WOMAN SUFFRAGE.

Opinion of the Supreme Court of the United States on the Right of Women under the New Amendments to the Constitution to Vote—The Right of Suffrage Never Conferred by the Constitution on Any One.

WASHINGTON, Oct. 4, 1875.

In the case of Virginia L. Minor and Francis Minor, her husband, plaintiffs in error, vs. Reese Happersett, in error to the Superior Court of the State of Missouri, Chief Justice Waite delivered the opinion of the Court. After proceeding to demonstrate that from the foundation of the government of the United States women have been considered as citizens, the learned justice said:—

The Fourteenth Amendment did not affect the citizenship of women any more than it did of men. In this particular, therefore, the rights of Mrs. Minor do not depend upon the amendment. She has always been a citizen from her birth, and entitled to all the privileges and immunities of citizenship. The amendment prohibited the State, of which she is a citizen, from abridging any of her privileges and immunities as a citizen of the United States, but it did not confer citizenship on her. That she had before its adoption. If the right of suffrage is one of the necessary privileges of a citizen of the United States, then the constitution and laws of Missouri, confining it to men, are in violation of the constitution of the United States, as amended, and consequently void. The direct question is, therefore, presented whether all citizens are necessarily voters.

The constitution does not define the privileges and immunities of citizens. For that definition we must look elsewhere. In this case we need not determine what they are, but only whether suffrage is one of them.

It certainly is nowhere made so in express terms. The United States has no voters in the States of its own creation. The elective officers of the United States are all elected directly or indirectly by State voters. The members of the House of Representatives are to be chosen by the people of the States, and the electors in each State must have the qualifications requisite for electors of the most numerous branch of the State Legislature. (Art. 1, sec. 2, Constitution.) Senators are to be chosen by the Legislatures of the States, and necessarily the members of the Legislature required to make the choice are elected by the voters of the State. (Art. 1, sec. 3.) Each State must appoint, in such manner as the Legislature thereof may direct, the electors to elect the President and Vice President. (Art. 2, sec. 2.) The time, places and manner of holding elections for Senators and Representatives are to be prescribed in each State by the Legislature thereof; but Congress may, at any time by law, make or alter such regulations, except as to the place of choosing Senators. (Art. 1. sec. 4.) It is not necessary to enquire whether this power of supervision thus given to Congress is sufficient to authorize any interference with the State laws prescribing the qualifications of voters, for no such interference has ever been attempted. The power of the State in this particular is certainly supreme until Congress acts. The amendment did not add to the privileges and immunities of a citizen. It simply furnished an additional guarantee for the protection of such as he already had. No new voters were necessarily made by it. Indirectly it may have had that effect, because it may have increased the number of citizens entitled to suffrage under the constitution and laws of the States; but it operates for this purpose, if at all, through the States and the State laws, and not directly upon the citizen. It is clear, therefore, we think, that the Constitution has not added the right of suffrage to the privileges and immunities of citizenship as they existed at the time it was adopted. This makes it proper to inquire whether suffrage was co-extensive with the citizenship of the States at the time of its adoption. If it was, then it may with force be argued that suffrage was one of the rights which belong to citizenship, and in the enjoyment of which every citizen must be protected. But if it was not, the contrary may with propriety be assumed.

When the constitution of the United States was adopted all the several States, with the exception of Rhode Island, had constitutions of their own. Rhode Island continued to act under its charter from the Crown. Upon an examination of those constitutions we find that in no State were all citizens permitted to vote. Each State determined for itself who should have that power.

After citing instances of such action on the part of the different States, the opinion proceeds thus—

In this condition of the law in respect to suffrage in the several States, it cannot for a moment be doubted, that if it had been intended to make all citizens of the United States voters the framers of the constitution would not have left it to implication. So important a change in the condition of citizenship as it actually existed, if intended, would have been expressly declared. But, if further proof is necessary to show that no such change was intended, it can easily be found both in and out of the constitution. By article 4, section 2, it is provided that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States. If suffrage is necessarily a part of citizenship, then the citizens of each State must be entitled to vote in the several States. This is more than asserting that they may change their residence and become citizens of the State, and thus be voters. It goes to the extent of insisting that while retaining their original citizenship they may vote in any State. This, we think, has never been claimed. And again, by the very terms of the amendment we have been considering (the Fourteenth), "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in the rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State." Why this, if it was not in the power of the Legislature to deny the right of suffrage to some male inhabitants? And if suffrage was necessarily one of the absolute rights of citizenship, why confine the operation of limitation to male inhabitants? Women and children are, as we have seen, "persons." They are counted in the enumeration upon which the apportionment is to be made, but if they were necessarily voters because of their citizenship, unless clearly excluded, why inflict the penalty for the exclusion of males alone? Clearly no such form of words would have been selected to express the idea here indicated if suffrage was the absolute right of all citizens.

And still, again, after the adoption of the Fourteenth Amendment, it was deemed necessary to adopt a fifteenth, as follows—

"The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color or previous condition of servitude."

The Fourteenth Amendment had already provided that no State should make or enforce any law which should abridge the privileges or immunities of citizens of the United States. If suffrage was one of these privileges or immunities, why amend the constitution to prevent its being denied on account of race, etc.? Nothing is more evident than that the greater must include the less, and if all were already protected, why go through with the form of amending the constitution to protect a part?

It is true that the United States guarantees to every State a republican form of government (art. 4, sec. 4). It is also true that no State can pass a bill of attainder (art. 10, sec. 10), and that no person can be deprived of life, liberty or property without due process of law (Amendments). All these several provisions of the constitution must be construed in connection with the other parts of the instrument and in the light of the surrounding circumstances. The guaranty is of a republican form of government. No particular government is designated as republican; neither is the exact form to be guaranteed in any manner especially designated. Here, as in other parts of the instrument, we are compelled to resort elsewhere to ascertain what was intended. The guaranty necessarily implies a duty on the part of the States themselves to provide such a government. All the States had governments when the constitution was adopted. In all the people participated to some extent through their representatives elected in the manner specially provided. These governments the constitution did not change. They were accepted precisely as they were, and it is, therefore, to be presumed that they were as it was the duty of the States to provide. Thus we have unmistakable evidence of what was republican in form, within the meaning of that term as employed in the constitution. As has been seen, all the citizens of the States were not invested with the right of suffrage. In all, save perhaps New Jersey, this right was only bestowed upon men, and not upon all of them. Under these circumstances it is certainly now too late to contend that a government is not republican, within the meaning of this guaranty in the constitution, because women are not made voters. The same may be said of the other provisions just quoted. Women were excluded from suffrage in nearly all the States by the express provisions of their constitutions and laws. If that had been equivalent to a bill of attainder certainly its abrogation would not have been left to implication. Nothing less than express language would have been employed to effect so radical a change. So also of the amendment which declares that no person shall be deprived of life, liberty or property without due process of law, adopted, as it was, as early as 1791. If suffrage was intended to be included within its obligations language better adapted to express that intent would most certainly have been employed. The right of suffrage, when granted, will be protected. He who has it can only be deprived of it by due process of law, but in order to claim protection he must first show that he has the right.

But we have already sufficiently considered the proof found upon the inside of the constitution. That upon the outside is equally effective. The constitution was submitted to the States for adoption in 1787, and was ratified by nine States in 1788, and finally by the thirteen original States in 1790. Vermont was the first new State admitted to the Union, and it came in under a constitution which conferred the right of suffrage only upon men of the full age of twenty-one years, having resided in the State for the space of one whole year next before the election, and who were of quiet and peaceable behavior. This was in 1791. The next year, 1792, Kentucky followed, with a constitution confining the right of suffrage to free male citizens of the age of twenty-one years, who had resided in the State two years or in the county in which they offered to vote one year next before the election. Then followed Tennessee, in 1796, with voters of freemen of the age of twenty-one years and upward, possessing a freehold in the county wherein they may vote, and being inhabitants of the State or freemen, being inhabitants of any one county in the State six months immediately preceding the day of election. But we need not particularize further. No new State has ever been admitted to the Union which has conferred the right of suffrage upon women, and this has never been considered a valid objection to her admission. On the contrary, as is claimed in the argument, the right of suffrage was withdrawn from women as early as 1807 in the State of New Jersey, without any attempt to obtain the interference of the United States to prevent it. Since then the government of the insurgent States have been re-organized under a requirement that before their representatives could be admitted to seats in Congress they must have adopted new constitutions, republican in form. In no one of these constitutions was suffrage conferred on women, and yet the States have been restored to their original position as States in the Union. Besides this, citizenship has not in all cases been made a condition precedent to the enjoyment of the right of suffrage. Thus, in Missouri, persons of foreign birth, who have declared their intention to become citizens of the United States, may, under certain circumstances, vote. The same provision is to be found in the constitutions of Alabama, Arkansas, Florida, Georgia, Indiana, Kansas, Minnesota, and Texas.

Certainly if the courts can consider any question settled this is one. For nearly ninety years the people have acted upon the idea that the constitution, when it conferred citizenship, did not necessarily confer the right of suffrage. If uniform practice long continued can settle the construction of so important an instrument as the constitution of the United States confessedly is, most certainly it has been done here. Our province is to decide what the law is, not to declare what it should be. We have given this case the careful consideration its importance demands. If the law is wrong it ought to be changed, but the power for that is not with us. The arguments addressed to us bearing upon such a view of the subject may perhaps be sufficient to induce those having the power to make the alteration, but they ought not to be permitted to influence our judgment in determining the present rights of the parties litigating before us. No argument as to woman's need of suffrage can be considered. We can only act upon her rights as they exist. It is not for us to look at the hardship of withholding. Our duty is at an end if we find it is within the power of a State to withhold.

Being unanimously of the opinion that the constitution of the United States does not confer the right of suffrage upon any one, and that the constitutions and laws of the several States which commit that important trust to man alone are not necessarily void, we affirm the judgment of the court below.—*New York Herald.*

CORRESPONDENCE.

Grasshoppers and Breadstuffs.

PORTAGE, Box Elder Co.,
Oct. 1, 1875.

Editor Deseret News:

I noticed an article while reading your last week's paper, headed, "Take Care of It." This brought me to thinking about bygone days, when the grasshoppers eat us up for several years in succession, which caused us to go hungry, and since that day we have been told so many times to lay up breadstuffs, but have we done it? I think not. The question is, Will we now commence? The destroyer is now on our borders. Malad valley is full of them; they are laying their eggs by the million, and they are traveling south when the wind is in their favor, and when it is not they camp. So you may look for them. How far they extend north I do not know, but the freighters say for hundreds of miles. We have a heavy crop in Malad valley, and the health of the people is generally good, but the grasshoppers make it unpleasant at present.

Your brother in the Gospel,
L. THORNTON.

Napoleon IV, like other modern Princes, is going to take a tour around the world. He cannot take one of his papa's iron clads for the purpose, however, for several reasons.

There is a great "cutting up" of large ranches in California. The owners realize five times as much for their land as could have been done before the subdivision.

More Fall wheat will be sown in Kansas this season than ever before. The acreage will exceed that of last year full twenty-five per cent. The yield of all crops has been enormous, and it is quite common to hear such remarks as "Garden spot of the world," by men who were talking of leaving the State ninety days ago.

THE MOXA.

Not Such a Terrible Ordeal After All.

To the Editor of the Detroit News:

Professional moxadists, perusing the account of "Poor Clara Morris's horrible torture," given in your issue on the 15th inst., cannot but smile at the writer's mode of characterizing that modern adjunct to surgical science, the moxa.

Moved by a desire—with all courtesy—to correct the descriptions given, if not the writer of them, and, further, to inform the minds of your readers, by substituting facts for descriptive errors, I respectfully submit the following: The moxa is not a branding iron! A metallic rod, about a quarter of an inch in diameter, inserted in an ordinary haft, and a hexagonally shaped head compounded of precious metals, about half an inch thick and about two inches long, and you have the moxa, total length about a foot, weight about six ounces, and equal in value to the purest gold. To operate on a patient with this instrument at a *white heat* would *burn, blister* and *scar*, the aim of the operator would be defeated, and the end would be excruciating torture to the victim. The moxa is resorted to in extreme cases only, when there are obstinate muscular contractions and pressure upon nervous fibre which cannot be relaxed by the ordinary means, and prove to be tenacious of all other medical irritants.

Permit me to furnish an antisensational account of an operation and the results to the patient. Nearly three years ago my wife slipped on a piece of ice, fell and severely injured her right shoulder and arm. While suffering from the effects of that fall, we removed from Pontiac to New York City, where I had an engagement. The injured parts growing worse, and the suffering becoming more intense, it became necessary to procure surgical aid. By that it was discovered that there was a dislocation of the collar bone. The bone was set. After the setting of the bone the suffering increased, and an almost total loss of the use of both shoulder and arm ensued, resisting and exhausting all the usual methods of bringing the muscles, tendons and nervous fibre back to their natural action.

Dr. Rusehard, my wife's physician, now took counsel with Dr. McBride, a skillful moxadist, resulting in a proposal to my wife and her friends to operate with the moxa as a last resort. Consent being obtained, a time was appointed for the operation. That the arrangements and surroundings, the ominous appearance of persons and things, and above all, the ignorance of all persons present, save the physician, of the nature of such an operation, are calculated to inspire "fears and tremblings" in certain temperaments, I readily admit. Stripped of clothing sufficient to display the injured parts, and seated on an ordinary chair, my wife appeared the picture of resignation; on one side the glowing furnace, on the other, and in front and around, the friends and the doctors. Amid a painful silence, in which more than one heart beat audibly, Dr. McBride took the moxa out of the furnace, the head a pure golden red, and with surprising dexterity applied it to the eighteen lines indicated on the shoulder and arm. At each stroke a faint hiss broke the silence, but the patient did not wince. The flesh did not burn. The sensations experienced were inexpressible, but not "horrible." The operation was over.

The shoulder and arm became much swollen and highly inflamed. Linen cloths wet with cold water were constantly applied for two or three days, the inflammation abated, and the eighteen stripes of a mild red were plainly distinguishable during six weeks. At the expiration of that period of time, the operation was repeated, nine strokes with the moxa, with the same results as from the first operation. During several months after the operations, the affected parts were vigorously rubbed daily with oils and irritants. With each rubbing every stroke—mark of the moxa—each one from five to seven inches long—gleamed through the unbroken skin, a beautiful carmine tint. Gradually the muscles relaxed, the weakened tendons gained strength, and with their knots of nervous fibres and injured tissues, gained their natural elasticity and entire strength.

And, now, the skin is as clear and