

Held, MACMAHON, J., dissenting, that the powers of the commissioners under s. 4 were not restricted by s. 81, and that the resolution was within their powers.

Four persons played "euchre" for amusement in a room behind the bar of the defendant's hotel, the cards used being the property of one of the players, a boarder in the hotel.

Held, 1. "Euchre" is a game of chance, and that the defendant was properly convicted of an infraction of the resolution by reason of the game having been played in his premises, though without his knowledge.

2. Sec. 100 of the Act should be read into the resolution providing for the recovery of the fine imposed upon a conviction and that the direction of the conviction for recovery by distress and in default of distress imprisonment was authorized.

3. Where the license inspector attends court as prosecutor he is to be allowed certain expenses by way of costs, as provided in s. 117, and there was nothing wrong in the amount (\$4.20) allowed for costs in this case. If it were wrong, it was severable, and could not affect the conviction.

Cartwright, K.C., for license inspector. *T. A. Gibson*, for defendant.

Ferguson, J.]

CHARLETON v. BROOKE.

[July 23.

*Donatio mortis causa—Moneys and notes in cash box and trunk—
Delivery of keys.*

The defendant's father, a man of ninety-eight years of age who had been living in her house, was taken suddenly ill, retired to his room and lay down on his bed, and while she was endeavoring to make him comfortable he handed her a small wallet containing three keys and said "All the money and notes I have got are yours". One of the keys was that of a trunk in his room and another of a cash box in which the money and notes were in the trunk. There was evidence that he had a foreboding that it would be his last illness and that he intended to give his property to the defendant. She retained the keys until his death. In an action by his administrators for the money and notes.

Held, that there was a good donatio mortis causa.

In re Mustapha, *Mustapha v. Wedlock* (1891) 8 Times L. R. 160 followed.

Glen, K. C. and *Leach* for plaintiffs. *Macbeth*, K. C. for defendant.