

When no one appeared to charge any other crimes against the prisoners, they stood at the bar upon their deliverance, but the Court refused to discharge them. "the Crime for w<sup>ch</sup> they were Indicted by apparent circumstances Seemed to the Court to have been Really Comitted by them and that the Jury acquitted them only for want of some Evidence, that the said" persons must each give security in £10 each with two securities at £5 each, to appear at the Provincial Court to be held in April 1673, and that they be of good behaviour meantime. After that, nothing more is heard of them: the April, 1673, session came and went but unless it is included in the unspecified criminal cases on which the Court proceeded on April 9, 1673 (*post*, p. 91), the case was never settled finally. There was no grand jury at the April, 1673, session. The action of the Court in this exciting case is not easy to understand. They seem to have felt that if the lad, Peter Jacobsin, had been able to testify, Robinson would have been found guilty. But it was a universal principle of the English common law that no person could be put twice in jeopardy for the same offence. Yet the Court, in holding for another trial a man declared not guilty by the jury, and in thus setting aside a not-guilty verdict, was putting him in double jeopardy.

In the seventeenth century and even later, hog stealing was a serious and a frequent offense, and the laws against it became progressively more severe. The Act of 1650 provided for a penalty against the stealer of twice the value to the owner, 200 pounds of tobacco to the informer and 300 pounds to the Proprietary (*Archives*, I, 503-504). In 1662, it was provided that second offenders should be branded in the shoulder with an *H*, and every county court was to have the necessary irons (*ibid.*, 455). In 1666 the penalty was made barbaric in its severity. A hog stealer—and the law included therein almost anyone who killed even unmarked hogs on somebody else's land—upon conviction for the first offense had to stand in the pillory for four hours and then to have his ears cropped. He must also pay triple damages to the owner of the stolen hogs. For the second offense he—or she—would be branded in the forehead with an *H* and for a third offense he was judged a felon not entitled to claim benefit of clergy (*Archives*, II, p. 278). The law was indeed severe, and there are no instances, up to the end of 1675, where it was literally enforced. Justinian Gerard, charged on December 19, 1671, with killing and carrying away two hogs belonging to John Gouldsmith, had the first indictment quashed for insufficiency, but he had to give bond of £50 sterling to appear for trial at the next Provincial Court (*post*, p. 20). He did appear, and he was indicted again. When he came into court for trial, he asked for and had John Morecroft assigned him as counsel, and Morecroft was one of the leaders of the Provincial bar. He plead not guilty, and was declared not guilty by the jury, so on paying the necessary fees he was discharged (*ibid.*, p. 29). John Griffin, charged with stealing a hog from Thomas Wright, did not appear on February 11, 1672, when his case was called, so the recognizances which he and his securities had given were estreated or forfeited, and he and they were liable to be sued on them (*post*, p. 58). Griffin appears here no more. Richard Meekins of Dorchester County was presented by the grand jury on April 9,