

A plea of *autrefois acquit* or *autrefois convict*, or both pleaded together, shall be disposed of before the accused is called on to plead further; and if such plea is disposed of against the accused he shall be allowed to plead not guilty. Code sec. 900. This is commonly termed pleading "over." By sec. 1079 of the Code, it is provided that, when any person convicted of any offence has paid the sum adjudged to be paid, together with costs, if any, under such conviction, or has received a remission thereof from the Crown, or has suffered the imprisonment awarded for non-payment thereof, or the imprisonment awarded in the first instance, or has been discharged from his conviction by the justice in any case in which such justice may discharge such person, he shall be "released from all further or other criminal proceedings for the same cause."

There is the further statutory provision of sec. 909 of the Code, that when an indictment charges substantially the same offence as that charged in the indictment on which the accused was given in charge on a former trial, but adds a statement of intention or circumstances of aggravation tending if proved to increase the punishment, the previous acquittal or conviction shall be a bar to such subsequent indictment.

A previous conviction or acquittal on an indictment for murder shall be a bar to a second indictment for the same homicide charging it as manslaughter; and a previous conviction or acquittal on an indictment for manslaughter shall be a bar to a second indictment for the same homicide charging it as murder, sec. 909 (2).

It is not open to the Crown to proceed on a second charge in which a conviction could only be had by the second jury overruling the contrary verdict of the first jury. *The King v. Quinn*, 10 Can. Cr. Cas 412, 11 O.L.R. 242.

A conviction for an offence punishable summarily is a bar to proceedings upon indictment on the same facts. *R. v. Walker* (1843), 2 M. & Rob. 446; *R. v. Miles*, 24 Q.B.D. 423; but if, after a summary conviction, the act of the defendant results in further consequences calling for a more serious charge, the summary conviction is no bar to such a charge being brought. *R. v. Morris* (1867), L.R. 1 C.C.R. 90; 36 L.J.M.C. 84, 10 Cox C.C. 480; *R. v. Friel* (1890), 17 Cox C.C. 325; 19 Hals. 598.

If a justice adjudicating upon a summary matter under Part XV. of the Code after hearing the evidence (Cr. Code sec. 726) dismisses the complaint he may make an order of dismissal and give the defendant a certificate of dismissal. Cr. Code sec. 730. The production of this certificate is made a statutory bar to a subsequent complaint "for the same matter" against him. Cr. Code sec. 730; *Hall v. Pettingell*, 18 Can. Cr. Cas. 196.

The discharge of the prisoner from custody on habeas corpus