

for restitution may not always repair the mischief done; but, subject to that inconvenience, I believe the whole justice of the case will be met by the appeal, which lies on matter of fact as well as law, as expressed by the 81st section—contrary to the Victoria Statute, according to the case cited, *Regina v. Brewer*. The appeal to the District Court, as I have already said, reopens the whole case. It is a complete rehearing, or new trial, before a competent tribunal, presided over by a professional Judge, where the whole law applicable to the case, the facts, and the evidence, are gone into and considered.

For these reasons, this rule will be discharged with costs.

Mr. Smith: I ask your Honor for leave to appeal.

His Honor: Of course you will have leave. I do not know that it is necessary to ask for leave.

---