

et que le recorder avait refusé de lui accorder un cas réservé sur cette question.

La requête a été accueillie et le *certiorari* maintenu par le jugement suivant :

Mr. Justice MacLennan. The record returned by the Recorder with the writ of *certiorari* consists of the complaint, the warrant, a bail bond and list of authorities. On the back of the complaint there is a memorandum of the petitioner's appearance and plea of not guilty, and that on 26th July 1915 she was found guilty and condemned to pay a fine of \$100 or three months imprisonment at hard labor, and that by her Counsel she made asked to have a question reserved for the Court of Appeal regarding the legality of the evidence, which demand was rejected. There are no depositions or notes of evidence in the record. The petitioner was charged with an offence under article 228 of the Criminal Code and was given a summary trial under the provisions of part XVI. The omission of the Recorder to take notes of the evidence at the trial is, in my opinion, fatal to the conviction. There is nothing in the record to show on what evidence petitioner was convicted or that the evidence given before the Recorder established an offence of the nature charged. It is impossible to reconcile the absence of any notes of evidence in this case with the provisions of articles 793 and 1124 of the Criminal Code. I have not been able to distinguish the petitioner's case from the *King v. Harris* (1);—*re Lacroix* (2);—and *Rex v. Jung Lee* (3).

I therefore maintain the *certiorari* and quash the conviction.

(1) [1911], 18 Can. Cr. Cas. 292.

(2) [1907], 12 Can. Cr. Cas. 297.

(3) 22 Can. Cr. Cas. 63.