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CUMULATIVE SENTENCES.

The case of *Castro* v. *Reg.*, briefly noted on p. 376, presented an interesting question of criminal law, as to which there appears to be a variance between the jurisprudence of England and the United States. Castro, the well-known Tichborne claimant, was tried for perjury on an indictment containing two counts. The first count charged that the prisoner had committed perjury by falsely swearing that he was Roger Tichborne, in an action of ejectment tried before the Court of Common Pleas. The second count charged that the prisoner had committed perjury by falsely swearing that he was Roger Tichborne, in an affidavit sworn before a commissioner. The prisoner being found guilty on both counts, was sentenced, on the first, to penal servitude for seven years, and on the second count to a further term of seven years, to commence immediately upon the expiration of the term assigned to him upon the first count.

The Attorney-General gave his fiat for a writ of error, and the following, among other grounds of error, were assigned:—(1) That the alleged perjuries constituted one offence only. (2) That the second count did not disclose a separate perjury from that disclosed in the first count. (3) That on one indictment the maximum punishment assigned by statute cannot be cumulatively exceeded.

The appeal was argued by eminent counsel, Mr. Benjamin and others for the plaintiff in error, and the Attorney and Solicitor-General for the Crown. The decision of the Court of Appeal was, however, unanimous in affirming the judgment entered upon the conviction. The Crown relied upon the case of *Rex* v. *Wilkes* 4 Burr. 2527, as settling the point. In that case it was held by the House of Lords that for several misdemeanors separate sentences could be passed, one to take effect after the expiration of the other; and the Court of Appeal in the present case, adopting the ruling in the *Wilkes* case, added that "there is no reasonable distinction between trial and conviction on several charges contained in different counts in one indictment, and several separate trials for the same charges charged in different indictments." In the Tweed case, however, in New York (*People ex rel. Tweed* v. *Liscomb*, 60 N. Y. 559), it was held that the law in the United States does not permit several sentences, exceeding in the aggregate the maximum amount of punishment for a single misdemeanor, to be inflicted in the case of a conviction for several misdemeanors charged in different counts in the same indictment. This decision was held by the New York Court to be in accordance with the English common law of 1775, and it declined to accept any later English decision inconsistent with the American practice. The English judges appeared to think that the New York Court was mistaken in its view of the English law as it existed in 1775, and they held further, that in any case the *Tweed* decision, on the authority of which the Attorney-General gave his fiat for the writ of error, was in no way binding on them. They came to the conclusion, therefore, to affirm the judgment, thus laying down the rule that where a defendant is convicted of separate misdemeanors charged in separate counts in the same indictment, the Court has power to pass separate sentences exceeding in the aggregate the maximum punishment for one offence.

APPEAL FROM SUPREME COURT.

The Privy Council, it is stated, has granted permission to appeal to England from the judgment of the Supreme Court of Canada in *Parsons* v. *The Queen Insurance Co.*, and other cases (p. 326 of this volume). We have not yet seen any report of the grounds on which leave to appeal has been granted, but it may be remarked that their lordships, in allowing the application, are not acting inconsistently in any respect with the principles already laid down by them. So long ago as 1877, in the case of *Johnston* v. *Minister and Trustees of St. Andrew's Church*, the Privy Council, after citing the 47th section of the Supreme Court Act, 38 Vict. c. 11, which takes away the right of appeal, remarked: "Their lordships have no doubt whatever that assuming, as the petitioners do as-