

Province of British Columbia.

SUPREME COURT.

Martin, J.]

REX v. FORD.

[May 24.]

Criminal law—Dirèction to jury—Assault committed by prisoner to recover money out of which he had been cheated—Whether he is guilty of robbery or assault.

Where the prisoner acted in the bonâ fide belief that he had been swindled, and in the belief that he was entitled to retake the money, committed an assault for that purpose alone, and did retake the money or a portion of it, in that sole and bonâ fide belief, the jury, on consideration of the facts, would be justified in acquitting him on a charge of robbery, although it was open to them, on the same facts, to convict on a charge of assault.

Macleán, K.C., (D. A.-G.), for the Crown. Howay, for the prisoner.

Full Court.]

[July 22.]

EASTERN TOWNSHIPS BANK v. VAUGHAN.

Waters and water rights—Riparian owners—Effect on water record of abandonment of pre-emption.

V. and M. held separate pre-emption records, and, as partners, a joint water record dated January, 1888. In October, 1889, they formally abandoned their separate pre-emptions and re-located the same area as partners, obtaining to it in due course a pre-emption record to it in their joint names. The water record was left unchanged, standing in the names of V. and M.

Held, on appeal, reversing the decision of Morrison, J., that when V. and M. abandoned their pre-emptions, the water record obtained in connection therewith lapsed.

S. S. Taylor, K.C., and Hanington, for appellants, plaintiffs. Davis, K.C., for respondents, defendants.