FEDERAL AND STATE PROSECUTIONS FOR SAME OFFENSE

There is no principle better established in the common law, or more fully recognized in the federal and state constitutions than that a person shall not be twice put in jeopardy for the same offense. The problem presented is whether a defendant, who, by committing a single act violates both a state and a federal statute designed to punish the actor for such offense, is protected by the constitutional prohibitions against double jeopardy. The situation occurs when the state and the federal government each has made the act committed an offense punishable under its laws and (1) the defendant subsequent to a state conviction or acquittal is involved in a federal prosecution under the federal law or, (2) the defendant is being tried by a state court after he had either been acquitted or convicted by a federal court. In two recent cases before the Supreme Court of the United States, which involved these situations, it was

1 U. S. CONST. amend. VI; W. VA. CONST. art. 3, § 5; Green v. United States, 355 U.S. 184, 187 (1957). All states, either expressly in their constitutions or as part of their common law prohibit double jeopardy.