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Pleadings on the part of the defendant.

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If demurrer be dis-

SEC. 116. The only pleading on the part of the defendant, is either a demurrer, or a plea.

SEC. 117. Both the demurrer and the plea must be put in in open court, either at the time of the arraignment, or at such other time as may be allowed to the defendant for that purpose.

SEC. 118. The defendant may demur to the indictment, when it appears from the face thereof, either,

1. That the grand jury by which it was found, had no legal authority to inquire into the offence charged, by reason of its not being within the local jurisdiction of the county :

2. That it does not substantially conform to the requirements of sections sixty-five, sixty-six, sixty-seven, sixty-eight and sixty-nine, of chapter one hundred and nineteen :

3. That more than one offence is charged in the indictment :

4. That the facts stated do not constitute a public offence :

5. That the indictment contains any matter, which, if true, would constitute a legal justification or excuse of the offence charged, or other legal bar to the prosecution.

SEC. 119. The demurrer must be in writing, signed either by the defendant, or his counsel; it must distinctly specify the ground of objection to the indictment, or it may be disregarded.

SEC. 120. Upon the demurrer being filed, the objections presented thereby must be heard, either immediately, or at such time as the court may appoint.

SEC. 121. Upon considering the demurrer, the court must give judgment, either allowing or disallowing it, and an order to that effect must be entered upon the minutes.

SEC. 122. If the demurrer be allowed, the judgment is final upon the indictment demurred to, and is a bar to another prosecution for the same offence, unless the court, being of opinion that the objection on which the demurrer is allowed, may be avoided in a new indictment, direct the case to be re-submitted to the same, or another grand jury.

SEC. 123. If the court do not direct the case to be re-submitted, the defendant, if in custody, must be discharged, or if admitted to bail, his bail is exonerated, or if he have deposited money instead of bail, the money must be refunded to him.

SEC. 124. If the court direct that the case be submitted anew, the same proceedings must be had thereon, as are prescribed in sections one hundred and thirteen, and one hundred fourteen.

SEC. 125. If the demurrer be disallowed, the court must permit

the defendant, at his election, to plead, which he must do forthwith, or at such time as the court may allow. If he do not plead, judgment must be pronounced against him.

allowed, defendant may plead.

SEC. 126. When the objections mentioned in section one hundred and eighteen, appear upon the face of the indictment, they can only be taken by demurrer, except that the objection to the jurisdiction of the court over the subject of the indictment, or that the facts stated do not constitute a public offence, may be taken at the trial, under the plea of not guilty, and in arrest of judgment.

Certain objections to be taken advantage of by demurrer.

CHAPTER 123.

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- 136. When acquittal is a bar to another prosecution.
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SEC. 127. There are three kinds of pleas to an indictment; a plea of

Three kinds of pleas to indictment.

1. Guilty:

2. Not guilty:

3. A former judgment of conviction, or acquittal of the offence charged, which may be pleaded either with or without the plea of not guilty.

SEC. 128. Every plea must be oral, and must be entered upon the minutes of the court.

Plea how made.

SEC. 129. The plea must be entered in substantially the following form:

Pleas how to be entered by the clerk.

1. If the defendant plead guilty: "The defendant pleads, that he is guilty of the offence charged in this indictment:"

2. If he plead not guilty: "The defendant pleads, that he is not guilty of the offence charged in this indictment:"

3. If he plead a former conviction, or acquittal: "The defendant pleads, that he has already been convicted (or acquitted, as the case may be,) of the offence charged in this indictment, by the judgment of the court of _____, (naming it,) rendered at _____, (naming the place,) on the _____ day of _____."

SEC. 130. A plea of guilty, can in no case be put in, except by the defendant himself, in open court, unless upon an indictment against a corporation, in which case it may be put in by counsel.

Plea of guilty must be put in by defendant himself, except in case of corporation.

SEC. 131. The court may, at any time before judgment upon a plea

When plea of guilt-