TERAS KRAWCHUK....................APPELLANT;

AND

HIS MAJESTY THE KING............RESPONDENT.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH
COLUMBIA

Criminal law—Section 1025 Cr. C.—Appeal to the Supreme Court of Canada—Conflicting decisions—"Judgment of any other court of appeal"—Must be courts within Canada.

The "court of appeal" contemplated by section 1025 of the Criminal Code which gives right of appeal to the Supreme Court of Canada, upon leave to appeal being granted, "if the judgment appealed from conflicts with the judgment of any court of appeal" does not include any courts other than Canadian courts. *Arcadi* v. *The King* ([1932] S.C.R. 158) foll.

APPLICATION for leave to appeal from a decision of the Court of Appeal for British Columbia, upholding the conviction of the appellant for the offence of murder.

E. F. Newcombe K.C. for the appellant.

W. L. Scott K.C. for the respondent.

THE CHIEF JUSTICE—I have no hesitation in expressing my agreement with the conclusion of my brother Rinfret in *Arcadi* v. *The King* (1), that the courts of appeal, contemplated by section 1025 of the Criminal Code, do not include any courts other than Canadian courts.

In addition to the reasons of my brother Rinfret, I may add that the interpretation very ably contended for by Mr. Newcombe (that conflict with a decision on a criminal appeal in England is sufficient to give jurisdiction under that section) might open up in any case the question whether the judgment in which leave to appeal was prayed was inconsistent with the decisions of the Court of Crown Cases Reserved, of the Exchequer Chamber, of the House of Lords, or of the Privy Council; in other words, might open up a field of examination so broad as to trench upon the limitation in section 1023 to a degree probably not contemplated by section 1025.

Then, the Chief Justice, after dealing with the merits of the case, dismissed the application.

Application dismissed.

* PRESENT:—The Chief Justice in Chambers.

(1) [1932] S.C.R. 158; 57 C.C.C. 130.