

13/76

COURT OF APPEAL (ENGLAND)

R v LEE

Orr LJ, MacKenna and Forbes JJ

9 October 1975 — [1976] 1 WLR 71; [1976] 1 All ER 570; 62 Cr App R 33; New Law Journal (England), 23 October 1975**EVIDENCE – CROSS-EXAMINATION OF WITNESSES AS TO CHARACTER – WHETHER QUESTIONS ASKED OF WITNESS WERE ASKED WITH A VIEW TO ESTABLISH THE DEFENDANT'S GOOD CHARACTER.**

L. was charged with stealing £150 and a gold ring from a Mr Ludlian. L's counsel cross-examined Ludlian, who was called by the prosecution, as to the previous convictions of two other men who were not called as witnesses, but who, the defence suggested, had had an opportunity to commit the offence with which L was charged. The recorder considered that the cross-examination had been conducted with a view to establishing L's good character, and allowed the prosecution to cross-examine L. on his own previous convictions, in accordance with s1 of the *Criminal Evidence Act 1898* which states: "A person charged and called as a witness in pursuance of this Act shall not be asked ... any question tending to show that he ... is of bad character, unless ... (ii) he has ... by his advocate asked questions of the witnesses for the prosecution with a view to establish his own good character". L. was convicted and appealed.

HELD: Appeal allowed and the conviction quashed. The questions which were put to Ludlian were not asked with a view to establish L's own good character. They were asked with a view to establish the bad character of the two other men and nothing else. It was not implicit in an accusation of dishonesty that the accuser himself was an honest man.
