

**U S Vs. Mitchell**

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**Court :** US Supreme Court

**Decided On :** 1795

**Appeal No. :** 2 U.S. 357

**Appellant :** U S

**Respondent :** Mitchell

**Judgement :**

U S v. MITCHELL - 2 U.S. 357 (1795)

U.S. Supreme Court U S v. MITCHELL, 2 U.S. 357 (1795)

2 U.S. 357 (Dall.)

The United States

v.

Mitchell

Circuit Court, Pennsylvania District

April Term, 1795

In the course of the trial the following points were ruled by the Court.

I. The Attorney of the District proposed to prove, that a circular letter had been written at Canonsburgh, on the 28th of July 1794, by several leaders of the insurrection, calling upon the militia officers, and other citizens, to assemble at Bradock's field on the 1st of August following, with arms, ammunition, and provisions; that the witness had seen the original letter, which was left with him, under instructions to pass it on to another person; and that the copy now produced was conformable, in substance, to the original.

But it was objected, by the counsel for the prisoner, that before a copy of the letter could be given in evidence, the loss of the original must be proved; and even then the witness must be able to attest, that he had compared them, and that the copy offered was in all respects correct. [357-Continued.]

It was answered, by the Attorney of the District, that from the general circulation of the letter, copies must have been multiplied, and during a season of such confusion (to which the common rules of evidence are entirely inapplicable) it is impracticable to trace the comparison of any one copy with the original.

By the Court. If it can be proved, that the copy of the letter now produced, was one of those copies, which were actually circulated at the time of the insurrection, it is admissible evidence: but, otherwise, it cannot be read to the Jury.

II. The Attorney of the District offered testimony to prove, that, in the course of the insurrection, the prisoner joined in robbing the public mail of the United States; and that several of the letters, thus intercepted, had

been read at the meeting at Bradock's field.

But it was objected, on behalf of the prisoner, that the robbery of the mail, was a felony, for which, as a substantive and independent crime, he was actually charged by another indictment; and that, therefore, evidence relating to it should not be given on the present issue, as the prisoner was not prepared to answer, and a prejudice might be excited against him in the mind of the Jury.

By the Court. An act committed with a felonious intention, cannot be given in evidence upon the trial of an indictment for High Treason. It does not yet appear, that the mail was intercepted and rifled with a traitorous intention; and, as far as it respects the prisoner, there is another indictment against him, charging the offence merely as a felony. Under these circumstances the testimony cannot be admitted.

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