

This Is The Law

By ROBERT E. LEE
(For the N. C. Bar Association)

DOUBLE JEOPARDY
Henry Collins was suspected of having committed robbery. The Solicitor drafted and sent to the Grand Jury a bill of indictment charging Henry Collins with robbery. Numerous witnesses testified before the Grand Jury. The Grand Jury found "Not a true bill." Two years later the Solicitor drafted and sent to the Grand Jury a second bill of indictment charging Henry Collins with the same robbery. This time the Grand Jury, composed of a different group of jurors, returned a "True Bill." When the case came up for trial in the Superior Court, Collins pleaded as a defense "double jeopardy." Is this a valid defense?

No. The presentation of a bill of indictment to a Grand Jury does not subject the defendant to jeopardy. Collins may be tried and convicted of robbery.

The Grand Jury is not a trial court, but an investigatory body and no question of double jeopardy is presented when it repeatedly makes investigations under bills presented to it.

It is a fundamental and sacred principle of the common law that no person can be twice put in jeopardy of his life and limb for the same offense. It is also incorporated into the Constitutions of the United States and North Carolina.

At what point in a criminal proceeding is a person put in jeopardy?

The Supreme Court of North Carolina has said: "Jeopardy attaches when a defendant in a criminal prosecution is placed on trial: (1) on a valid indictment or information, (2) before a court of competent jurisdiction, (3) after arraignment, (4) after plea, and (5) when a competent jury has been impaneled and sworn to make a true deliverance of the case."

A defendant cannot be considered as put in jeopardy by a court that has no jurisdiction, because an indictment that might be voided against him would be void. Hence, an acquittal by a court not having jurisdiction is no bar to a subsequent prosecution for the same offense in a court of competent jurisdiction.

All of the 12 men of a jury cannot agree upon a verdict. The judge orders a mistrial. May the defendant be tried a second time for the same offense?

Yes. A trial court may, without prejudicing a future prosecution, discharge a jury where it appears that after a reasonable time for deliberation has been allowed a verdict has not been agreed on and there is a probability of an agreement.

Dangerous Fruit

Two hillbillies who had never been on a train before had been drafted and were on their way to camp. A food merchant came through the train selling bananas. The two mountaineers had never seen bananas and each bought one. As one of them bit into his, the train entered a tunnel. His voice came to his companion in the darkness:

"Jed, have you eaten your banana yet?"
"Not yet," answered Jed.
"Why?"
"Well, don't touch it. I've taken one bite and gone plumb blind."

STERNO

A can of Sterno poured in your ice fishing holes will keep them from freezing up again.

Outdoor Tips

from the Ancient Age Sportsman's Idea Exchange

FRESH FISH
Olden way to keep fish fresh in a creel was to line it with ferns from stream-side. More modern way is to fill creel with several plastic bags to encase fish in. Prevents fish drying out. Keeps creel fresh.

WET WEATHER STARTER
The middle of dead limbs contains dry wood even in the wettest weather. Break off limb and dig out the center with knife. Gives enough dry tinder to get fire going.

DRY BOOTS
A bucket of sand left next to the stove will insure that you have dry boots the next morning. Pour sand in, let sit, pour out. Boots are warm and dry.

GET YOUR DEER
You may get your deer without firing a shot. Trick is take a good supply of plastic bags with you. Other hunters without bags won't take hearts or liver because of mess. You get 'em in the bag.

SAFETY ROPE
If you don't want to shell out for a safety chain on your outboard motor, a rope will do as well. Tie one end to motor, the other to a seat.

LIGHT UP TENT
A few strips of luminous tape stuck on the side of your tent will light it up in a flashlight's beam at night.

WARM HANDS
Fishing in icy cold weather, "wash" hands in vaseline. Surprising how it warms 'em.

FAST REWRAP
If you've got to rewind a loose guide on your rod at the last minute, paint it with glue rather than varnish. Varnish takes 24 hours to dry well. Glue takes 10 minutes.

SMELT MINNOWS
Smelts caught in the spring make good bait later on in the season when minnows are hard to find. Freeze a supply when the run's on.

BUTTON UP
Pearl buttons make good baits for bluegills. Thread line through a couple and put a small spoon or spinner on the end. See if you don't get more hits.

CHUM PANFISH
Panfish will bite quicker if you toss a few worms into the water around your bait. Offerings get them feeding.

SKIN A FISH
Often "muddy" flavor of some fish comes from their skin. Take skin off the easy way like this: Dip fish in hot of boiling water to which salt has been added. Let sit 30 seconds. Skin scrapes off with a knife.

NO RATTLE
Attach suction cups to the bottom of your tackle box. It won't rattle around now in your boat.

BULLHEADED
Bullheads will bite on bread if you peel the crust off and roll the rest into a little ball. Mix in a small amount of cotton to give substance.

CREEK BOAT
Cut a 55-gallon steel drum in half the long way down the middle, to form two troughs. Cut one end out of each trough and weld two pieces together. Flatten bottom as much as possible. Cut holder for oars and line with rubber. You've got a creek boat.

SHELL FIRE
Shotgunners keep their empties because they know the hulls can be used to make a little warming fire.

CROW DECOY
Bend wire coat hangers in the shape of a crow. Slip an old black sock over the hanger. You've got a decoy.

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