

**Case No. 16,652.** UNITED STATES V. WATSON ET AL.  
[7 Blatchf. 60.]<sup>1</sup>

Circuit Court, S. D. New York.

Nov. 25, 1869.

CRIMINAL LAW—NOLLE PROSEQUI.

A motion by the district attorney, made before verdict, for leave to enter a nolle prosequi on an indictment, must be granted, as a matter of right, although, in a proper case, the court might decline to grant the motion until the government should have had sufficient time to protect itself against collusion.

This was a motion by the district attorney for leave to enter a nolle prosequi on the indictment in this case, which was one for the violation of provisions of the internal revenue laws relating to distilled spirits. [See Case No. 16,651.]

Edwards Pierrepont, U. S. Dist. Atty.

William C. Barrett, for defendants.

BENEDICT, District Judge. I have had occasion to examine into the question as to the right of the district attorney, representing the government, to have the motion made by him in this case granted. The subject was before the court of queen's bench, in England, in the case of *Beg. v. Allen*, 5 Law T. Rep. [N. S.] 636, and it was there held that such a motion, when made, must be granted. While I have no doubt that, in a case calling for such action, the court might decline to grant the motion until the government should have had sufficient time to protect itself against collusion, yet, aside from this, I am of opinion that the motion, when made before verdict, must be granted, as a matter of right. The motion now made is, therefore, granted.

<sup>1</sup> [Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.]