

CORDON-CUENCA v R.

Privy Council

The Lord Chancellor (Viscount Simon), Lord Atkin, Lord Porter,
Lord Clauson

and Sir George Rankin.

13 December 1943.

*Privy Council — leave to appeal in criminal matters —
Appeal Order in Council Gibraltar, 1909.*

The following extract from the Reasons for Report of the Lords of the Judicial Committee of the Privy Council is printed as a practice note—

For purposes of record, their Lordships think it well to add that after conviction and sentence, the Chief Justice entertained an application for leave to appeal to His Majesty in Council, and purported to grant leave, under the impression that the Order in Council regulating appeals to His Majesty in Council from Gibraltar¹, applies to a criminal case. It does not; the Order in Council is in the same terms as that considered by the Judicial Committee in *Chung-Chuck v. The King*², when it was held that the language of the Order did not authorise such leave to appeal in a criminal matter. If such leave is given, it must be by His Majesty in Council. In order to avoid the frustration of the proceedings from this cause, their Lordships advised His Majesty that special leave to appeal should be given, and this was so given by Order in Council of 10 December 1943.

¹ S.R. & O. 1909 No. 794.

² [1930] A.C. 244.