

Case No. 15,852. UNITED STATES V. NAGLE ET AL.
[17 Blatchf. 258;¹ 8 Reporter, 772.]

Circuit Court, S. D. New York.

Nov. 3, 1879.

CRIMINAL LAW—INFORMATION—SIGNATURE OF DISTRICT ATTORNEY.

1. The fact that an indictment against a person has been quashed because of insufficient averments is no ground for quashing an information subsequently filed by the district attorney against the same person for the same offence.
2. It is no objection to an information filed in open court by the sworn assistant of the district attorney, that the signature of the district attorney to the information was written by such assistant by virtue of a general authority conferred upon him by the district attorney.

[This was an information against David J. Nagle and others. Heard on motion to quash.]

Sutherland Tenney, Asst. U. S. Dist Atty.

Augustus F. Bays, for defendant.

BENEDICT, District Judge. The fact that these same defendants were indicted by the grand jury for the same offence described in this information, which indictment was quashed because of insufficient averments, affords no ground whatever upon which to ask that this information be quashed. The district attorney had the right to proceed by information notwithstanding the fact that, on a former occasion, he had elected to proceed by indictment and had submitted the case to the consideration of a grand jury.

It is no objection to an information filed in

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open court by the sworn assistant of the district attorney, that the signature of the district attorney attached to the information was written by such assistant, by virtue of a general authority conferred upon him by the district attorney.

The motion to quash the information is denied.

¹ [Reported by Hon. Samuel Blatchford, Circuit Judge, and here reprinted by permission.]