

However the Court held (at p. 168) that the admissibility could be put on a wider basis;

*“the probative force of all the acts together is much greater than one alone; for, whereas the jury might think one man may be telling an untruth, three or four are hardly likely to tell the same untruth unless they were conspiring together. If there is nothing to suggest a conspiracy, their evidence would seem to be overwhelming.”*

53. Furthermore, in *R v Flack* (1969) 53 Cr. App. R 166, (therefore reported shortly before the DPP's decision) the question arose as to whether in a case where there was a complete denial that any incident at all had taken place and that no question of identity, intent, system, guilty knowledge or rebutting a defence of innocent association ever arose, the evidence of one complainant could corroborate that of another. It was said that the evidence of an alleged offence against one sister could not be evidence of the alleged offences of the others. It was said that,

*“it would as a rule be better, in circumstances such as these, that the counts should be tried separately.”*<sup>1</sup>

54. The origin of the judgement in *Flack* was *R v Chandor* (1959) 43 Cr. App. R. 74 at p. 78, in which Lord Parker C.J. said,

*“there are of course many cases in which evidence of a succession of incidents may properly be admissible to help determine the truth of any one incidence, for instance to prove identity, intent, guilty knowledge, or to rebut a defence of innocent association. On such issues, evidence of a succession of incidents may be very relevant, but we cannot see that they have any relevance to determine whether a particular meeting or occasion for an incident ever occurred at all.”*

55. Phipson on Evidence, 11<sup>th</sup> Ed. published in 1970 considers a number of scenarios including this:

*‘Inadmissible:...A is a schoolmaster charged on sixteen counts with indecent assaults on boys from the school. Evidence of such an assault on one boy is*

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<sup>1</sup> This was not the position as claimed by CS in his answers, such as they were, to the police. He claimed innocent association and in any event no indecency.