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C. A.

REX v. EDMONDSTONE AND NEW.

Criminal Law—Indictment for Robbery with Violence and Wounding—Verdict — Assault—Recording — Interpretation—Mistrial—New Trial.

Case stated by the chairman of the General Sessions of the Peace for the county of Wentworth.

The prisoners were indicted for robbery with violence and wounding. There was no note of the Judge's charge. When the jury returned into Court, and were asked if they had agreed upon a verdict, they replied through their foreman: "We find the prisoner guilty of assault." The Chairman then, addressing the County Attorney, asked: "What does that mean?" The County Attorney replied: "Assault as charged in the indictment." Addressing the foreman of the jury, the Chairman said: "What do you mean by that?" And he, speaking for the jury, answered: "We mean, inflicting the blow with the bottle as described, but not guilty of robbery." And, on being further asked, "Which prisoner?" they said, "Both." And the Chairman entered the verdict on the record: "The jury find both prisoners guilty of assault as charged, but not guilty of robbery;" interpreting, as the case stated, the verdict and explanation to mean that the prisoners were guilty of the wounding charged in the indictment. One of them was then sentenced to 30 months in the penitentiary and the other to 18 months in the central prison, a sentence which could not have been legally imposed upon a conviction for an assault.