard for the important and fundamental principles underlying it. Practically the Territory is now without an estray law which covers the ground required to be covered, a vital feature of the present law having been held to be void, and there being good reason to believe that other portions would be so held if tested. But to leave the people without a law upon so important a subject would be a serious neglect of duty on the part of the Legislature.

Could not the live stock committee of the House glean from the accumulated wisdom and experience of other and older communities, as expressed in their statutes and judicial decisions, material for an estray law which would be valid in all its provisions, and yet meet the ordinary requirements of our Territory? If the committee have not time to do this, the Assembly would undoubtedly grant a request for permission to employ the necessary legal or other assistance.

To amend the present estray law would be like mending an old garment with new cloth, or putting new wine into old bottles. A new, complete, simple and consistent statute is wanted, which the agricultural community can understand and comply with, and which shall be equitable in its operations.

DISPOSAL OF PUBLIC FUNDS.

FUNDS derived from taxation are public; every taxpayer has an equitable interest in them; they should be devoted to public uses only; none but public officers should have charge of the disbursing of them, or of the applying of them to the purposes designated by legislative will.

The correctness of these doctrines will scarcely be contested, but they operate in a manner which is opposed to a proposition that is being urged upon the present Assembly with great ardor, and in the potent name of philanthropy. We refer to the petition which asks an appropriation of $15,000 for the Orphans' Home and Day Nursery.

This institution is nothing more nor less than a private charity, and however laudable its objects, and however worthy of support it may be, it would be contrary to well-settled public policy to make to it an appropriation of public funds. Public money devoted to private charities would be disbursed and applied by persons who would in no sense be public officers or servants, nor would they be under the control of the Legislature. Hence the taxpayers would have no protection nor remedy against being wronged by a misuse of their money.

If one private charity has a claim upon the territorial treasury, so has another, and where will the end be found? The first of such an endless succession of like appropriations as would be asked for were a precedent established, should not be made. The ideas of His Excellency Governor West, upon this point, as expressed in his message, are correct, and worthy of endorsement by the action of the Assembly.

But as an end of controversy regarding this matter, it should be sufficient to call attention to the Act of Congress of June 30th, 1886, which prohibits Territorial legislatures from passing special laws of the character which an act would bear, that would appropriate any sum to a designated institution like the one in question. If the Legislature desires to make an appropriation for the relief of orphans, or working mothers or their children, it must do so by a general law, applicable throughout the Territory. This applies also to the petition now pending in the Assembly, asking an appropriation to three of the hospitals of the city.

WERE THERE TWINS?

THE following special from Omaha to to the Denver *News* suggest a curious and plausible theory by which to account for the wonderful record claimed to have been made at the late pedestrian contest in Madison Square, New York:

"Charles D. Bibbin, the well known sporting man of this city, and who has always been greatly interested in pedestrian contests and like athletic sport, and who is the principal backer or Prince in the great $30,000 bicycle race, soon to take place with McCurdy, telegraphed to New York parties last night that he would bet $5,000 to $2,000 that Albert did not walk 621 miles at the recent match, and furthermore, that he could not walk 550 miles in six days. Mr. Bibbin strongly suspects that crooked work has been done, and that the referee, contestants and spectators were tricked. Mr. Bibbin claims to know how the trick could be successfully worked, but declined to expose it at present.

He also states that Al. Smith, who managed the affair, knows now it can be done, but is positive that Smith is innocent of abetting the fraud. In response to a telegraphic inquiry yesterday from Mr. Bibbin, Smith wired back that he never saw Albert before the match, and never spoke to him in his life.

Some two or three years ago certain sporting men were approached by a stranger, who proposed the following scheme:

He said he knew twin brothers who resembled each other so closely that the one's identity was established by the other. When apart no one, not even intimate friends, could tell one from the other. He further stated that they were already fair walkers and then asked:

"Why could not one of the brothers be secretly carried into the dressing room of his brother, (in a large trunk, for instance,) and when the one retires from the track let the other take his place? In that way both of them could be always fresh and could break all records. The pool rooms of the entire country could be worked and the winnings of the backers be unlimited."

This scheme was considered a most excellent one, and the two men were brought to Omaha where for nearly a year they were in constant training. The resemblance between them was wonderful, and it seemed that detection would be impossible. Finally some rupture occurred between the twins and the sports who were backing them. They left Omaha and also left $2,000 indebtedness. Neither one has been seen here since. It is now believed in sporting circles that the two brothers worked the snap at Madison Square Gardens last week."

FROM MONDAY'S DAILY, FEB 20, 1888.

A. H. Cannon Arrested.

This morning Abram H. Cannon was notified to appear before Commissioner Norrell, at 10 o'clock, to answer to the charge of cohabition. He presented unlawful t the appointed time, who himself a tion of the case was ord n a continua m. on Friday next. ered till 10 a

A Satchel Stolen.

Between the hours of eight and eleven o'clock this morning, a medium sized, black valise was taken from a buggy in the Tithing Yard. It was the property of Alexander Bills, of South Jordan, and contained a change of clothing, some books used for studying book-keeping, a small bible and a small dictionary; a gilded horse shoe, and a number of other articles. The books bear the owner's name. It may be left at this office, and no questions will be asked.

Decided Against Calton.

One of the decisions rendered in the Territorial Supreme Court on Saturday afternoon was in the case of Andrew Calton, who shot and killed Michael Cullen on the 14th of July, 1887. He was tried before Judge Boreman, and on conviction was sentenced to be shot on the 26th of November last. An appeal was taken to the Territorial Supreme Court, which now sustains the action of the court below, Judge Henderson dissenting from the decision. A writ of error was applied for, and as the case will be carried to the United States Supreme Court, sentence has been deferred until the highest tribunal disposes of the matter.

At Liberty Again.

We were pleased to greet Brother Alexander Bills, of South Jordan, this morning, who, after serving a five months' term of imprisonment and paying fine and cost of suit amounting to $154.40 for having and acknowledging two wives, had just emerged from the penitentiary. He is feeling well, and will doubtless appreciate the degree of liberty he will now be permitted to enjoy all the better for having been deprived of it. The brethren who are now confined in the penitentiary are now reported to be in good health generally, and enduring the trials of prison life with that patience and cheerfulness which characterize true Saints under all circumstances.

Third District Court.

Proceedings before Judge Zane today:

John C. Cutler vs. Millard Annett; demurrer overruled.

A. Milton Musser vs. Salt Lake & Fort Douglas Railway; two cases; ten days additional time allowed defendant to answer.

H. S. Young et al. vs. Ellen Smith et al.; Ellen Smith appointed guardian *ad litem* for minors.

United States vs. Wm. R. Smith; defendant withdraws plea of not guilty and pleads guilty: sentence set for March 31st, at 2 p.m.

Crescent Mining Company vs. N. B. White et al.; thirty days to file answer to supplemental complaint.

J. R. Nichols vs. N. B. White et al.; same order.

The People vs. Michael McLaughlin; selling liquor on Sunday; on appeal from the justice's court; motion to dismiss on the ground that the justice held court in a precinct other than that for which he was elected; further time allowed for argument.

UTAH'S CAUSE.

Presentation Before the Senate Committee on the Appeal for Statehood.

WASHINGTON, D. C., February 18. [Special.]—By invitation of the Senate committee on territories, arguments in behalf of the admission of Utah were made today.

HON. F. S. RICHARDS,

chairman of the delegation of the constitutional convention, made the opening, briefly summarizing the facts regarding the extent of Utah's territory, the population, wealth and prosperity. He rapidly sketched the circumstances attending the settlement of the valley of Salt Lake, and contrasted the barren and inhospitable condition of forty years ago with those of today, in a land redeemed from sterility. Entering upon the main subject, he stated this was the fifth time the people had made application for admission to our Union. Heretofore each application had been met by the objection that polygamy was not prohibited and assurances were always given that but for this Utah would be admitted. This time this objection could not be made, because the constitution approved by the people forbade polygamy and made polygamous marriages criminal offenses. He quoted provisions from the constitution and elaborately discussed every phase of the objection made thereto in so doing from the revelation concerning celestial marriage and showed from it that plural marriages were permissive. The comparatively few persons who had taken more than one wife was proof to the effect that the monogamic Mormons generally did not regard the revelation as mandatory. There only about one per cent. of the male population now actually polygamous, and all these were disfranchised; and only monogamic Mormons took part in political affairs. Each objection which has been made to Utah's admission was taken up seriatim and answered by Richards, who not only showed how the Mormons could consistently enforce the provisions against polygamy, but solemnly declared that it was their purpose so to do in the event of Utah's admission. He declared that the constitutional convention, in dealing with polygamy or bigamy, had no purpose of subterfuge in their minds and showed that a celestial marriage was one for time and eternity, applying as well to the wedding of one wife as to many. The convention was dealing with a question fully understood by its members and by forbidding polygamy or bigamy meant to, and did, prohibit under the pains and penalties prescribed, every kind of polygamous marriage.

Richards spoke two hours and a half, and replied happily and satisfactorily to a multitude of questions propounded by members of the committee.

Senators privately expressed themselves to the effect that it was a most masterly presentation of Utah's case. It was eloquent, logical and conclusive.

EX-SENATOR M'DONALD

followed Richards, dealing particularly and ably with the legal points and precedents involved in the proposed compact between Utah and the United States in regard to the amendment of the Constitution. Like all of McDonald's legal efforts, it was cogent and eloquent. He traversed the entire history of the question of admission of states and clearly showed how the provision in Utah's constitution was in harmony with many precedents made in the cases of the admission of other territories as states.

DELEGATE CAINE,

in his argument, boldly met the two principal issues raised by the opponents to Utah's admission, the alleged insincerity of the Mormons and the question of Church and State. Nothing could have been more complete than his refutation of these issues. He spoke about forty minutes and every word was to the point. He was especially happy in dealing with the point that all legislation by Congress was alleged to be for the purpose of reformation, and in refuting the statement of the insincerity of the Mormons dealt Baskin hard knocks.

HON. J. M. WILSON,

in closing, discussed the whole history of the Mormons in Utah, and after eloquently portraying what they had accomplished, declared that it was preposterous to claim that a people who had accomplished such wonders were depraved and immoral. The enemies of the Mormons were not sincere in their professions or else they would hail with joy the proposed admission of Utah under a constitution forbidding polygamy. To war against the Mormons after they had put themselves in line with public sentiment was simply to raise a religious test of the question. He insisted that the faction in Utah which opposed admission under the proposed constitution would be satisfied with nothing short of the disfranchisement of the Mormons because of their religious faith. Mr. Wilson's argument was throughout able, eloquent and conclusive, and in discussing the legal propositions as in narrating the facts, he was alike happy. His representation of Utah's side was most able and complete. The fact that an impression was made on the committee was most apparent.

DELEGATE DUBOIS,

of Idaho, at the close of Mr. Wilson's argument, asked permission to be heard, which was granted. He spoke for some time, and indulged in abuse and villification from beginning to end, not attempting to answer a single point in the argument in favor of admission of Utah, nor setting forth one fact for which she should not be admitted. He confined himself strictly to rehashing stale slanders, about the Mormons. He did not do the anti-Mormon cause any good. The contrast between Dubois' rant and the dignified argument of Richards was very great and it was apparent with whom was the respect of the committee.

Richards will reply to Dubois hereafter.

FRIGHTFUL ACCIDENT.

A Two-Year Old Child Cut to Pieces by the D. & R. G. W.

On Wednesday, the 8th of the present month, a shocking and fatal accident occurred at West Jordan, ten miles south of this city, by which a two-year old girl was cut in two and almost instantly killed by a D. & R. G. W. Railway train. Carl Andriason and his family have a small home at West Jordan, about 50 rods west of the D. & R. G. W. station at Bingham Junction. On the afternoon of the day named, Mrs. Andriason's little daughter, Hilda Maria, was out in the yard with her mother, and started for the house, as was supposed. Instead of going inside, she went out on the street and towards the schoolhouse on the opposite side. The street is a narrow one, and in the centre is the D. & R. G. W. track to Bingham, the grade toward the river being quite heavy.

The unfortunate child had not been away from her mother more than two or three minutes, when a train of three loaded ore cars and a locomotive came down the grade, backing, at about nine miles per hour. As it approached the schoolhouse two boys on the front car saw the child on the track a short distance ahead, and apparently too frightened to get from between the rails. They signaled the engineer, who applied the brakes, but almost at the same instant the first car caught the little one and threw her on the rails. The entire train passed over her body, at the hips, mangling it horribly.

The accident was observed by a number of school-children, school being in session at the time, and they came trooping out and beheld a terrible scene. Mrs. Andriason came to look for her babe as soon as she discovered that it was not in the house, and got on to the street just as the train passed over it. She rushed frantically forward and grasped the child, carrying the bleeding form into the house. Then she discovered that she had picked up only the trunk of the body. One leg and the entrails were left on the track, from which other parties gathered them into a pan and conveyed them to the house.

The father had left some time before for his work at a smelter. A messenger was dispatched after him, to convey the sad tidings, and it was a couple of hours before he got back to his home. In the meantime, an inquest had been held and the testimony of a number of eyewitnesses taken. The coroner's verdict is as follows:

TERRITORY OF UTAH,
Salt Lake County,
West Jordan Precinct.

An inquisition holden at West Jordan, in West Jordan Precinct, Salt Lake County, on the 8th day of February, 1888, before Isaac Harrison, justice of said precinct, upon the body of Hilda Andriason, there lying dead, by the jurors whose names are hereto subscribed.

The said jurors upon their oaths do say that the said Hilda Andriason was killed by cars owned by the Denver & Rio Grande Western Railway, and that it was purely accidental, no blame being attached to the railway employes.

In testimony whereof the said jurors have hereto set their hands the day and year aforesaid.

ALLAN HALL,
JOSEPH MILLS,
W. M. BATEMAN,
Jurors.

The funeral took place on Friday, February 11th. The family are plunged into grief over the terrible affair, and Mrs. Andriason is especially seriously affected. Every time a train passes the strain on her seems so great as to be beyond her powers of endurance, and the bad effects do not appear to get less as time elapses. The bereaved family have the sympathy of the entire settlement where they live.

THE LEGISLATURE.

COUNCIL.

Feb. 16, 1888.

A communication was received from the Governor notifying the Council that he had approved C. F. 14, relative to gaming, and C. F. 15, revising the code of civil procedure.

A message was received from the House notifying the Council of its non-concurrence in the Council's amendment to H. F. 17, relating to appeals. The Council refused to recede from its amendment, and the House was notified.

Howe presented C. F. 28, a bill providing for the organization and prosecution of a geological survey of Utah. Referred to the committe on agriculture.

Bryan introduced C. F. 29, a bill to prevent and suppress the spread of contagious diseases among animals in Utah Territory. Referred to the committee on public health.

Bryan also presented C. F. 30, a bill for an act providing that county recorders shall administer oaths and affirmations. Referred to committee on judiciary.

H. F. 27, on barbed wire fences, was called for second reading, but at the request of Bryan, was postponed until Monday because of the absence of Mr. Tuttle.

H. F. 20, a bill providing for the removal of county seats, was then called up for second reading; read by sections, amended and filed for third reading.

The substitute for H. F. 33, a bill providing for the removal of dead animals, was read, amended and passed.

A communication was received from the House notifying the Council that it insisted on its disagreement on the appeals bill, and asking a conference committee. The president appointed Young, Marshall and Shurtliff such committee on the part of the Council.

Substitute for H. F. 35, providing for the selection of jurors, was read and passed.

H. F. 33, a bill providing the manner of determining disputed county boundary lines, was read by sections, amended and referred to the committee on counties.

At 3:20 the Council adjourned till 2 p. m. tomorrow.

Feb. 17th, 1888.

Olsen, from the committee on claims, recommended that the sum of $300 be appropriated as compensation for services to the commissioners to locate university lands, to cover the past two years, and $400 for contingent expenses. The report was adopted and referred to the committee on appropriation.

Woolley, from the judiciary committee, reported on H. F. 51, a bill regulating civil procedure in cases of eminent domain, recommending its passage. The report was adopted, the bill read by its title and filed for second reading.

Woolley reported on C. F. 30, providing that recorders shall administer oaths, etc., recommending its passage. The report was adopted and the bill filed for second reading.

H. F. 51, revising civil procedure was read the second time, amended and under suspension of the rules, passed.

C. F. 30 was then called for second reading and subsequently passed under a suspension of the rules.

Bryan presented C. F. 31, a bill to prevent incumbents of public officers from being elected to the Legislature. Referred to the committee on judiciary.

Bryan presented C. F. 32, to prescribe the amount of compensation for the services of municipal and county officers. Referred to the committee on judiciary.

H. F. 20, providing for the removal of county seats, was called for third reading. On motion of Bryan it was postponed until Monday in order to give time for further consideration.

On motion of Marshall the Council adjourned to Monday at 2 p.m.

LONDON, Feb. 17.—At the parliamentary election at Southwick today, the Gladstonian candidate was returned by a large majority.