

Case No. 15,866a. UNITED STATES V. NEW ET AL.
[N. Y. Times, Nov. 2, 1859.]

Circuit Court, D. Connecticut.

Nov. 1, 1859.

ROBBING THE MAILS—PRINCIPAL AND ACCESSORIES—INDICTMENT.

[An accessory after the fact cannot be tried as a principal, under the statute, for the crime of robbing the mails, unless the indictment shows either that the principal has been convicted, or has fled from justice, or cannot he found to be put upon his trial.]

Jacob New and Adolph New were put on trial under an indictment against them as accessories after the fact to a robbery of the post-office by one Lewis Stern, who took out of the office a letter addressed to "L. Stein," containing various valuable coupons, and which afterwards came into the possession of the defendants.

Judge Whiting appeared for the defendants, and after a jury had been impanelled, moved to quash the indictment, on the ground that the section of the statute which allows parties accessory to be tried as principal offenders only allows it in case "the principal offender has fled from justice or cannot be found to be put on his trial," and that there was no allegation in the indictment that Stern had either been convicted as the principal, or had fled from justice, or cannot be found to be put or his trial.

INGERSOLL, District Judge, after argument, sustained the objection to the indictment; but on his suggestion a juror was withdrawn, in-order that the question might be brought before him subsequently on more formal argument, and that the trial might proceed, in case he should change his views on the point involved.