

forming part of the *res gestae*), but such complaint can only be used as evidence of the consistency of the conduct of the prosecutrix with the story she has told in the box, and as being inconsistent with her consent to the conduct of which she complains, and the Judge must tell the jury that it can only be used by them for this purpose, and not as proof that the offence was committed; and the very words of the complaint in full ought to be disclosed in the witness-box, and not merely the fact of a complaint. (Russell, L.C.J., Pollock, B., and Hawkins, Cave and Wills, JJ.)

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PAIN v. BOWDEN.

[101 L. T. 181; 31 L. J. 371.

Costs—Administration.

In allowing the cost of administration of a deceased's estate, there is a distinction to be drawn between solvent and insolvent estates, and the solicitor advising a personal representative when the estate is known to be insolvent should only be allowed to charge for services which are strictly necessary for the protection of the estate—e.g., he must not charge for letters and attendances, answering the inquiries of creditors (especially after an administration action is commenced), or for any work which the administrator might well do himself. (Cave and Wills, JJ.)

* * *

EX PARTE WHYTE.

[40 S. J. 565.

Mandamus.

A motion for a prerogative writ of mandamus can only be

made by counsel, and not by the applicant in person; and this applies to a motion for a rule nisi as well as to the argument in showing cause against the rule, and to the Chancery Division and Court of Appeal as well as the Queen's Bench Division. (Full Court of Appeal and Russell, L.C.J.)

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CARTER v. RIGBY.

[W. N. 71; 101 L. T. 180; 40 S. J. 568; 31 L. J. 397.

Joinder of plaintiffs—Separate causes of action.

Fifty miners were killed by the flooding of Rigby's coal mine. The legal personal representatives of the fifty miners joined together in one action, claiming damages against Rigby under Lord Campbell's Act and under the Employers' Liability Act 1880. Rigby applied to strike out all the plaintiffs except one, on the ground that the parties were improperly joined as co-plaintiffs.

Held, that the cause of action arose from separate and distinct claims; that consequently under *Smurthwaite v. Hannay*, 71 L. T., 157, the plaintiffs could not join in one action; and that all plaintiffs save the personal representatives of one must be struck out. (Court of Appeal, affirming Russell, L.C.J., and Wright, J.)

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OSBORN v. CHOCQUEL.

[31 L. J. 384; 101 L. T. 133.

Dog bite—Scienter.

Action for damages for defendant's dog having bitten plaintiff. The only evidence of the ferociousness of the dog and