

consequences of his act is rebutted in the case of a man who is drunk, by shewing his mind to have been so affected by the drink that he was incapable of knowing that what he was doing was dangerous. No one doubts the law: but the law stated does not apply to the present case. "Where a judge sums up to a jury, he must not be taken to be inditing a treatise on the law:" *Rex v. Meade*, [1909] 1 K.B. 895, at p. 898.

On Sept. 28, counsel for the prisoner moved before the Court of Appeal for an order directing the trial judge to submit a question as to the state of intoxication of the defendant to the court for its opinion and determination.

Held, that having due regard to the gravity of the issues involved it would have been desirable that there should have been a case stated on the above question. The conviction was therefore set aside and a new trial granted. The Chief Justice in giving judgment said that if the trial judge had been requested to charge the jury in the way it is now stated he should have done, he presumably would not have refused so to do. Those in charge of the case seemed to have directed their minds to other views of it and the one now under discussion was overlooked or not thought of sufficient importance to determine the issue before the jury; the result perhaps being that the prisoner had not had his case presented to the jury as advantageously as it might have been. The proper direction to the judge in such a case would be that the presumption that a man intends the natural consequences of his act may be rebutted in the case of a man who is drunk by shewing that his mind was so affected by the drink he had taken that he was incapable of knowing what he was doing was dangerous, and that it was likely to inflict serious injury. The jury should be asked to pass upon that, having regard to the evidence before them.

Cartwright, K.C., and *Bailey*, K.C., for Crown. *Robinette*, K.C., for prisoner.

HIGH COURT OF JUSTICE.

Meredith, C.J.C.P.]

[Sept. 23.

WARREN F. BANK OF MONTREAL.

*Company—Pledge of shares—Right of pledgee to transfer—
Form of.*

The plaintiff was the pledgor of some shares in the Otisse Mining Company and the defendant Currie was the pledgee. Currie