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Article 19

The Queen v. Laroche, [1963] S.C.R. 292

R. F. E.

The Queen v. Laroche, [1963] S.C.R. 292.

The accused respondent was convicted of theft, by unlawfully converting to her own use $10,000 belonging to the Town of Eastview. The Ontario Court of Appeal quashed the conviction and directed a new trial. The Crown sought leave to appeal to the Supreme Court on the question of law whether the Court of Appeal erred in law in holding that the trial judge misdirected the jury as to the theory of the defence. The respondent opposed the motion on the ground that the judgment of the Court of Appeal was based on two grounds, one of which did not raise a question of law alone.

Cartwright J. delivering the judgment of the Supreme Court, granted leave to appeal on the question set out in the notice. By the case *The Queen v. Warner,*[1] where a Court of Appeal has quashed a conviction on two grounds of which one is, and the other is not, appealable to the Supreme Court an appeal to the Supreme Court from the judgment is not open. But despite cases in other jurisdictions holding that a non-direction or misdirection by the trial judge in dealing with evidence is not a question of law alone, Cartwright J. followed *Brooks v. R.*[2] and *held* that the Supreme Court may enter-

1 [1961] S.C.R. 144.
2 (1909) 2 Cr. App. R. 197.

tain appeals based on the ground of the failure of the trial judge to deal adequately with the evidence in his charge to the jury. This was the subject of the question to which the respondent took objection, hence the respondent's allegation that the Supreme Court does not have jurisdiction to hear the appeal failed.

R.F.E.