Sept. 27

THE DESERET NEWS.

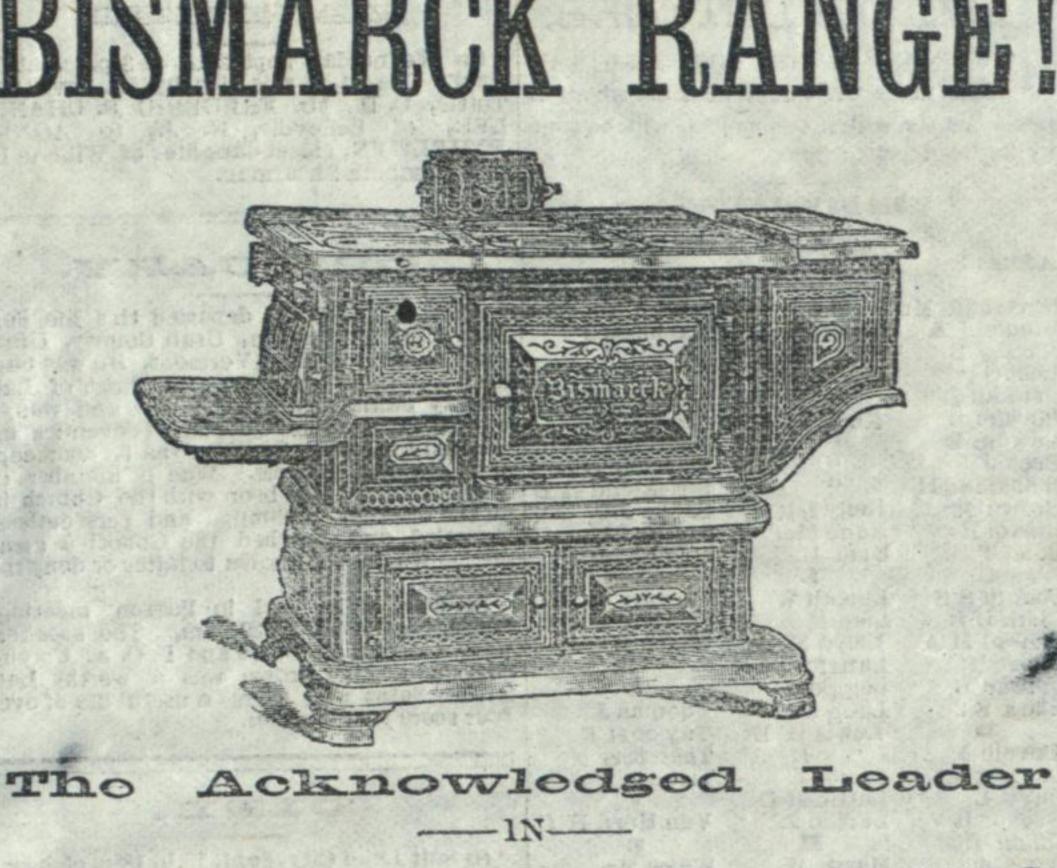
the Territory should extend to all court of record their intention to be-rightful subjects of legislation, con- come such, and have taken an oath have been resident in the Territory sistent with the Constitution of the to support the Constitution and gov- six months. United States and the provisions of ernment of the United States. that Act. It has been repeatedly "Second. There shall be no denial of the words, "or who is the wife, declared that the power given by of the elective franchise or of holdthe above grant was extremely ing office to a citizen on account of broad. It will not be denied that race, color, or previous condition of States," is an attempt to condetermining who shall be electors, servitude." and upon what terms and conditions | The third and fourth subdivisions who, by the laws of the United the right or privilege of suffrage refer to officers, soldiers, and seamen shall be exercised is a rightful sub- of the avmy and navy, and are not ject of legislation. In fact the Or- necessary to recite here. ganic Act made this a duty of the If I understand the objection of newly organized Territory in order counsel for the defendants it is that to carry out and effectuate the there are no limitations in the latter purpose for which it was organized. section, to which the expression, The question then is, is the Act un- "Subject, nevertheless, to the followder consideration contrary to the ing limitations specified in the next express words or intent of the grant section," in the former section could of power? If in the Act of 1870 the refer, and that it did and must refer right is limited to citizens of the to male citizens in that section. United States, it is not contrary to In sec ion 18 9 Congress fixes the the express words in the grant of qualifications of all voters in Territo power, for the only express limita- ries thereafter to be organized, for tion is contained in the proviso, and the first election only, and with the that is to citizens of the United limitations in the following section, from doing. States.

Legislative Assembly to fixing the who have declared their intenforced construction, and that we tional "oath to support the Consticould with equal propriety say that tution and Government of the the restriction extended to those who United States," and does not in. qualifications of the electors for the additional oath of allegiance. upon citizens of the United States | tion of a general revising power. only." class, as well as to point out the per- ready organized, to ma'e citizens, al voters.

all possessing these qualifications It is contended that the sentence are entitled to vote. And because "but the qualifications of voters and Cougress specifies who shall comof holding office at all subsequent pose the first electors, the word rights, of a natural born cilizen. In elections shall be such as shall be "imitations" is very properly used prescribed by the Legislative As- in referring to the provisions of fer to this act which results in citisembly," refers back to the first the next section. The first tim. zenship as something done by the in. part of the section, and restricts the litation in that section is upon those qualifications of the class there men. tion to become citizens, and the naturalization. The law which makes tioned, namely, "male inhabitants " right to vote at the first election is a foreign born woman a citizen by As by the XV amendment to the limited to those of that class, who, Constitution the words' free white" in addition to the oath required by must be considered as stricken out, law to be taken upon a declaration this seems to me a strained and of intention, should take an addiwere residents of the Territory at clude those who have simply dethe time of the passage of the Or- clared their intention or taken out ganic Act. The Congress fixed the their first papers without taking the first election, and these were that The voters at the first election are they should be males, citizens of the further limited in the third and United States, over 21 yeas of age fourth subdivisions of section 1860. and residents of the Territory. Af. But it seems to me that a complete ter that election and until the Legis- answer to the criticisms of counsel lative Assembly acted, no person in may be found in the fact that secthe Territory had a right to vote, tion 1859 applies only to Territories lawfully naturalized. and the Legislature was left free which should thereafter be organiz. The "wife, widow, and untrammeled to determine who ed, and consequently does not apshould vote and under what con- ply to this Territory. Section 1860 ditions that privilege should be ex- contains a grant of power only as is ercised, provided it was conferred therein stated and by the reserva-I find nothing in this section The word "qualifications" in this which prohibits the Territorial Asconnection must be given its usual sembly from conferring the elective and natural signification, as used by franchise upon females who are law writers. In State Constitutions citizens of the United States. ordered. and statutes, as well as among the Neither do I find anything in Seclaw writers and in judicial decisions | tion 1859 which shows an intention ALC: NO. YOR CONSTRUCTION OF THE OWNER it is used with reference to the elec- on the part of Congress to conflue tive franchise, to distinguish the the right to vote in Territories alsonal requirements of the individu- It is further claimed, that if the Territorial Assembly possessed the For the Legislative Assembly to power to confer the elective franconfer the elective franchise upon chiss upon women, the act passed females is not, in my opinion, the for that purpose fails to do so for express words or intent of the Or- One objection is, that the act of ganic Act, but it is entirely within 1870 confers the right to vote upon years Parker's Ginger Tonic has the grant of power conferred by female, upon different terms than that applied to males, in that the It is further contended that the latter are required to be taxpayers Territorial Act is contrary to the while the former are not. Even if terms and intent of section - 1859 this should be found to be the fact I and 1860 of the Revised Statutes of cannot think that this would invaliand found among the provisi ns ap. The Legislative Assembly proplicable to all the Territories, and posed to confer this privilege upon a. ger Tonic can perform such varied which provisions take the place of new class, not heretofore enjoying cures, thinking it essence of ginger, it, and in the ab-ence of any intubi- when in fact it is made from many If this objection shall, upon ex- tion to the contrary in the laws of valuable medicines which act beneamination, be found to be true, of Congress, I think they were at fleially on every diseased organ. w. course the Territorial Act must liberty to do it upon such terms and give way, because the ac's of Con- conditions as to them might seem gress, as far as the Territories are reasonable and just, so far at least concerned, are supreme and para- as no constitutional or organic rights of the males in the premises The sections referred to are as fol- are restricted or abridged. I think it would have been com-"Section 1859. Every male citizen petent for the Territorial Assembly above the age of 21, including per- to have enacted that all female / sons who have legally declared their citizens of the United States over intention to become citizens in an the age of 21 years, who could read Territory hereafter organized, and and write in the English language, who are actual residents of the Ter- should vote, although this educaritory at the time of the organization | tional qualification is not required the first election in such Territory It is a ked, what words of the Terand to hold any office therein; sub- ritorial Act of 1859, fixing the quaiject, nevertheless, to the limitations | ifications of male voters, are repeal-

It is further claimed that the use widow, or daughter of a native born or naturalized citizen of the United for the privilege upon those States, were not entitled to it. and that the previous words, "born or natural zed in the United States," includes all, who could by any possibility exercise the right; that is, it includes all who are citizens of the United States. The Legislative Assembly could not confer the right to vote upon any one not a citizen. In construing this act we must apply to it the same rule that we would in construing any act of the Legisla ture, or the act of any Legisla ure, and not start out with the presumption that they attempted or intend ed to do what they were prohibited

Strictly speaking, naturalization is the act of placing an alien in the position, or investing him with the the ordinary use of the word we redividual in court, and in conformity with the law upon the subject of the fact of her marriage is not found among the laws upon the subject of naturalization. Having used the words, "born or naturalized in the United S ates," it might be claimed, with some show of reason, that it excluded all those who were not native born, or had not themselves appeared in Court and been naturalized in accordance with the laws upon the subject; hence they use these words so as to include all of this class The wife of every citiher residence, provided she belongs to that class of people who could be The "wife, widow, or daughter," mentioned in the Act, who are granted the elective franchise, are those who within the intent and meaning of the statute are citizens of the United States. The act does not attempt to confer the right upon those who are not citizens. The demurrer to the petition is over ruled and a peremptory writ is P. H. EMMERSON, Judge.



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RANGES STATES. UNITED FOR THE

exercise of a power contrary to the several reasone. that act. the United States, passed in 1874, date the law. the Organic Act. mount.

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lows.

thereof, shall be entitled to vote at of the males. specified in the next ection.

rection the next ection. "Eection 1860, At all subsequent in the any particular words or is a solution of the main in its effects and is a solution in the effects and is a solution is a solution in the effects and is a solution is a solution in the effects and is a solution is a solution in the effects and is a solution is a solution in the effects and is a solution is a solution in the effects and is a solution is a solution in the effects and is a solution is a solution in the effects and is a solution is a solution in the effects and is a solution is a solution in the effects and is a solution is a solution in the effects and is a solution is a solution in the effect is a sol elections, however, in any Territory any set of words are repealed by the Also excellent for human desh. hereafter organized by Congress, as Act of 1870, but I do know that FROM A PROMINENT PHYSICIAN. Scutt's Four Barbed Steel Fencing Wire. well as at all elections in Territories whatever words there are in the ct Washingtonville, Ohio, June 17th, 18:0. DR. already organized, the quai fications of 1859 which are restrictive, confin-B. J. KENDALL & Co., Gents:-Reading your of voters and of holding office shall ing the right to vote upon males advertisement in Turf, Field and Farm, of be such as may be prescribed by the only, are so movified and controlled your Kendal's Spavin Cure, and having a GAW MILLS. COOPER Legislative Assembly of each Terri- by the Act of 1870 that the right to lame from spavin for eighteen months, I sent valuable and speedy Horse which had been tory; subject. nevertheless, to the vote is no longer confined to male to you fr a Loule by express, which in su following restrictions on the power citizens. weeks temoved all lameness and enlargement Inowles' Steam Pumps, Ames' Pertable Engines. Leffel Turbine Wheels and a large splut from another horse, and of the Legislative Assembly, name- It is further claimed that the Act both horses are to-day as sound as colts. The is void because it attempts to confer one bottle was worth to me one hundred dolly: A Large and Com plote Stock always on hand, First. The right of suffrage and this right upon those who are not lars, Respectfully yours, H. A. BERTOLETT, M. D. of holding office shall be exercised citizens, and are not twenty-one FOR BALL AT LOWEST PRICES AND ON LIBERAL TERMS. only by citizens of the United States | years of age, and without restrictions Send for illustrated circular giving positive above the age of 21 years, and by in regard to residence. A mere proof. Price \$1. All Druggists have for can GEORGE A. LOWE, those above that age who have de- reading of the Act shows that it get it for you. Dr. B. J. Kenda la Co., Proclared on oath, before a competent'is confined to females who are pretors, Enosburgh Falls, Vt. 15 20

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