ishment, under the state laws, for a misdemeanor or felony. That either or both may, if they see fit, punish such an offender, cannot be doubted. Yet it cannot be truly avowed that the offender has been twice punished for the same offense, but only that by one act he has committed two offenses, for each of which he is justly punishable. He could not plead the punishment of one in bar to a conviction of the other."

In *U. S.* v. *Cruikshank*, 92 U. S. 542, Mr. Chief Justice WAITE, in discussing the subject of citizenship of the state and the United States, disposes of this question in the following clear statement, that amounts, I think, to demonstration:

"The people of the United States resident within any state are subject to two governments: one state and the other national; but there need be no conflict between the two. The power which the one possesses the other does not. They are established for different purposes, and have separate jurisdictions. Together they make one whole, and furnish the people of the United States with a complete government, ample for the protection of all their rights at home and abroad. True, it may sometimes happen that a person is amenable to both jurisdictions for one and the same act. Thus, if a marshal of the United States is unlawfully resisted while executing the process of the courts within a state, and the resistance is accompanied by an assault upon the officer, the sovereignty of the United States is violated by the resistance, and that of the state by the breach of the peace in the assault. So, too, if one passes counterfeited coin of the United States within a state, it may be an offense against the United States and the state: the United States, because it discredits the coin; and the state, because of the fraud upon him to whom it is passed. This does not, however, necessarily imply that the two governments possess powers in common, or bring them into conflict with each other. It is the natural consequence of a citizenship which owes allegiance to two sovereigns and claims protection from both. The citizen cannot complain, because he has voluntarily submitted himself to such form of government. He owes allegiance to the two departments, so to speak, and, within their respective spheres, must pay the penalties which each exacts for disobedience to its laws. In return, he can demand protection from each within its own jurisdiction."

Upon these authorities and on principle it is clear that the pleas are bad. The defendants have never been tried for the offense charged in this indictment. For either, the state court before which they were tried had no jurisdiction in the premises, and then the proceeding set forth in the pleas was a nullity; or if it had, it was of an offense against the law of the state and not the United States. But, after all, the most serious argument in support of this defense has been the hardship of being compelled to submit to two trials for one act. But that is no defense to the indictment, however much, in a proper case, it might operate to prevent the finding or prosecution of a second one therefor. As was said by Mr. Justice DANIEL in *Fox* v. *Ohio*, *supra*, 435, in reply to the same suggestion:

"It is almost certain that in the benignant spirit in which the institutions both of the state and federal systems are administered, an offender, who should have suffered the penalties denounced by the one, would not be subjected a second time to punishment by the other, for acts essentially the same, unless, indeed, this might occur in instances of peculiar enormity, or when the public safety demanded extraordinary rigor."

And again, it must be born in mind that the policy of the state and the United States may be, and sometimes is, at variance on a given subject. In such case, the former may indirectly hinder or defeat the policy of the latter, if a trial in its courts for a crime growing out of an act which also constitutes a crime against the United States can be used as a bar to a prosecution of the offender in the national courts. For instance, the United States, under the fifteenth amendment, may punish any one who discriminates against the exercise of the elective franchise by another on account of color. *U. S.* v. *Reese*, 92 U. S. 217. But if the state may also declare such an act a crime, it may purposely affix a mere nominal punishment thereto, and thus give any one guilty of such an act an opportunity to seek refuge in its tribunals before the United States can reach him, and by a trial and acquittal therein, at the hands of a sympathizing jury, or the imposition of a mere nominal punishment, effectually prevent the United States from prosecuting the offender in its own courts, and inflicting such punishment upon him as may be necessary to vindicate its authority and maintain its policy in the premises.

Indeed, if a trial and acquittal or punishment in a state court, under such circumstances, is a bar to a prosecution in this court for the crime of which these defendants stand indicted herein, it is difficult to see why a pardon by the governor of the state would not have the same effect. In short, it is impossible that the United States can maintain its paramount authority over the subjects committed by the constitution to its jurisdiction, and at the same time allow a trial in a state court on a criminal charge growing out of an act that congress has defined to be a crime, to be a bar to a prosecution therefor in its own courts and according to its own laws.

The demurrers to the pleas are sustained, and the defendants are put to plead to the indictment, guilty or not guilty.

FLOWER and others *v.* CITY OF DETROIT and others.

(*Circuit Court, E. D. Michigan.* November 17, 1884.)

1. PATENTS FOR INVENTIONS—REISSUE NO. 6,990—CLAIM 1—VALIDITY.
   The first claim in reissued patent No. 6,990, granted March 14, 1876, to Thomas R. Bailey, Jr., for an improvement in hydrants, is not only an expansion of the claim in the original patent, but an attempt to introduce an entirely new invention, neither claimed nor suggested in that patent, and is void for that reason and because of the laches in allowing a period of eight years to elapse before applying for a reissue.
2. SAME—CLAIMS—REISSUE—LACHES.
   The claim of a specific device or combination, and an omission to claim other devices or combinations, are in law a dedication to the public of that which is not claimed. The legal effect of a patent cannot be revoked unless the patentee, with all due diligence and speed, surrenders it and proves that