

*That antlered eaves-dropper knows a thing or two. Certain it is when a man's on the trail there's nothing like a cup of hot OXO.*



been thousands of attempts to escape no authority in support of this proposition can apparently be found beyond that of two police magistrates in Ontario. The only decisions on the point to which counsel has been able to refer are the two mentioned, supporting his contention, and two in this province, including the one now under consideration to the opposite effect.

“Only one of the two Ontario cases has been reported, *R. v. Krebs* decided in October, 1942, and reported in 80 C.C.C. 279. The other Ontario case was in February, 1944, *R. v. Brosig*, which is not reported. The attorney-general, however, appealed from the acquittal in the latter case and at the time of the argument in this case the decision on the appeal had not been given. Judgment has now been given but unfortunately it does not settle the question presently under consideration.

“In the *Brosig* case the prisoner of war had concealed himself in a post-office mail bag and had subsequently cut his way out and stolen some articles from another mail bag.

“The magistrate found that some of the articles stolen could not be deemed to be necessary or useful in aiding his escape. Such being the case, the court contented itself with restricting its decision to the facts of the case. Mr. Justice Gillanders, who wrote the main reasons, stated:

‘Counsel for the appellant urges that prisoners of war are subject to the complete restraint of the criminal law whether or not the acts in question are a part of or incidental to escape from the detaining power. It is unnecessary and undesirable to express here an opinion as to what view should be taken under other circumstances, for instance, if a prisoner of war were accused of assaulting a military guard who endeavoured to prevent his escape.’ And the Chief Justice of Ontario who also wrote a short judgment said: ‘The looting of the mail bag was not an act necessary for the escape of the prisoner of war.’

“I think, however, we are entitled to accept the decision as authoritative for the propositions that the Geneva Convention of 1929 is a part of the law of Canada, and