

the other and others of them, and with some 208 named persons, firms, and corporations, and with the several members, officers, etc., and other persons, firms, and corporations at present unknown: (1) Unduly to limit the facilities in producing, manufacturing, supplying and dealing in sugar, tobacco, starch, canned goods, salt and cereals, and other articles and commodities, being articles and commodities which are the subject of trade and commerce; (2) and to restrain and injure trade and commerce in relation to such articles and commodities; (3) and unduly to prevent, limit and lessen the manufacture and production of such articles and commodities; (4) and unreasonably to enhance the price of such articles and commodities; (5) and unduly to prevent and lessen competition in the production, manufacture, purchase, barter, sale, and supply of such articles and commodities; against the form of the statute, etc.

FALCONBRIDGE, C.J.:—Counsel for the Crown admitted that no case had been made against the defendants under clause (1) of the indictment, corresponding to sub-s. (a) of s. 498 of the Code . . . and that the case would have to be maintained, if at all, under the remaining charges corresponding to sub-ss. (b), (c) and (d) of s. 498.

(The Chief Justice referred to portions of the evidence; and then cited and quoted from the following authorities: Jolly on Contracts in Restraint of Trade; *Nordenfeldt v. Nordenfeldt-Maxim* (1894) A.C. 535, 553, 556; *Ontario Salt Co. v. Merchants Salt Co.*, 13 Gr. 540, 542, 543; *Rex v. Elliott*, 9 O.L.R. 648; *Rex v. Master Plumbers' Association*, 14 O.L.R. 295, 300, 302, 309; *Mogul SS. Co. v. McGregor* (1892) A.C. 36; *Allen v. Flood* (1898) A.C. 138; *Wampole & Co. v. P. E. Karn Co.*, 11 O.L.R. 619; *Quinn v. Leathem* (1901) A.C. 506; *The King v. Clark*, 14 Can. Crim. Cas. 46, 57; *The King v. Gage*, 13 Can. Crim. Cas. 415; *Gibbons v. Metcalfe*, 15 Man. L.R. 583; Eddy on Combinations, vol. 1, s. 556; *Bohm Manufacturing Co. v. Hollis*, 54 Minn. 223, 55 N.W.R. 1119, 1120; *Commonwealth v. Grimstead*, 108 Ky. 59, 111 Ky. 203; *Gibbs v. Consolidated Gas Co.*, 130 U.S. 396, 409; *People's Gas Light Co. v. Chicago Gas Light Co.*, 20 Ill. App. 492.)

I find the facts then to be as follows:—

1. The defendants have not, nor has any of them, intended to violate the law.
2. Nor have they, nor has any of them, intended maliciously to injure any persons, firms, or corporations, nor to compass any restraint of trade unconnected with their own business relations.