per cent., and her costs as between solicitor and client of the two actions and the proceedings before the Attorney-General.

If the defendants were not content to accept relief upon these terms, the motion should be dismissed with costs.

REX v. YAK KETA—MIDDLETON, J., IN CHAMBERS—SEPT. 18.

Ontario Temperance Act—Offence against—Having Intoxicating Liquor in Possession—Magistrate's Conviction—Motion to Quash —Evidence.]—Motion to quash a conviction of the defendant by the Police Magistrate for the City of Port Arthur. The conviction was for having intoxicating liquor contrary to the Ontario Temperance Act. MIDDLETON, J., in a written memorandum, said that the affidavit filed on behalf of the Crown completely answered the case made by the defendant, and the motion must be dismissed with costs. A. G. Slaght, for the defendant. J. R. Cartwright, K.C., for the Crown.

ROBINSON v. LONGSTAFF—FALCONBRIDGE, C.J.K.B.—SEPT. 19.

Vendor and Purchaser—Contract for Sale of Land—Option—Payment—Question of Fact—Finding of Referee—Appeal—Acceptance of Money Paid—Statute of Frauds.]—An appeal by the plaintiff from the report of DENTON, Jun. Co. C. J. York, acting as a Referee. The appeal was heard in the Weekly Court at Toronto. FALCONBRIDGE, C.J.K.B., in a written judgment, said that the evidence preponderated strongly in favour of the Referee's finding that the $500 was paid by the plaintiff in January, 1916, on the land and premises, and not on account of the chattel-mortgage; and that the defendants received the same as a payment on the land, and not on the chattel-mortgage. But the plaintiff contended that, even if the Referee's finding as to this was to stand, the plaintiff was entitled to the return of the $500 as having been paid and received without consideration and by mutual mistake; that the time for exercising the option had expired when the money was paid, and payment of part or even the whole of the purchase-money was not part payment within the Statute of Frauds—citing Fry on Specific Performance, 5th ed., paras. 800, 1103, 560; Kerr on Fraud and Misrepresentation, 4th ed., p. 520; Johnson v. Canada Co. (1856), 5 Gr. 558. The answer to this was that the defendants accepted the money and did not elect to rescind the option; but recognised it as binding. They had executed and tendered a deed, and were still willing to deliver it. The finding should be against the plaintiff as to the other grounds of appeal. Appeal dismissed with costs, fixed at $100. W. E. Raney, K.C., for the plaintiff. A. J. Anderson, for the defendants.