

that was not intended to lay down any general rule as to the liability of any person to be prosecuted under sec. 41 of the Ontario Temperance Act merely because he was carrying a flask or small bottle of liquor."

BRITTON, J.

DECEMBER 18TH, 1916.

## OLIVER v. ROBERTSON.

*Mortgage — Redemption — Terms — Proviso in Mortgage-deed Equivalent to Covenant Running with Land—Benefit of Assignee of Equity of Redemption—Costs—Contribution.*

On the 1st August, 1910, the defendant Robertson mortgaged several lots of land to E. W. Clark and others for \$5,000, to be repaid in full on the 17th August, 1915. The mortgage-deed contained a proviso that the mortgagor should have the right at any time to obtain a release of any one of the lots mortgaged upon payment of \$360 on account of the principal money.

The defendant Joseph Moyneur became the purchaser of the equity of redemption in the lots, none of which had been released from the mortgage.

In this action for redemption, there was a reference to the Local Master at Ottawa, who found and certified that the defendant Moyneur was entitled to redeem the lots purchased by him on payment of the sum of \$360 per lot and costs of the action without further payment.

The defendant Moyneur appealed from the Master's certificate, upon the ground that the payment of the whole costs of the action should not have been a term of his right to redeem.

The defendant Robertson also appealed upon the ground that Moyneur should not have been allowed to redeem except upon payment of a proportionate amount of the whole mortgage-debt and costs of the action.

The appeals were heard in the Weekly Court at Ottawa.

S. R. Broadfoot, for the appellant Moyneur.

A. W. Greene, for the appellant Robertson.

G. D. Kelley, for the plaintiff.

G. McLaurin, for the defendant Calvin Curran.

BRITTON, J., set out the facts in a written judgment, and said that the mortgagee in a redemption action is entitled to all his