1871, that the Territorial Attorney-General had sought to obtain a grand jury in the Third District Court, but had failed each time, while in the Second District a grand jury had been called in June, 1873, and in the First District in the Fall and Winter of the same year. In each of these courts indictments were found, and one man is now in the Penitentiary under sentence for thirty years, sentenced on the indictment so found, and others are still pending.

Whether Judge McKean is right or wrong, such is the cause of the dead-lock in his court, and it is given substantially in his own words.

He tells us that the Supreme Court did *not* say McAllister was the proper officer to summon jurors. Let us inquire what the Supreme Court *did* say—

"We are, therefore, obliged to consider the question whether the district court, in the selection and summoning of jurors, *was bound to conform to the law of the Territory.*"

In deciding this question the court said—

"The theory upon which the various governments for portions of the territory of the United States have been organized has ever been that of leaving to the inhabitants all the powers of self government consistent with the supremacy and supervision of national authority and with certain fundamental principles established by Congress."

After reciting a history of the formation of those governments in support of this proposition, the Court says—

"In all the territories full power was given to the legislature over all ordinary subjects of legislation. * * The legislative power of said Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States, and the provisions of this act" (i. e. the acts for the organization of the several territories).

"As there is no provision relating to the selection of jurors in the constitution, or the Organic act, it cannot be said that any legislation upon this subject is inconsistent with either. The method of procuring jurors for the trial of cases is therefore a rightful subject of legislation, and *the whole matter of selecting, impaneling and summoning jurors is left to the Territorial legislature.* * * Nor do we think the other objection sound, viz:, that the required participation of the territorial marshal in summoning jurors invalidated his acts because he was elected by the legislature, and not appointed by the governor. He acted as territorial marshal under color of authority, and if he was not legally such, his acts cannot be questioned indirectly.

"But, we repeat, that the alleged defects of the Utah jury law are not here in question. What we are to pass upon is the legality of the mode actually adopted for impaneling the jury in this case. Acting upon the theory that the supreme and district courts of the Territory were courts of the United States, and that they were governed in the selection of jurors by the acts of Congress, the district court summoned the jury in this case by an open venire. We are of the opinion that the court erred both in its theory and in its action." (Clinton *vs.* Englebrecht, 13 Wall, 434.)

This is the blow that Senator Carpenter alluded to in the U. S. Senate, as having brought up Judge McKean standing; and while the Supreme Court did not say that McAllister was the proper officer, that question not being in the record, they expressly declared "he acted as territorial marshal under color of authority, and if he was not legally such his acts cannot be questioned indirectly." They also expressly declared that "the district court was bound to conform to the law of the Territory," and that "the whole matter of selecting, impaneling and summoning jurors is left to the Territorial Legislature."

The Territorial law says—

"When a district court is to be held, the clerk of said court shall, at least thirty days previous to the time of holding said court, issue a writ to the Territorial Marshal, specifying the time and place of holding said court, requiring him to summon eighteen eligible men to serve as grand jurors, and eighteen eligible men to serve as petit jurors," etc. (See Laws of Utah, page 126.

Judge McKean, in a Supreme Court decision, delivered in this city May 21, 1874, sustained the Governor's nominee as being *de facto* the Territorial Marshal, and rejected the officer duly elected Territorial Marshal by the joint vote of the Legislative Assembly.

His argument is in substance as follows—

"It seems to have been the intention of the Legislative Assembly to do two things—

"1. To create the office of Territorial Marshal.

"2. To fill that office by a joint vote of both houses.

"The Supreme Court of the United States recognizes the right of the Assembly to create the office, and the Organic Act provides how it shall be filled. * * If the Territorial Marshal is a township, district or county officer, then the manner of electing him provided by the Utah statute may be valid. * * The bailiwick of the marshal is co-extensive with the Territory; he is therefore not a township, district or county officer, and therefore he cannot be appointed or elected in such manner as is provided by the Governor and Legislative Assembly."

The arrogant audacity of this ruling is evident when it is remembered that the Supreme Court of the United States, in the case of "Snow *vs.* the United States *ex rel.* Hempstead," expressly affirmed the validity of that very statute.

The bailiwick of the Attorney General, like that of the Territorial Marshal, "is co-extensive with the Territory; he is therefore not a township, district, or county officer," yet the Supreme Court declared that he may be elected in such manner as is provided by the Governor and Legislative Assembly.

The language of that decision is—

"The power given to the legislature is extremely broad. It extends to all rightful subjects of legislation consistent with the Constitution and the organic act itself. And there seems to be nothing in either of these instruments which directly conflicts with the territorial law. There is no necessary conflict between the organic and the territorial laws. The organic act is susceptible of a construction that will avoid such conflict. And that construction is supported by long usage in this and other territories. Under these circumstances it is the duty of the court to adopt it, and to declare the territorial act valid." (No. 30, October Term, 1873.)

"An Act in relation to Marshals and Attorneys," approved March 3, 1852, is the title of the act referred to. It provides, in Sec. 1, "That a Marshal shall be elected by a joint vote of both Houses of the Legislative Assembly," &c. It also provides, in Sec. 4, "That an Attorney General shall be elected by the joint vote of the Legislative Assembly," &c. To determine the validity of the election of the Attorney, the question rested on the validity of that statute, the *identical* principle involved in the case of the marshal, and as the statute was declared valid, McKean's argument of "township, district, and county officers" is foreign to the issue, and he is sustaining, to-day, as a ministerial officer of his court, a person without authority, and repudiates the authority of an officer duly elected under a statute tested and declared valid by the court of last resort.

VERITAS.

By Telegraph.

CONCRESSIONAL.

SENATE.

WASHINGTON, 25.—Sargent introduced a bill to prevent hazing at the naval academy; referred.

A bill providing that all pensioners who have lost an arm at or about the elbow shall be rated 2nd class, and receive twenty-four dollars a month, was passed.

Stewart introduced a joint resolution proposing as an amendment to the Constitution: That if any State shall fail to maintain the common school system for the elementary education of all persons between five and eighteen years of age, Congress shall have the power of establishing such system at the cost of the State; referred to the judiciary committee.

WASHINGTON, 26.—Ramsey introduced a bill to provide for the payment of postage on printed matter, &c., referred. It is the same bill as reported recently from the House postage committee.

WASHINGTON, 27.—The bill to prevent hazing at the naval academy was passed.

WASHINGTON, 28.— The Senate resumed the consideration of the Alabama contested election case, which was decided in favor of Spencer, the sitting Senator.

Sargent moved an amendment, providing that the right to vote or hold office in the Territories should not be restricted on account of race, color or sex. He said he believed the amendment was not only justified, but was required by the Organic law of the United States. He said that numerous petitions had been presented to Congress for this right to females, and the only notice taken of them was to report adversely. In the other House the Republican party was, to a certain extent, pledged to extend the suffrage to females in the Territories, and to confer upon women the right of suffrage would be to open wide avenues for them and the advancement of society. Give them an opportunity, through the ballot box, and they will break up nefarious practices now existing, and purify society. The spirit of the constitution should be carried out and women be allowed to vote.

Stewart favored the amendment, and Morton favored the amendment, as embodying the fundamental principle of the government, that all men, meaning mankind, are created free and equal. He believed women have the same natural right to the suffrage in this government that men had, and to give her the right of suffrage would elevate the electoral franchise of this country.

Flannigan announced himself a new convert to woman suffrage by the glorious efforts of the women temperance crusaders.

Merriman did not believe the right of suffrage tended to elevate or benefit women, or that any considerable number wanted it, nor did he indorse the revolutionary construction put upon the Declaration of Independence by Morton.

Stewart said that ten years from now there would not be a man in the Senate opposed to woman suffrage, whereupon Merriman and Conkling asked Stewart why he did not propose to have it tried in the District of Columbia.

Carpenter favored the amendment and woman suffrage everywhere.

Ferry, of Mich., favored the amendment.

Anthony combatted the idea that suffrage was the natural right of women. The amendment was finally rejected, 19 to 27, as follows—yeas: Anthony, Carpenter, Chandler, Conover, Ferry (of Mich.), Flanagan, Gilbert, Harvey, Mitchell, Morton, Patterson, Pratt, Sargent, Sprague, Stewart, Tipton, Washburn, West and Windom; nays: Allison, Bayard, Boreman, Boutwell, Buckingham, Clayton, Conkling, Cooper, Davis, Edmunds, Frelinghuysen, Hager, Hamilton (of Ind.), Hitchcock, Jones, Kelly, McCreary, Merriman, Morrill, Norwood, Ramsey, Ransom, Saulsbury, Scott, Sherman, Wadleigh and Wright.

HOUSE.

WASHINGTON, 27.— Poland reported a resolution for the appointment of a select committee of five to investigate Arkansas affairs; adopted, 129 to 84, nearly a strict party vote.

The bill investing the general courts martial with jurisdiction concurrent with that of the State or Territorial courts over certain crimes was passed.

Potter reported back adversely to the petition to make the 12th of April, Abraham Lincoln's birthday, a national holiday; also adversely to the petition for the election of U. S. Senators by the popular vote; also favorably to the bill prohibiting persons from serving as jurors in U. S. Courts who cannot read and write English. After discussion the bill was passed.

Poland reported back a number of petitions for woman suffrage; he also reported a bill regulating the removal of causes from the State Courts to U. S. Courts. He explained that the change proposed was to authorize a defendant residing out of the state where a suit is brought, to remove the case into the United States Courts, although there may be another defendant residing in the State.

AMERICAN

WASHINGTON, 25.—The amendments to the internal revenue laws appended to the tariff bill, reported to-day, included the following: each collector is to appoint as many deputies as he may think proper, under certain regulations; provision is made for the redemption of the revenue documentary stamps, the use of which has been rendered unnecessary by the repeal of the tax for the payment of which such stamps were provided; they are to be redeemed before the 1st of October next. Schedule C is amended to read as follows: "Bank checks, drafts and vouchers for the payment of any sum of money whatsoever drawn upon any banker, bank, or trust company, are to pay a tax of two cents." Amendments are made by which brewers are called wholesale and retail malt liquor dealers, instead of being classed among spirit and distilled liquor dealers. Heavy penalties are prescribed for frauds in stamping, casking, etc.; the fermenting of mash or wort, except in distilling, is prohibited. Match manufacturers are obliged to keep their books open for inspection, and under severe penalties to mark the number of matches therein. State banks and other associations or persons issuing other than national bank notes are taxed ten per cent. on their circulation. Proprietary stamps are abolished on all medicines prepared in accordance with a standard formula or physician's prescription. It allows a producer to sell on his farm tobacco of his own growth, at retail, to consumers to an amount of not over a thousand dollars annually, free of tax.

The House committee on elections, to-day, examined Belle Kimball, daughter of Elder Kimball of the Mormon Church, who testified that Delegate Cannon married his fourth wife in 1867, and started on a combined fishing and wedding trip, accompanied by wives No. 1 and No. 4; the witness did not know whether the other wives were living or not.

A number of witnesses were before the legislative committee appointed to investigate the Mill River disaster, among them Collins Graves, who rode down the valley before the flood, to alarm the villagers. His story was modest, and harmonizes with the accounts already published.

LITTLE ROCK, 25.—The House committee on impeachment, to-day, reported articles against auditor Wheeler, Chief Justice McClure and a number of associate justices and circuit judges and other officials, connected with the late insurrection; McClure and Wheeler were impeached, with but nine dissenting votes in the case of Wheeler. Other cases will be acted on to-morrow.

NEW YORK, 25.—The steamer *Idaho*, reported aground on Fire Island this morning, was got off without injury to the passengers or steamer.

BOSTON, 25.—Yesterday at Weymouth landing the body of an unknown woman, apparently thirty-five years old, was found in the water, her head wrapped in a carriage robe fastened with a clothes line to which was fastened a tailor's goose; there was a bullet hole in the woman's head, and it is thought she was murdered here and carried to Weymouth and thrown into the water.

SAN FRANCISCO, 25.—A dispatch from Camp Warner, Oregon, says the inhabitants of that locality are much excited about the threatened Indian outbreak of Ocheo's band; they have been ordered to leave, and many families have already sought the protection of the small garrison at Fort Warner.

NEW YORK, 26.—A Havana letter says that the American F. A. Dockery, arrested at Neuvietas, will be removed to Puerto Principe for trial; his fate is uncertain, depending on the Governor General. The letter also says the Cuban government makes America virtually bear the expenses of the war, by charging additional customs duties and a tax of ten per cent. on the net profits, which the foreign shippers must pay.

The *Swatara*, which is to carry the scientific party to the South Pacific Ocean to witness the transit of Venus, December 8th, is in full readiness. Twenty-six scientists are expected from Washington, with their instruments, in a few days, and the ship will leave the navy yard with two hundred persons on board. The company is to be divided into five parties, to be landed at Crozet's Island, Kergumen, or Desolation Island, Hobarttown, in Tasmania, formerly Van Dieman's Land, New Zealand and Chatham Islands. Here the *Swatara* is to remain until after the observation. The vessel has stores for an eighteen months' voyage. The instruments are being tested in Washington, and are mostly new and very elaborate.

BRUNSWICK, 26.—The faculty to-day, suspended one hundred students of Bowdoin, for refusing to drill.

MADISON, Wis., 26.—By request of Governor Taylor, Attorney General Sloan has prepared an opinion, which will be published to-morrow morning, on the constitutionality of the act regulating railroads. It is an elaborate document, and will present in an able manner the legal points involved in this controversy. He quotes largely from decisions of the State and federal courts. It will strengthen the determination of the people to enforce the law and to subjugate powerful monopolies. Still further suits have been brought and more will be brought against the railroads.

NEW ORLEANS, 26.—Mayor Wiltz, to-day, telegraphed to the mayors of the principal cities, urging the necessity of further contributions for the aid of the Louisiana sufferers, stating that the contributions of cash and provisions had been less than a hundred and eighty thousand, while a million was needed.

NORTHAMPTON, 26.—In the Mill River disaster investigation to-day, farther testimony was given to show the unsafe character of the dam.

OTTAWA, Ont., 26.—The Dominion parliament was prorogued this afternoon.

SAN FRANCISCO, 26.—In fifteen elections under the local option law in this State, the anti-liquor people have carried eleven.

WASHINGTON, 27. — Butler, of Mass., reported a bill removing political disabilities from Raphael Semmes, of Ala.; passed

A bill giving the negroes residing within the limits of the Choctaw and Chickasaw nation, the same rights as the Indians, was passed by a strict party vote.

BOSTON, 27.—The body of the woman found in the water near Weymouth, yesterday, has been identified as that of Julia Hawks, of St. John, N. B.; she had been visiting friends at Mount Wallosston, and a few days prior to her death, left Boston to draw money from the savings bank, and since that time she has not been seen alive by her friends.

NASHVILLE, Tenn., 27.—A resolution was introduced in the board of aldermen last night, and referred to the school committee, with instructions to report at a special meeting on Thursday next, setting forth the probability of the supplementary civil rights bill becoming law, and that it will destroy the common school system in the South, and instructing, in event of its passage, to suspend the building of new school houses.

LITTLE ROCK, 27.—The House of Representatives, yesterday, after four hours' debate, passed a bill giving an amnesty to all parties connected with the late rebellion, except those holding positions in the legislative, executive and judicial departments, who used their position to forward the rebellion.

CHICAGO, 27. — Specials from Masillon, Ohio, report serious trouble at the Youngstown Coal Company's mine: the company has employed negroes in place of the striking miners, and established an armed guard over their property. Yesterday two men were shot while in the act of firing a trestle leading from the mines to the railroad, and both were wounded badly. The governor has been appealed to for aid. A large number of deputy sheriffs have been sworn, and the place will be guarded by an armed force.

WASHINGTON, 27.—The House committee on railways has decided to recommend no bill to the House, granting charters to railroads or water routes, unless applications for the same are supported by the endorsement of the people living along the proposed lines to a sufficient extent to warrant the belief that they will be taken up and pushed to completion; no charters will be issued to any bogus company to sell out to other parties.