

issued in the case should be maintained. *Contra Ritchie, C.J., Strong and Fournier, J.J.* The Court being equally divided, the judgment appealed from was affirmed, but without costs.—*Cote et al. v. Morgan et al.*

RECENT ENGLISH DECISIONS.

Criminal Law—Trial—Cumulative Sentence Valid.—The appellant was indicted for perjury; the indictment contained two counts, the first alleging perjury committed on the trial of an action of ejectment in 1871, the second alleging perjury committed in some proceedings in 1868. The assignments of perjury in the two counts were not identical, but the object of the proceedings in 1868 and in 1871 was the same, namely, to establish the appellant's right to certain landed estates. The jury found a general verdict of guilty upon both counts of the indictment, and the appellant was thereupon sentenced to seven years' penal servitude upon each count, the second term to commence upon the expiration of the first term.

Held (affirming the judgment of the court below,) that such a sentence might be lawfully passed, although the statute (2 Geo. II, chap. 25, § 2, as amended by the subsequent acts,) makes seven years' penal servitude the maximum punishment for a single perjury. *Held*, further, that the statute of George II does not require the infliction of a common law punishment in addition to that prescribed by the statute. Cases referred to: *Regina v. Wilkes*, 4 Burr. 2527; *Rex v. Robinson*, 1 Mood. C. C. 413; *Tweed v. Lipscombe*, 60 N. Y. 559; *Young v. The King*, 3 T. Rep. 98; *Rex v. Jones*, 2 Campb. 131; *Rex v. Kingston*, 5 East, 41. House of Lords, March 11, 1881. *Castro v. The Queen*. Opinion by Lord Chan. Selborne, Lord Blackburn and Lord Watson, 44 T. Rep. (N. S.) 350.

THE PERILS OF DOCTORS.

The case of *DeMay v. Roberts*, Michigan Supreme Court, June 8, 1881, 9 N. W. Rep. 146, so far as we know, is unique, at least since the time when Clodius in disguise penetrated the mysteries of the *Bona Dea*. It was there held that where a physician takes an unprofessional unmarried man with him to attend a case of confinement, and no real necessity exists for the latter's assistance or presence, both are

liable in damages; and it makes no difference that the patient or husband supposed at the time that the intruder was a medical man, and therefore submitted without objection to his presence. The physician testified that the layman, who bore the misleading name of Scattergood, accompanied him reluctantly, on foot, on a dark and stormy night, when the roads were too bad to drive or ride a horse, to carry a lantern, an umbrella, and some instruments. The physician told the husband that he had brought Scattergood along to help him carry these things, and Scattergood was admitted without objection. The house was only fourteen by sixteen feet in size, and the doctor and the intruder were necessarily in the same room with the suffering lady. At the doctor's request, Scattergood once gave some trifling manual assistance, but did not obtrude himself, but behaved in a proper manner. The court remarked: "Dr. DeMay therefore took an unprofessional young unmarried man with him, introduced and permitted him to remain in the house of the plaintiff, when it was apparent that he could hear at least, if not see all that was said and done, and as the jury must have found, under the instructions given, without either the plaintiff or her husband having any knowledge or reason to believe the true character of such third party. It would be shocking to our sense of right, justice and propriety even to doubt that for such an act the law would afford an ample remedy. To the plaintiff the occasion was a most sacred one, and no one had a right to intrude unless invited, or because of some real and pressing necessity which it is not pretended existed in this case. The plaintiff had a legal right to the privacy of her apartment at such a time, and the law secures to her this right by requiring others to observe it, and to abstain from its violation. The fact that at the time she consented to the presence of Scattergood, supposing him to be a physician, does not preclude her from maintaining an action and recovering substantial damages upon afterward ascertaining his true character. In obtaining admission at such a time and under such circumstances without fully disclosing his true character, both parties were guilty of deceit, and the wrong thus done entitles the injured party to recover the damages afterward sustained, from shame and mortifica-