

*Held*, that there was no offence under s. 198 of the Criminal Code of 1892 by keeping a common gaming house within that section.

*Cartwright*, Q.C., for the Crown.

*Osler*, Q.C., *contra*.

Div'l Court.]

[June 23.]

JONES v. GODSON.

*Arbitrators—Excessive charge for fees—Penalty in treble the amount of overcharge—Liability.*

The liability imposed on arbitrators by s. 29 of R.S.O., c. 53, in case of an overcharge of fees, to pay treble the amount of the fees charged, is penal in its nature, and arises only where there has been a refusal or delay to make, execute, or deliver an award after a previous demand made unless such excessive charges are paid.

Taxation of the fees is not a condition precedent to maintaining an action for the penalty.

*W. R. Smyth* for the plaintiff.

*Wallace Nesbitt* and *A. Munro Grier* for the defendants.

Div'l Court.]

[June 25.]

REGINA v. FRAWLEY.

*Criminal law—Conspiracy—Failure to complete fraud—Indictment of one of two conspirators.*

A conspiracy to defraud is indictable, even though the conspirators are unsuccessful in carrying out the fraud.

One of two conspirators can be tried on an indictment against him alone, charging him with conspiring with another to defraud, etc., the other conspirator being known in the country.

*Cartwright*, Q.C., for the Crown.

*McBrady* for the defendant.

MACMAHON, J.]

CHRISTIE v. CORPORATION OF TORONTO.

*Assessment and taxes—Assessment Act, 55 Vict., c. 48, s. 124 (O.)—Goods subject to distress—Occupancy.*

Section 124 of the Consolidated Assessment Act, 55 Vict., c. 48 (O.), only authorizes a distress for non-payment of taxes of the goods of the person who ought to pay the same, or of any goods in his possession, etc., or of any goods found on the premises, the property of or in the possession of any other occupant of the premises, and not to goods on the premises which were not the goods and chattels of the person who ought to pay the taxes, or of any occupant thereof.

*Hall* for the plaintiff.

*Chisholm* for the corporation of Toronto.

*W. R. Smyth* for Farquhar.