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# Common Error No. 33 [1]

Written by **Dr Madsen Pirie** [2] | Wednesday 13 February 2008

**33. "It's right that acquitted people should be re-tried when new evidence comes up."**

It never used to be, and in enabling it, government has abandoned an important principle in law. The principle, known as 'double jeopardy,' is that a person should not be tried twice for the same offence. Once acquitted, they should be clear. The reason is to prevent the law playing cat and mouse with an accused, trying and re-trying them in the hope of a conviction, maybe with a different jury. If the prosecution has only one go at it, they must take care to prepare their case properly, and only take an accused to trial if there is a strong and convincing case.

If they can come back subsequently for another go, there is not the incentive for the prosecution to prepare their case assiduously, or to demand an overwhelming body of evidence before they proceed. They might be encouraged to try on the off-chance, knowing they can always come back and try later if they fail.

The principle of double jeopardy has already been weakened in the US by allowing federal courts to retry someone already acquitted in a state court on the same evidence. It has been weakened by allowing civil actions to follow a criminal acquittal, which should itself be a complete defence against subsequent actions. To allow retrial of those acquitted in criminal actions dangerously undermines our protection from oppressive authority.

People's sense of justice is outraged if new evidence emerges against an accused who has been acquitted, particularly if for a shocking crime. But the principles of law should override the merits of individual cases. We must accept that some guilty individuals will go free in order to maintain the principles which protect and preserve a free society. People's fate must not be at the whim of the authorities, but protected by the rule of law.

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[4] http://disqus.com