

PRACTICE—MOTION—SECOND MOTION ON AMENDED PROCEEDINGS—RES JUDICATA—
MOTION FOR JUDGMENT—RENEWAL OF APPLICATION.

Dombey v. Playfair, (1897) 1 Q.B. 368, involves a neat point of practice. A plaintiff moved for speedy judgment under Ord. xvi., r. 1 (Ont. Rule 739) and the defendant was granted unconditional leave to defend, on the ground that the action appeared to be defective for want of parties. The plaintiff then amended his proceedings by joining as defendants the parties who were considered necessary, and then made a further motion for judgment under Ord. xvi., r. 1; this was resisted on the ground that the matter was *res judicata*; but the Court of Appeal (Lord Esher, M.R., and Lopes, L.J.) agreed with Laurence, J., that the defect existing when the first application was made having been amended, there was nothing to prevent the renewal of the motion, and the order allowing the plaintiff to enter judgment was affirmed. Lord Esher, M.R., says the matter adjudicated on was not the action but merely a step in the action.

CRIMINAL LAW—PLEADING—CORONERS' INQUISITION, SUFFICIENCY OF.

The Queen v. The Clerk of Assize of the Oxford Circuit, (1897) 1 Q.B. 370, was a somewhat unusual proceeding, namely, an application to quash a coroner's inquisition, which had been returned to the Clerk of Assize, on the ground that on the face of it it disclosed no offence against certain persons named therein. The inquisition in question stated that the cause of the death of the deceased was injury resulting from falling into a quarry, and that "by neglect of" (three named persons) "to fence or cause to be fenced the said quarry, the said deceased fell therein, and that therefore the said (three persons) did feloniously kill" the deceased. Wright and Bruce, JJ., held it to be insufficient in law, and ordered it to be quashed. Wright, J., applies the test that if a jury had returned a special verdict showing no more than the inquisition, it would be obviously bad, no duty to fence being alleged; and Bruce, J., says that there were words in the inquisition which, if they stood alone, would have been sufficient, but those words could not be separated from the words which precede them, connected as they were by the