

(4) of the Municipal Act empowering municipalities to pass by-laws "for suppressing gambling houses." On an information under this by-law, the evidence shewed that the defendant's friends used to come to visit him in his private house on Sundays, and there sometimes play poker for money, and that they did so on the occasion in question; but there was no evidence that the house was of the character of a "gambling house."

*Held*, that this section of the Municipal Act is pointed at houses where gaming or gambling is practised, and the house is kept for such purpose; and the by-law far transcended its terms, and was therefore ultra vires, and the conviction of the defendant under it must be quashed.

*Godfrey*, for defendant. *Cartwright*, K.C., for the Crown. *Fullerton*, K.C., for City of Toronto.

Boyd, C.]

RE CORNELL.

[Jan. 12.

*Settled Estates Act—Leave to sell land—Trust for sale at named period—"By way of succession"—R.S.O. 1879, c. 71, s. 2 (1).*

Under a will land was to be rented by the executors until the youngest son of the testator came of age. When the youngest child was twenty-one the property was directed to be valued and certain options to purchase given to the children. And lastly power of sale was given to the executors for the purpose of distribution as mentioned in the will.

*Held*, that the case was within the scope of the Settled Estates Act and that the trust to rent the land until the youngest son came of age and then to sell was a limitation "by way of succession" within the meaning of s. 2 (1) of the Settled Estates Act, R.S.O. 1897, c. 71, and the Court had power to direct the sale forthwith.

*J. L. Jones*, for petitioner. *Boland*, for beneficiary. *F. W. Harcourt*, for infants. *Holman*, K.C., for prospective purchaser.

Boyd, C., Meredith, J., Magee, J.]

[Jan. 12.

GARLAND v. CLARKSON.

*Discovery—Examination of person for whose immediate benefit action defended—Action against assignees for creditors—Examination of assignor—Reference for trial—Power of referee to order examination.*

This action being at issue all matters were referred to be tried before a referee pursuant to s. 29 of the Arbitration Act, R.S.O. 1897, c. 62.