

"to such office as shall not be known to the society at large, or of which the names of all the persons and of the committee or select bodies of members, and of all presidents, treasurers, secretaries, delegates and other officers, shall not be entered in a book or books for that purpose, and to be open to the inspection of all the members of such society or association; and every society or association which shall be composed of different divisions or branches, or of different parts acting in any manner separately or distinct from each other, or of which any part shall have any separate or distinct president, secretary, treasurer, delegate or other officer elected or appointed by or for such part, or to act as an officer for such part shall be deemed and taken to be unlawful combinations and confederacies; and every person who, from and after the passing of this ordinance shall become a member of any such society or association, at the passing of this ordinance, shall afterwards act as a member thereof, and every person who, after the passing of this ordinance shall directly or indirectly maintain correspondence or intercourse with any such society or association or with any division, branch, committee or other select body, Treasurer, Secretary, Delegate or other officer or member of such society or association, whether within or without the Province, as such, or who shall by contribution of money or otherwise, aid, abet or support such society, or any members or officers thereof as such, shall be deemed guilty of an unlawful combination or confederacy."

This enactment has been reproduced in the C. Sts. L. C., cap. 10, with no alteration, except the correction of one or two errors of construction. Now, this law is taken in part from section 1 of the 39 Geo. III., c. 79, and although on a superficial examination it may appear that the ordinance of L. Canada only reproduces the terms of the English Act, it really differs from it essentially. In the first place it is not confined to certain named societies and every other society of a like kind, but it extends to every society or association whatever, "the members whereof shall, according to the rules thereof, or to any provision, or any agreement for that purpose, be required to keep secret the acts or proceedings of such

society or association." These words are not in the original Act, and if strictly interpreted they lead us necessarily to the conclusion that if two or more persons agree to keep secret any act or proceeding of theirs, however innocent, they shall be guilty of felony. This is evidently not within the intention of the Act, and unless something more than this is established your duty will be a very easy one. But what, substantially, you will have to enquire is whether the five persons accused, or any of them, have taken an oath to do an illegal act, or to leave undone anything they are bound by law to do; or whether they have become members of a society or association whose rules require or admit the taking of an illegal oath, or of an oath not required or authorized by law, or whose rules require the members, or any of them, to take, subscribe, or assent to any test or declaration not required by law, or, further, whether they are members of a society the names of whose members are kept secret or not entered in a book to be kept for that purpose, or in which there shall be any secrecy as to the persons forming the association, its governing body, or its objects.

Having read to you the statute, and having explained in less technical language its general import, the Court trusts you will have little or no difficulty in discriminating whether any case presented to you appears to fall fairly within the scope of the law or not. You will observe that it is not your duty to decide on the merits of the law, or whether it may be exceptionally or unduly severe. Neither are you to arrive at any conclusion unfavorable to the accused, or the reverse from any preconceived opinion as to the nature of an Orange Lodge, or the nature of an Orange Society, Before sending any one here for trial, it is your duty to have reasonable *prima facie* proof that an Orange Lodge is illegal under the Act, and that the accused is a member of it. It is right the Court should draw your attention to the fact that acting as a member brings the party within the law. On the other hand, you will remember that there is no presumption of guilt to be drawn from the fact that any witness has refused to answer with respect to the Orange organization for fear of criminating himself. That refusal is justified under the law, sanctioned by the highest legal authority in