

FIRST DIVISIONAL COURT.

NOVEMBER 20TH, 1918.

TORONTO HOCKEY CLUB LIMITED v. OTTAWA HOCKEY ASSOCIATION LIMITED.

Club—Association of Hockey Clubs—Central Association—Interference with Players of one Club—Acquiescence—Leaving Club out of Schedule of Matches—Powers of Association—Evidence—Injunction.

Appeal by the plaintiff club from the judgment of MEREDITH, C.J.C.P., at the trial, dismissing the action with costs.

The action was brought by a hockey club against several other hockey clubs for damages for wrongful interference with the plaintiff club's players and for leaving the plaintiff club out of a schedule prepared at a meeting of the National Hockey Association of Canada held on the 11th February, 1917; and to restrain the defendant clubs from playing in future in any new league or in any league of which the plaintiff club was not a member.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS, and FERGUSON, J.J.A.

I. F. Hellmuth, K.C., and J. F. Boland, for the appellant club.
R. T. Harding, for the defendants, respondents.

The judgment of the Court was read by FERGUSON, J.A., who said, after stating the facts, that the learned trial Judge had come to the conclusion that the substantial part of the action was the alleged interference with the plaintiff club's players, and that in respect of that claim the plaintiff club had acquiesced in what had been done. With that finding the Court agreed. The part of the resolution authorising the sale of the franchise was not acted upon and was rescinded, and it was not necessary to work out just what was meant by the sale of the franchise or what was the contract in reference thereto.

The rules and provisions of the so-called constitution in reference to a schedule were founded upon the assumption that each and every one of the six clubs named in the schedule would continue in existence as active playing organisations; and those rules were not applicable when one club went out of existence. Consequently, no provision was made in the agreement of the parties or the constitution regulating the action of the members of the association in case the number of clubs should fall below six. In these circumstances, the members of the association had power,