

commerce of vital necessity to every member of the community.

The right of competition is the right of every one, and Parliament has now shewn that its intention is to prevent oppressive and unreasonable restrictions upon the exercise of this right, that, whatever may hitherto have been its full extent, it is no longer to be exercised by some to the injury of others. In other words, competition is not to be prevented or lessened "unduly," that is to say, in an undue manner or degree, wrongly, improperly, excessively, inordinately, which it may well be, in one or more of these senses of the word, if by the combination of a few the right of the many is practically interfered with by restricting it to the members of the combination. The plain object of this association was to restrict and confine the sale of coal by retail to its own members, and to prevent any one else from obtaining it for that purpose from the operators and shippers. . . .

It was contended that the combination was not within the statute because it affected only the supply at the source in a foreign country, but that is not its whole scope or limit by any means. It strikes at competition in this country in the supply and sale of coal here, and it is immaterial that it affects the conduct of the foreign vendor also, when that has reference to and affects persons resident here: *State v. Lancashire Ins. Co.*, 66 Ark. 466, 477; and see *People v. Sheldon*, 139 N. Y. 25; *Am. & Eng. Encyc. of Law*, 2nd ed., vol. 20, pp. 854, 855.

As regards the objection that the prosecution is too late and is barred by sec. 930 of the Code, it may admit of doubt whether that section can apply to a prosecution by indictment, but, if it does, the objection fails, because the offence is a continuing one. The association remained in existence under, and was governed by, its by-laws and constitution, and its members, including defendant, continued to act thereunder up to the time the prosecution was begun.

For these reasons, the appeal must be dismissed and the conviction affirmed.

As to the cross-appeal of the Crown, which asks that defendant may be convicted on those counts of the indictment on which he was acquitted, I think it is sufficient to say that sec. 5 of the Act . . . only gives an appeal from a conviction. The cross-appeal is, therefore, also dismissed.