

J. R. Cartwright, K.C., and R. C. Clute, K.C., for the Crown.

The judgment of the Court (MOSS, C.J.O., OSLER, MACLENNAN, GARROW, MACLAREN, J.J.A.), was delivered by

OSLER, J.A.—It was proved that defendant was the president and the active participant in an organization composed of himself and, *inter alios*, some of the persons mentioned in the indictment, known as the Ontario Coal Association, having a formal printed constitution and by-laws, approved on 22nd September, 1900, which were in force and operation within two years before, and indeed up to the time of the trial. Article I., sec. 2, of the constitution declares that the object of the association "shall be the protection of its members against the shipment of coal direct to consumers by producers, mine agents, shippers, or jobbers, and the general improvement of the coal trade in the Province of Ontario." Article V. provided that any firm, individual, or corporation having the defined interest as shareholder in the association, and possessed of certain specified business facilities, and who are regularly and continuously engaged in the sale of coal in the Province of Ontario, shall be eligible for membership in the association. By sec. 4, any organization of coal dealers in any city or town of the province shall be eligible for membership and entitled to one vote for each member of their organization. By sec. 6, miners, jobbers, and wholesale shippers may become honorary members.

Article VII. provides for the mode of hearing and disposing of charges, complaints, and grievances. If amicable adjustment cannot be effected, the president is to be notified to call the executive board together for further action.

By the by-laws, article V., when notified by the secretary, no dealer or member of any organization belonging to the association shall buy coal of any producer, miner, jobber, or shipper, who sells any anthracite coal direct to a consumer in any town where there is a member of this association, or who sells to dealers who refuse to maintain prices fixed by the local organization.

By article VI., no producer, miner, jobber, or shipper, who shall sell coal direct to a consumer in any town or city where there is a member of this association, or to a dealer who refuses to maintain the prices established by the local organization of the town in which he is located, shall be deemed to be in good standing with this association.

Article VII. provides for dealing with claims for violation of the laws of the association. For every sale of anthra-