United Mine Workers Vs. Coronado Coal Co.

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Appellant : United Mine Workers

Respondent : Coronado Coal Co.

Judgement :

United Mine Workers v. Coronado Coal Co. - 259 U.S. 344 (1922)
U.S. Supreme Court United Mine Workers v. Coronado Coal Co., 259 U.S. 344 (1922)

United Mine Workers of America v. Coronado Coal Company

No. 31

Argued October 15, 1920

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Decided June 5, 1922

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ERROR TO THE CIRCUIT COURT OF APPEALS

FOR THE EIGHTH CIRCUIT

SYLLABUS

1. In view of the Conformity Act and the law of Arkansas respecting consolidation of causes, *held* that the district court did not abuse its discretion in permitting several allied corporations to be joined as plaintiffs in an action prosecuted by their receiver to recover triple damages under 7 of the Sherman Act for the destruction of their properties and business committed in an alleged conspiracy to restrain interstate commerce. P. 259 U. S. 382 .

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2. Unincorporated labor unions, such as the United Mine Workers of America, and its district and local branches, impleaded in this case, recognized as distinct entities by numerous acts of Congress as well as by the laws and decisions of many states, are suable as such in the federal courts upon process served on their principal officers, for the torts committed by them in strikes, and their strike funds are subject to execution. P. 259 U. S. 385 .

3. Such associations are included by 7 of the Sherman Act, permitting actions for damages resulting from conspiracies in restraint of interstate commerce to be brought against "corporations and associations existing under or authorized by the laws of either the United States" or the laws of any territory, state or foreign country. P. 259 U. S. 392 .

4. Where the constitution of a general association of workmen, organized for the declared purpose of improving their wages and working conditions through strikes and other means and subdivided into district and local unions, through which its treasury was supplied, authorized the several district organizations to order local strikes within their respective districts, but upon their own responsibility and without financial support from the general body unless sanctioned by its governing

board, and a local strike in which serious trespasses were committed was called by a district without such sanction, but in accordance with its own constitution, and conducted by it at its own expense, *held* that the general association was not responsible, upon principles of agency, even though it had power to discipline the district and take over the strike at its own expense, and that liability on its part and that of its officers could not be sustained without substantial evidence of their participation in or ratification of the torts committed. P. 259 U. S. 393 .

5. The overwhelming weight of evidence in this case establishes that the defendant district union and its officers, with other individual defendants, participated in a plot unlawfully to deprive the plaintiffs of their employees by intimidation and violence, and in its execution destroyed the plaintiffs' properties. P. 259 U. S. 396 .

6. Where the constitution of a district organization of several local labor unions authorizes the district officers to order a local strike, the district is responsible for injuries unlawfully inflicted in a strike so ordered, and its strike funds may be subjected to a resulting judgment. P. 259 U. S. 403 .

7. The mining of coal is not interstate commerce, and a conspiracy to obstruct mining at particular mines, though it may prevent coal

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from going into interstate commerce, is not a conspiracy to restrain that commerce within the Sherman Act unless an intention to restrain it be proven or unless so direct and substantial an effect upon it necessarily result from the obstruction to mining that such intention must in reason be inferred. P. 259 U. S. 410 .

8. Evidence that a union of coal miners belonged to a general association which, as an incident of its object to promote wages, etc., had a general policy to unionize coal mines by strikes, etc., and thus discourage competition of open shop against union in interstate commerce, *held* not sufficient to prove that a conspiracy of the lesser organization and its members, accompanied by a local strike, to prevent the employment of nonunion miners and the mining of coal at particular mines, was a

conspiracy to restrain interstate commerce in violation of the Sherman Act, where the strike and its lawless activities were the affair of the conspirators, explained by local motives, and the normal output of the mines was not enough to have a substantial effect on prices and competition in interstate commerce from which a motive to assist the general policy might be inferred. Pp. 259 U. S. 403 , 259 U. S. 412 .

258 F. 829 reversed.

This is a writ of error brought under 241 of the Judicial Code to review a judgment of the circuit court of appeals of the Eighth Circuit. That court, on a writ of error, had affirmed the judgment of the District Court for the Western District of Arkansas in favor of the plaintiffs, with some modification, and that judgment thus affirmed is here for review.

The plaintiffs in the district court were the receivers of the Bache-Denman Coal Company, with eight other corporations, in each of which the first-named company owned a controlling amount of stock. They were closely interrelated in corporate organization and in the physical location of their coal mines. These had been operated for some years as a unit under one set of officers in the Prairie Creek valley in Sebastian County, Arkansas. In July, 1914, the District Court for the Western District of Arkansas appointed a receiver for all of the nine companies by a single decree. The receiver then appointed

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was Franklin Bache, whose successors are as such defendants in error here.

The defendants in the court below were the United Mine Workers of America and its officers, District 21 of the United Mine Workers of America and its officers, 27 local unions in District No. 21 and their officers, and 65 individuals, mostly members of one union or another, but including some persons not members, all of whom were charged in the complaint with having entered into a conspiracy to restrain and monopolize interstate commerce, in violation of the first and second sections of the Anti-Trust Act, and with having, in the course of that conspiracy,

and for the purpose of consummating it, destroyed the plaintiff's properties. Treble damages for this and an attorney's fee were asked under the seventh section of the act.

The original complaint was filed in September, 1914, about six weeks after the destruction of the property. It was demurred to, and the district court sustained the demurrer. This was carried to the court of appeals on error, and the ruling of the district court was reversed. *Dowd v. United Mine Workers,* 235 F. 1. The case then came to trial on the third amended complaint and answers of the defendants. The trial resulted in a verdict of $200,000 for the plaintiffs, which was trebled by the court, and to which was added a counsel fee of $25,000, and interest to the amount of $120,600, from July 17, 1914, the date of the destruction of the property, to November 22, 1917, the date upon which judgment was entered. The verdict did not separate the amount found between the companies. On a writ of error from the court of appeals, the case was reversed as to the interest, but in other respects the judgment was affirmed. 258 F. 829. The defendants the International Union and District No. 21 have given a supersedeas bond to meet the judgment if it is affirmed as against both or either of them.

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The third amended complaint avers that, of the nine companies, of which the plaintiff was receiver and for which he was bringing his suit, five were operating companies engaged in mining coal and shipping it in interstate commerce, employing in all about 870 men, and mining an annual product when working to their capacity valued at $465,000, of which 75 percent was sold and shipped to customers outside of the state. Of the five operating companies, one was under contract to operate the properties of two of the others, and four nonoperating companies were each financially interested in one or more of the operating companies either by lease, by contract, or by the ownership of all or a majority of their stock. The defendant the United Mine Workers of America is alleged to be an unincorporated association of mine workers, governed by a constitution, with a membership exceeding 400,000, subdivided into 30 districts and numerous local

unions. These subordinate districts and unions are subject to the constitution and bylaws not only of the International Union, but also to constitutions of their own.

The complaint avers that the United Mine Workers divide all coal mines into two classes, union or organized mines, operating under a contract with the union to employ only union miners, and open shop or nonunion mines, which refuse to make such a contract; that, owing to the unreasonable restrictions and regulations imposed by the union on organized mines, the cost of production of union coal is unnecessarily enhanced so as to prevent its successful competition in the markets of the country with nonunion coal; that the object of the conspiracy of the United Mine Workers and the union operators acting with them is the protection of the union-mined coal by the prevention and restraint of all interstate trade and competition in the products of nonunion mines. The complaint enumerates twenty-three states in which coal

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mining is conducted, and alleges that the coal mined in each comes into competition in interstate commerce, directly or indirectly, with that mined in Illinois, Kentucky, Alabama, New Mexico, Colorado, Kansas, Oklahoma, and Arkansas, in the markets of Louisiana, Texas, Oklahoma, Nebraska, Kansas, Missouri, Iowa, and Minnesota, where, but for the defendants' unlawful interference, plaintiffs would have been engaged in trade in 1914; that the bituminous mines of the greater part of the above territory are union mines, the principal exceptions being Alabama, West Virginia, parts of Pennsylvania, and Colorado, which the defendant has thus far been unable to organize.

The complaint further avers that, early in 1914, the plaintiff companies decided that the operating companies should go on a nonunion or open shop basis. Two of them, the Prairie Creek Coal Mining Company and the Mammoth Vein Coal Company, closed down and discontinued as union mines, preparatory to reopening as open shop mines in April. They were to be operated under a new contract by the Mammoth Vein Coal Mining Company. Another of the companies, the Hartford Coal Company, which had not been in operation, planned to start as

an open shop mine as soon as convenient in the summer of 1914. The fifth, the Coronado Coal Company, continued operating with the union until April 18, 1914, when its employees struck because of its unity of interest with the other mines of the plaintiffs. The plaintiffs say that, in April, 1914, the defendants and those acting in conjunction with them, in furtherance of the general conspiracy, already described, to drive nonunion coal out of interstate commerce, and thus to protect union operators from nonunion competition, drove and frightened away with plaintiffs' employees, including those directly engaged in shipping coal to other states, prevented the plaintiffs from employing other men, destroyed the structures and facilities for mining, loading, and shipping coal, and the

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cars of interstate carriers waiting to be loaded, as well as those already loaded with coal in and for interstate shipment, and prevented plaintiffs from engaging in or continuing to engage in interstate commerce. The complaint alleges that the destruction to the property and business amounted to the sum of $740,000, and asks judgment for three times that amount, or $2,220,000. Certain of the funds of the United Mine Workers in Arkansas were attached. The defendants the United Mine Workers of America, District No. 21, and each local union, and each individual defendant filed a separate answer. The answers deny all the averments of the complaint. The trial began on October 24, 1917, and a verdict and judgment were entered on November 22 following. The evidence is very voluminous, covering more than 3,000 printed pages.

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MR. CHIEF JUSTICE TAFT, after stating the case, delivered the opinion of the Court.

There are five principal questions pressed by the plaintiffs in error here, the defendants below. The first is that there was a misjoinder of parties plaintiff. The second is that the United Mine Workers of America, District No. 21, United Mine Workers of America, and the local unions made defendants, are unincorporated

associations, and not subject to suit, and therefore should have been dismissed from the case on motions seasonably made. The third is that there is no evidence to show any agency by the

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United Mine Workers of America in the conspiracy charged, or in the actual destruction of the property, and no liability therefor. The fourth is that there is no evidence to show that the conspiracy alleged against District No. 21 and the other defendants was a conspiracy to restrain or monopolize interstate commerce. The fifth is that the court erred in a supplemental charge to the jury, which so stated the court's view of the evidence as to amount to a mandatory direction coercing the jury into finding the verdict which was recorded.

First. It does not seem to us that there was a misjoinder of parties under the procedure as authorized in Arkansas. In that state, the law provides that, when causes of action of a like nature, or relative to the same question, are pending before any of its circuit or chancery courts, the court may make such orders and rules regulating proceedings therein as may be conformable to the usages of courts for avoiding unnecessary costs or delay in the administration of justice, and may consolidate said causes when it appears reasonable to do so. In *Southern Anthracite Coal Co. v. Bowen,* 93 Ark. 140, the court consolidated, over objection by defendant, two suits by two workmen who had been injured in the same accident, and the Supreme Court approved of this action. In *Fidelity Insurance Co. v. Friedman,* 117 Ark. 71, it was held that actions by an injured person and by a mortgagee against eight insurance companies on eight different fire insurance policies could be consolidated against the objection by defendants, and they were tried together. Of course, the application of this rule of the Arkansas courts under the federal Conformity Act will be qualified to prevent injury to any substantial right secured by federal law in the trial. It is a case for the exercise of reasonable discretion by the trial court. We cannot say that that discretion was abused in this case. All the companies for which the plaintiffs herein are receivers were united together in interest

and were largely under the control of one of the companies. The active manager of all of them for years was Franklin Bache. He was the first receiver, and, as such, the plaintiff. There was no need for a division in the verdict of damages found, because the union of interest between the plaintiffs involved no difficulty in the distribution among them of the amount found. The judgment is *res adjudicata* as to all the plaintiffs, and we can find no substantial reason for disturbing it on this ground. No difficulty presented itself with respect to the challenge of jurors by either side, and, so far as appears, there was no embarrassment to the defendants growing out of the union of the plaintiffs. On the contrary, an examination of the evidence shows that all the witnesses for the defendants treated the plaintiffs as a unit. They were so regarded in business and in the neighborhood where the mines were.

Second. Were the unincorporated associations, the International Union, District No. 21, and the local unions, suable in their names? The United Mine Workers of America is a national organization. Indeed, because it embraces Canada, it is called the International Union. Under its constitution, it is intended to be the union of all workmen employed in and around coal mines, coal washers, and coke ovens on the American continent. Its declared purpose is to increase wages and improve conditions of employment of its members by legislation, conciliation, joint agreements, and strikes. It demands not more than eight hours a day of labor. The union is composed of workmen eligible to membership, and is divided into districts, subdistricts, and local unions. The ultimate authority is a general convention to which delegates selected by the members in their local organizations are elected. The body governing the union in the interval between conventions is the International Board consisting of the principal officers, the president, vice-president, and secretary-treasurer, together with a member from

each district. The president has much power. He can remove or suspend International officers, appoints the national organizers and subordinates, and is to

interpret authoritatively the constitution, subject to reversal by the International Board. When the Board is not in session, the individual members are to do what he directs them to do. He may dispense with initiation fees for admission of new locals and members. The machinery of the organization is directed largely toward propaganda, conciliation of labor disputes, the making of scale agreements with operators, the discipline of officers, members, districts, and locals, and toward strikes and the maintenance of funds for that purpose. It is admirably framed for unit action under the direction of the national officers. It has a weekly journal, whose editor is appointed by the president, which publishes all official orders and circulars, and all the union news. Each local union is required to be a subscriber, and its official notices are to be brought by the secretary to the attention of the members. The initiation fees and dues collected from each member are divided between the national treasury, the district treasury, and that of the local. Should a local dissolve, the money is to be transmitted to the national treasury.

The rules as to strikes are important here. Section 27 of Article IX of the constitution is as follows:

"The Board shall have power between conventions, by a two-thirds vote, to recommend the calling of a general strike, but under no circumstances shall it call such strike until approved by a referendum vote of the members."

Under article XVI, no district is permitted to engage in a strike involving all or a major portion of its members without sanction of the International Convention or Board.

Section 2 of that article provides that districts may order local strikes within their respective districts "on

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their own responsibility," but where local strikes are to be financed by the International Union, they must be sanctioned by the International Board.

Section 3 provides that in unorganized fields the Convention or Board must sanction strikes, and no financial aid is to be given until after the strike has lasted four weeks, unless otherwise decided by the Board. The Board is to prescribe conditions in which strikes are to be financed by the International Union and the amount of strike relief to be furnished the striking members. In such cases, the president appoints a financial agent to assume responsibility for money to be expended from the International funds, and he only can make binding contracts. There is a uniform system of accounting as to the disbursements for strikes.

The membership of the union has reached 450,000. The dues received from them for the national and district organizations make a very large annual total, and the obligations assumed in traveling expenses, holding of conventions, and general overhead cost, but most of all in strikes, are so heavy that an extensive financial business is carried on, money is borrowed, notes are given to banks, and in every way the union acts as a business entity, distinct from its members. No organized corporation has greater unity of action, and in none is more power centered in the governing executive bodies.

Undoubtedly, at common law, an unincorporated association of persons was not recognized as having any other character than a partnership in whatever was done, and it could only sue or be sued in the names of its members, and their liability had to be enforced against each member. *Pickett v. Walsh,* 192 Mass. 572; *Karges Furniture Co. v. Amalgamated Woodworkers Local Union,* 165 Ind. 421; *Baskins v. United Mine Workers,* 234 S.W. 464. But the growth and necessities of these great labor organizations have brought affirmative legal recognition of their

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existence and usefulness and provisions for their protection which their members have found necessary. Their right to maintain strikes when they do not violate law or the rights of others has been declared. The embezzlement of funds by their officers has been especially denounced as a crime. The so-called union label, which is a *quasi* trademark to indicate the origin of manufactured product in union

labor, has been protected against pirating and deceptive use by the statutes of most of the states, and, in many states, authority to sue to enjoin its use has been conferred on unions. They have been given distinct and separate representation and the right to appear to represent union interests in statutory arbitrations, and before official labor boards. We insert in the margin an extended reference, * furnished by the industry of counsel, to

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legislation of this kind. More than this, equitable procedure adapting itself to modern needs has grown to recognize the need of representation by one person of many, too numerous to sue or to be sued (Story, Equity Pleadings, 8th ed., 94, 97; *St. Germain v. Bakery Union,* 97 Wash. 282; *Branson v. Industrial Workers of the World,* 30 Nev. 270; *Barnes v. Chicago Typographical Union,* 232 Ill. 402), and this has had its influence upon the law side of litigation, so that, out of the very necessities of the existing conditions and the utter impossibility of doing justice otherwise, the suable character of such an organization as this has come to be recognized in some jurisdictions, and many suits for and against labor unions are reported in which no question has been raised as to the right to treat them in their closely united

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action and functions as artificial persons capable of suing and being sued. It would be unfortunate if an organization with as great power as this International Union has in the raising of large funds and in directing the conduct of 400,000 members in carrying on, in a wide territory, industrial controversies, and strikes out of which so much unlawful injury to private rights is possible,

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could assemble its assets to be used therein free from liability for injuries by torts committed in course of such strikes. To remand persons injured to a suit against each of the 400,000 members, to recover damages and to levy on his share of the strike fund, would be to leave them remediless.

In the case of *Taff Vale Co. v. Amalgamated Society of Railway Servants,* [1901] A.C. 426, an English statute provided for the registration of trades unions, authorized them to hold property through trustees, to have agents, and provided for a winding up and a rendering of accounts. A union was sued for damages growing out of a strike. Mr. Justice Farwell, meeting the objection that the union was not a corporation and could not be sued as an artificial person, said:

"If the contention of the defendant society were well founded, the legislature has authorized the creation of numerous bodies of men capable of owning great wealth and of action by agents with absolutely no responsibility for the wrongs that they may do to other persons by the use of that wealth and the employment of those agents."

He therefore gave judgment against the union. This was affirmed by the House of Lords. The legislation in question in that case did not create trade unions, but simply recognized their existence and regulated them in certain ways, but neither conferred on them general power to sue nor imposed liability to be sued. *See also Hillenbrand v. Building Trade Council,* 14 Ohio Dec.(N.P.) 628; Holland Jurisprudence (12th ed.) 341; Pollock's First Book on Jurisprudence (2d ed.) 125.

Though such a conclusion as to the suability of trades unions is of primary importance in the working out of justice and in protecting individuals and society from possibility of oppression and injury in their lawful rights from the existence of such powerful entities as trade unions, it is, after all, in essence and principle, merely a procedural matter. As a matter of substantive law, all the members of the union engaged in a combination doing unlawful injury are liable to suit and recovery, and the only question is whether, when they have voluntarily, and for the purpose of acquiring concentrated strength and the faculty of quick unit action and elasticity, created a self-acting

body with great funds to accomplish their purpose, they may not be sued as this body, and the funds they have accumulated may not be made to satisfy claims for injuries unlawfully caused in carrying out their united purpose. Trade unions have been recognized as lawful by the Clayton Act; they have been tendered formal incorporation as national unions by the Act of Congress approved June 29, 1886, c. 567, 24 Stat. 86. In the Act of Congress approved August 23, 1912, c. 351, 37 Stat. 415, a commission on industrial relations was created, providing that three of the Commissioners should represent organized labor. Transportation Act 1920, 302-307, 41 Stat. 469, recognizes labor unions in creation of railroad boards of adjustment, and provides for action by the Railroad Labor Board upon their application. The Act of Congress approved August 5, 1909, c. 6, 38, 36 Stat. 112, and the Act approved October 3, 1913, c. 16, subd. G(a), 38 Stat. 172, expressly exempt labor unions from excise taxes. Periodical publications issued by or under the auspices of trades unions are admitted into the mails as second-class mail matter. Acts 1911-1913, c. 389, 37 Stat. 550. The legality of labor unions of postal employees is expressly recognized by Act of Congress approved August 24, 1912, c. 389, 6, 37 Stat. 539, 555. By Act of Congress passed August 1, 1914, no money was to be used from funds therein appropriated to prosecute unions under the Anti-Trust Act (38 Stat. 609, 652).

In this state of federal legislation, we think that such organizations are suable in the federal courts for their acts, and that funds accumulated to be expended in conducting strikes are subject to execution in suits for torts committed by such unions in strikes. The fact that the Supreme Court of Arkansas has since taken a different view in *Baskins v. United Mine Workers of America, supra,* cannot, under the Conformity Act, operate as a limitation on the federal procedure in this regard.

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Our conclusion as to the suability of the defendants is confirmed in the case at bar by the words of 7 and 8 of the Anti-Trust Law. The persons who may be sued under 8 include

"corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the territories, the laws of any state, or the laws of any foreign country."

This language is very broad, and the words given their natural signification certainly include labor unions like these. They are, as has been abundantly shown, associations existing under the laws of the United States, of the territories thereof, and of the states of the Union. Congress was passing drastic legislation to remedy a threatening danger to the public welfare, and did not intend that any persons or combinations of persons should escape its application. Their thought was especially directed against business associations and combinations that were unincorporated to do the things forbidden by the act, but they used language broad enough to include all associations which might violate its provisions recognized by the statutes of the United States or the states or the territories, or foreign countries as lawfully existing, and this, of course, includes labor unions, as the legislation referred to shows. Thus it was that, in the cases of *United States v. Trans-Missouri Freight Association,* 166 U. S. 290 , *United States v. Joint Traffic Association,* 171 U. S. 505 , *Montague & Co. v. Lowry,* 193 U. S. 38 , and *Eastern states Lumber Association v. United States,* 234 U. S. 600 , unincorporated associations were made parties to suits in the federal courts under the Anti-Trust Act without question by anyone as to the correctness of the procedure.

For these reasons, we conclude that the International Union, the District No. 21, and the 27 local unions were properly made parties defendant here and properly served by process on their principal officers.

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Third. The next question is whether the International Union was shown by any substantial evidence to have initiated, participated in, or ratified the interference with plaintiffs' business which began April 6, 1914, and continued at intervals until July 17, when the matter culminated in a battle and the destruction of the Bache-

Denman properties. The strike was a local strike declared by the president and officers of the District Organization No. 21, embracing Arkansas, Kansas, Oklahoma, and Texas. By 16 of the International constitution, as we have seen, it could not thus engage in a strike, if it involved all or a major part of its district members, without sanction of the International Board. There is nothing to show that the International Board ever authorized it, took any part in preparation for it or in its maintenance. Nor did they or their organization ratify it by paying any of the expenses. It came exactly within the definition of a local strike in the constitutions of both the national and the district organizations. The district made the preparations and paid the bills. It does appear that the president of the national body was in Kansas City and heard of the trouble which had taken place on April 6 at Prairie Creek, and that, at a meeting of the International Board, he reported it as something he had learned on his trip for their official information. He said that a man named Bache had demanded in a suit an accounting of the funds of the Southwestern Coal Operators' Association, that, when he secured the information he

"went down to Arkansas and started to run his mine nonunion. The boys simply marched in on him in a day down there, and kicked his Colorado guards out of there, and broke their jaws, and put the flag of the United Mine Workers on top of the tipple, and pulled the fires out of the boilers, and that was all there was to it, and the mines have been idle ever since. I do not say our boys did this, but I mean the people from all through that country marched in and

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stopped the work, and, when the guards offered resistance, several of them were roughly handled, but no lives were lost, as I understand it."

Later in May, he made a long speech at a special convention of District No. 21 held at Ft. Smith for a purpose not connected with this matter, in which he referred especially to the Colorado and West Virginia strikes, in which the International Union was engaged with all its might, but he made no specific allusion to the Prairie Creek difficulty. It does appear that, in 1916, after Stewart, the president of

District 21, had been convicted of conspiracy to defeat the injunction issued to protect the Prairie Creek mines in this conflict, and had gone to the penitentiary and was pardoned, White, the national president, wrote a letter thanking the President for this, and that subsequently he appointed Stewart to a position on a district committee. It would be going very far to consider such acts of the president along a ratification by the International Board, creating liability for a past tort. The president had not authority to order or ratify a local strike. Only the board could do this. White's report in an executive meeting of the Board of the riot of April 6 shows sympathy with its purpose and a lack of respect for law, but does not imply or prove on his part any prior initiation or indicate a desire to ratify the transaction as his work. The Board took no action on his report. He did not request it.

Communications from outsiders and editorials, published in the United Mine Workers journal, giving accounts of the occurrences at Prairie Creek and representing that the troubles were due to the aggression of the armed guards of the mine owners, and that the action of the union men was justified because in defense of their homes against night attacks, do not constitute such ratification by the Board or the president, after the fact, as to make the International Union liable for what had been done.

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The argument of counsel for the plaintiffs is that, because the national body had authority to discipline district organizations, to make local strikes its own and to pay their cost, if it deemed it wise, the duty was thrust on it, when it knew a local strike was on, to superintend it and prevent its becoming lawless at its peril. We do not conceive that such responsibility is imposed on the national body. A corporation is responsible for the wrongs committed by its agents in the course of its business, and this principle is enforced against the contention that torts are *ultra vires* the corporation. But it must be shown that it is in the business of the corporation. Surely no stricter rule can be enforced against an unincorporated organization like this. Here, it is not a question of contract, or of holding out an appearance of authority, on which some third person acts. It is a mere question of

actual agency, which the constitutions of the two bodies settle conclusively. If the International body had interfered, or if it had assumed liability by ratification, different questions would have arisen.

Counsel cite 2 of article XII of the constitution of District No. 21 to show that questions of all strikes must be referred by district officers to the national president for his decision, and suggest that, in the absence of a showing, it is to be inferred that they did so here, and the strike was approved by him. They misconstrue the section. It applies only to a proposed strike which would affect two districts and to which one district is opposed. It does not apply to local strikes like this.

But it is said that the district was doing the work of the International and carrying out its policies, and this circumstance makes the former an agent. We cannot agree to this in the face of the specific stipulation between them that, in such a case, unless the International expressly assumed responsibility, the district must meet it alone. The subsequent events, showing that the District did meet

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the responsibility with its own funds, confirm our reliance upon the constitutions of the two bodies.

We conclude that the motions of the International Union, the United Mine Workers of America, and of its president and its other officers, that the jury be directed to return a verdict for them should have been granted.

Fourth. The next question is two-fold: (a) whether the District No. 21 and the individual defendants participated in a plot unlawfully to deprive the plaintiffs of their employees by intimidation and violence, and in the course of it destroyed their properties, and (b) whether they did these things in pursuance of a conspiracy to restrain and monopolize interstate commerce.

The case made for the plaintiff was as follows:

(a) In March of 1914, when the Prairie Creek No. 4 Mammoth Vein coal mine and the Coronado mines were operating with union labor, and under a District No. 21

contract and scale of wages and terms which did not expire until July 1 following, Bache, the manager of all the properties, determined to run his mines thereafter on a nonunion or open basis. He had his superintendent prepare a letter setting forth his reasons for the change, and forwarded it to his principals in the East to justify the change of policy which he insisted would result in a substantial reduction in the cost of production. To avoid the charge of a breach of the union scale, he had a contract made between the Mammoth Vein Coal Mining Company, which he controlled, and the Prairie Creek Coal Company and the Mammoth Vein Coal Company, by which the Mammoth Vein Coal Mining Company, a corporation with $100 capital, agreed to run the mines. As it had signed no scale, he considered it free from obligation to the union. He then shut down the mines and prepared to open them on a nonunion basis on April 6. He anticipated trouble. He employed three guards from the Burns Detective Agency, and a number of others to aid them. He bought

a number of Winchester rifles and ammunition. He surrounded his principal mining plant at Prairie Creek No. 4 with a cable strung on posts. He had notices prepared for his former employees, who occupied the company's houses, to vacate. He had notices warning trespassers from the premises posted at the entrance to the tract that was enclosed within the cable. He sent out for nonunion men, and had gathered some 30 or more at the mine by the day fixed for the opening.

The mines of the plaintiffs lie in the County of Sebastian, on the west border of Arkansas, next to Oklahoma, in a hilly country. The whole country is full of coal mines. The annual coal-producing capacity of Arkansas is about 2,000,000 tons. The product is a smokeless coal, like the Pocohontas of West Virginia. All the Arkansas mines, but one small one, were union. The towns in the neighborhood, Hartford, Huntington, Midland, Frogtown, and others, were peopled by union miners, and the business done in them was dependent on union miners' patronage. Hartford, a town of 2,500, was about 3 miles from Prairie Creek; Midland, less in size, lay about the same distance away in another direction, and Huntington was a mile or two further in still another direction. Frogtown was a

small village, about a mile and a half from Prairie Creek. Stewart, the president of the District No. 21, and the other officers, promptly declared a local strike against the Prairie Creek and Mammoth Vein mine, and the union miners who had not been discharged from the Coronado mine of the plaintiffs left. Through the agency of the officers of District No. 21 and the local unions, a public meeting was called at the schoolhouse, about a quarter of a mile from the Prairie Creek mine. The influence of the union men was exerted upon the shopkeepers of the towns above named to close their stores and attend the meeting. It was given a picnic character, and women and children attended. The meeting, after listening to

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speeches, appointed a committee to visit the superintendent in charge of the mine. On this committee was one Slankard, a constable of the Town of Hartford, and a union man, together with two other union miners. They asked the superintendent that the nonunion men be sent away and the mine resume operations with union men. The committee was attended by a very large body of union miners. They were met at the entrance to the enclosure by two guards with guns carried behind them. The committee was admitted to see the superintendent, and the crowd dealt with the guards. The guards had been directed not to use their guns save to defend their own lives or another's. The union miners assaulted the guards, took the guns away, and so injured a number of the employees that four or five had to be sent to a hospital. The crowd swarmed over the premises, forced the pulling of the fires, and hurled stones at the fleeing guards. The result was that all the employees deserted the mine, and it was completely filled with water, which came in when the pumps stopped. One of the crowd went up to the top of the coal tipple and planted a flag on which was the legend, "This is a union man's country."

Mr. Bache, after the riot and lawless violence of April 6, secured from the federal district court an injunction against those union miners and others whom his agents could identify as having been present and having taken part. This included the president and secretary-treasurer of the District No. 21 and others. Bache then made preparations to resume mining. The mine was full of water, and it required a considerable time to pump it out and get things into proper condition. Because of

further threats, the court was applied to to send United States deputy marshals to guard the property, and they were sent. Meantime the work of reparation progressed, and Bache's agents were engaged in securing the coming of miners and other employees from in and out of the state

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to enlarge his force. The attitude of the union miners continued hostile, and constant effort was made by them to intercept the groups of men and women who were brought in by Bache from Tennessee and elsewhere, and to turn them away, either by peaceable inducement or by threats and physical intimidation. The vicinage was so permeated with union feeling that the public officers did not hesitate to manifest their emnity toward the nonunion men, and made arrests of the guards and others who were in Bache's employ upon frivolous charges. Rumors were spread abroad through the county that the guards employed by Bache were insulting and making indecent proposals to very young girls in and about Prairie Creek, and P. R. Stewart, the president of District No. 21, in the presence of some 10 persons on the public street of Midland, in the latter part of May, denounced the guards for these insults and proposals, and said that he would furnish the guns if the people would take them. The evidence also disclosed that, through the secretary-treasurer of District No. 21, some 40 or more Winchester rifles were bought from the Remington Arms Company and secretly sent to Hartford for the purpose intended by Stewart. They were paid for by a check signed by Hull, the secretary-treasurer of District No. 21, and countersigned by Stewart, the president. Conversations with Stewart, which Stewart did not take the stand to deny, were sworn to in which he announced that he would not permit the Prairie Creek men to run "nonunion," and intended to stop it. McLachlin, who was a member of the executive board of District No. 21, in the first week of July gathered up some of the guns, exactly how many does not appear, and shipped them 60 miles to McAlester, Oklahoma, the headquarters of District No. 21. It appeared that guns of like make and caliber were used by the assailants in the attack on the Prairie Creek mine on July 17. The United States marshals had been withdrawn

from the premises of Prairie Creek mine No. 4, before July 1, though the guards were retained.

The evidence leaves no doubt that, during the month of June, there was a plan and movement among the union miners to make an attack upon Prairie Creek mine No. 4. By this time. the number of men secured by Bache had increased to 70 or 80, and preparations were rapidly going on for a resumption of mining. The tense feeling in respect to the coming attack increased. On Sunday night, July 12, about midnight, there was a fusillade of shots into the village of Frogtown, a small collection of houses, already mentioned, about a mile and a half from Prairie Creek mine. A number of people, in fright at the cry that "the scabs were surrounding the town," left and went to Hartford, about 2 miles away, and thereafter guards were put out at Hartford to defend that town against attack by the guards at Prairie Creek. The ridiculous improbability that the guards at Prairie Creek, who were engaged in protecting themselves and the property and in constant fear of attack, should make this unprovoked assault upon the town of Frogtown is manifest from the slightest reading of the evidence, and there crept in through a statement of one of the defendants, an active union man, to a witness who testified to it, that this shooting had been done by the Hartford constable, Slankard, and himself in order to arouse the hostility of the neighborhood against the men at Prairie Creek. On the night of the 16th, the union miners' families who lived in Prairie Creek were warned by friends to leave that vicinity in order to avoid danger, and at 4 o'clock the next morning the attack was begun by a volley of many shots fired into the premises. A large force with guns attacked the mining premises from all sides later on in the day.

The first movement toward destruction of property was at mine No. 3, a short distance from No. 4, where the coal washhouse was set on fire. The occupants of the premises

were driven out, except a few who stayed and intrenched themselves behind coal cars or other protection. Most of the employees and their families fled to the ridges, behind which they were able to escape danger from the flying bullets. The forces surrounding the mine were so numerous that, by one o'clock, they had driven out practically all of the defenders, and set fire to the coal tipple of mine No. 4, and destroyed all the plant by the use of dynamite and the match.

The assailants took some of Bache's employees prisoners as they were escaping, and conducted them to a log cabin behind the schoolhouse near the mine, to which reference has already been made and where the first riot meeting was held. The four or five prisoners were taken out of the cabin where they had been for a short time confined, and two of them, one a former union man, were deliberately murdered in the presence of their captors by a man whose identity it was impossible to establish. The evidence in this case clearly shows that Slankard, the constable of Hartford, was present at the killing, and that the men who were killed were in his custody, on the way, as he said, to the grand jury. He was subsequently tried before a Sebastian County jury for murder, and was acquitted on an alibi. Slankard, though a defendant and in court, did not take the stand in this case. The overwhelming weight of the evidence establishes that this was purely a union attack, under the guidance of district officers.

The testimony offered by defendants to show that it was only an uprising of the indignant citizens of the countryside really tended to confirm the guilt of the District No. 21. Its palpably artificial character showed that basis for it had been framed in advance for the purpose of relieving the officers of District No. 21 and the union miners of that neighborhood from responsibility for the contemplated execution of their destructive and criminal purpose. It is a doubtful question whether this responsibility

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was not so clearly established that, had that been the only element needed to justify a verdict, the court properly might have directed it. The president of District No. 21 and the union miners, including Slankard, whose agency in and leadership

of this attack were fully proven, were present in the courtroom at the trial, but did not take the stand to deny the facts established. Indeed, they had been previously brought to trial for conspiracy to defeat the federal administration of justice and for contempt because of these very acts, had pleaded guilty to the charge made, and had been sentenced to imprisonment, and their expenses as defendants in and out of jail had been paid by the district out of the district treasury, and the disbursements approved by the district in convention.

It is contended on behalf of District No. 21 and the local unions that only those members of these bodies whom the evidence shows to have participated in the torts can be held civilly liable for the damages. There was evidence to connect all these individual defendants with the acts which were done, and, in view of our finding that District No. 21 and the unions are suable, we cannot yield to the argument that it would be necessary to show the guilt of every member of District No. 21 and of each union in order to hold the union and its strike funds to answer. District No. 21 and the local unions were engaged in a work in which the strike was one of the chief instrumentalities for accomplishing the purpose for which their unions were organized. By 1 of Article XII of the constitution of District No. 21, it is provided that:

"When trouble of a legal character arises between the members of local unions and their employer, the mine committee and officers shall endeavor to effect an amicable adjustment, and failing, they shall immediately notify the officers of the district, and said district officers shall immediately investigate the cause of the complaint,

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and, failing to effect a peaceful settlement upon a basis that would be equitable and just to the aggrieved members, finding that a strike would best subserve the interests of the localities affected, they may, with the consent and approval of the officers, order a strike."

Thus, the authority is put by all the members of the District No. 21 in their officers to order a strike, and if in the conduct of that strike unlawful injuries are inflicted, the district organization is responsible, and the fund accumulated for strike purposes may be subjected to the payment of any judgment which is recovered.

(b) It was necessary, however, in order to hold District No. 21 liable in this suit under the Anti-Trust Act, to establish that this conspiracy to attack the Bache-Denman mines and stop the nonunion employment there was with intent to restrain interstate commerce and to monopolize the same, and to subject it to the control of the union. The evidence upon which the plaintiffs relied to establish this, and upon which the judgment of the trial court and of the court of appeals went, consisted of a history of the relations between the International Union and the union coal operators of certain so-called competitive districts from 1898 until 1914. The miners of Ohio, Indiana, and Illinois, large bituminous coal-producing states, were members of the union, and the coal operators of those states, in spite of strikes and lockouts from time to time, were properly classed as union operators. They met yearly in conference with the union's representatives to agree upon terms of employment from April 1st to April 1st. In these conferences, the operators frequently complained that the competition of many nonunion mines in Western Pennsylvania and the whole of West Virginia was ruinous to their business because of the low cost of production of coal in such mines, due to the lower wages and less expensive conditions of working than

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in union mines, and urged that something must be done to stop this, or that the union scale of wages be reduced. By 8 of the contract between the operators of the Central Competitive Coal Field and the United Mine Workers of America, dated Chicago, January 28, 1898, it was stipulated:

"That the United Mine Workers organization, a party to this contract, do hereby further agree to afford all possible protection to the trade and to other parties hereto against any unfair competition resulting from a failure to maintain scale rates."

From this time on, in every annual conference until after the controversy in the case before us in 1914, the subject recurred. It does not appear when, if at any time, wages were reduced because of this plea by the operators. Sometimes the contention of the operators as to the effect of nonunion competition was conceded, and greater activity in unionizing nonunion territory was promised. Again pleas were made by the miners' representatives of the great amount of money expended by the union, and in one or two instances of the sacrifice of human lives, to effect this result. Again the union leaders flatly refused to be further affected by the argument, and charged that the nonunion competition of West Virginia, which was always the principal factor, was only possible because some of the most important union operators in Ohio and the Central Competitive Field really were interested as nonunion operators in West Virginia. There was considerable discussion as to the nonunion competition of Kentucky fields as a basis for the operators' complaints. At times there were suggestions from the miners' side that the operators ought to contribute funds to enable the campaign of unionizing to go on, but they never seem to have met with favor.

In general convention of the union of 1904, a local union from the Indian Territory in District No. 21 submitted a resolution which was adopted in respect to the then Colorado strike:

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"Resolved, that in strict compliance with our obligations and teachings, we accord a hearty approval to our National Board on its action in regard to District No. 15, now on, in Colorado, and whatever action taken by the National that in their judgment is necessary to the successful ending in the elevating of the craft in District No. 15, meets our entire approval, for which we pledge out unqualified support, as our knowledge of the southern field of Southern Colorado in the event of an unsuccessful issue of the trouble now pending would work almost unsurmountable and incalculable damage to District No. 21, as it would be an unjust competition in the same commercial field and could with little effort undersell and supersede us in Oklahoma and Southwestern Kansas markets."

In a joint conference between the union leaders and the coal operators, in 1904, Mr. Mitchell, the president of the union, spoke as follows:

"I believe the discussion of this matter should be carried on with perfect frankness and candor on both sides. I don't think we should disguise our position at all, and I want to state for our side of the house just where we are, as I understand it. We don't believe that a reduction in the mining rate will help you. We know that it will do us incalculable injury. We don't believe that a reduction in the mining rate will secure for you a larger amount of trade than you now have. We don't believe that the industry will be benefited by reducing wages. We know that, in the past, every reduction in wages has been given to the large consumers of coal -- not to the domestic trade, not to those who can ill afford to pay high rates for coal, but to the railroad companies and the great manufacturers. We know that, when the mining rate is lowest, your profits have been least."

"Now, gentlemen, it has required many years of work and effort and sacrifice to make wages at the

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mines compare favorably with wages in other industries. We are not going back to the old conditions; we are not going to consent to a reduction in wages. We believe the best thing to do is to renew out present wage scale; to make such modifications of internal questions as seem right, and then return and work out the coming scale year as we have the past scale year. I think we may as well understand now as at any other time that we are not going to consent to a reduced mining rate."

At the convention in 1906, a resolution that Districts 13, 14, 21, 24, and 25 be admitted to the interstate joint conferences was adopted. This was urged by President Mitchell of the Union, and the secretary, W. B. Wilson. The latter said:

"If I understand the principle upon which this movement is based, it is to bring into the joint conference those operators and those miners of the Southwestern District whose competitive business is closely related to each other, and in asking that the

operators of the Southwestern District be admitted to this conference, we are simply carrying out that principle. The coal mined in Western Pennsylvania comes in immediate competition and direct competition with Ohio; that mined in Ohio, as well as that in Pennsylvania, comes in competition with Indiana and Illinois; that mined in Illinois comes in contact with Iowa; that mined in Iowa comes in competition with Missouri and coal mined in Missouri comes in competition with Kansas, Arkansas, and the Indian Territory. They are all related to one another. They are all competitors with one another, and it is but just and fair that each of these fields should have a representation in the joint conference that sets a base for the prices of the ensuing year. This is the first conference that is held. Whatever wages are agreed upon here, whether it is an increase in wages, a decrease in wages, improved conditions or otherwise, it sets the pace for other districts and those

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other districts have no voice in saying what that price shall be. In order to avoid that condition of affairs, in order to give justice to the operators and miners in other fields not represented here at the present time, we ask you as a matter of fairness and justice to permit those whose operators and miners are represented here to participate in this joint conference."

In 1910, Bache, as a union operator, took part for his mines in fixing the scale of wages in District No. 21. Later on, at the time of a conference, he made a separate scale with the District No. 21 more favorable, in some respects, than that subsequently agreed on in the conference with the other operators, and he was for that reason expelled from the operators' association. He was permitted at a later time to rejoin it, but he had some litigation with it in respect to their funds, the nature of which is not disclosed by the record.

In 1913 and 1914, and in the years preceding, the International Union had carried on two strikes of great extent covering the Colorado fields and the Ohio and West Virginia fields in which very large sums of money had been expended and there was much lawlessness and violence. Its treasury had been drained, and it

borrowed $75,000 from District No. 21 during this period.

The foregoing will enable one to acquire a fair idea of the national situation, shown by the record, in respect to the mining and sale of coal so far as it bears upon this case and upon this state of fact. The plaintiffs charge that there has been and is a continuously operating conspiracy between union coal operators and the International Union to restrain interstate commerce in coal and to monopolize it, and that the work of District No. 21 at Prairie Creek was a step in that conspiracy for which it can be held liable under the Anti-Trust Act.

Coal mining is not interstate commerce, and the power of Congress does not extend to its regulation as such. In

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Hammer v. Dagenhart, 247 U. S. 251 , 247 U. S. 272 , we said:

"The making of goods and the mining of coal are not commerce, nor does the fact that these things are to be afterwards shipped or used in interstate commerce make their production a part thereof. *Delaware, Lackawanna & Western R. Co. v. Yurkonis,* 238 U. S. 439 ."

Obstruction to coal mining is not a direct obstruction to interstate commerce in coal, although it, of course, may affect it by reducing the amount of coal to be carried in that commerce. We have had occasion to consider the principles governing the validity of congressional restraint of such indirect obstructions to interstate commerce in *Swift v. United States,* 196 U. S. 375 ; *United States v. Patten,* 226 U. S. 525 ; *United States v. Ferger,* 250 U. S. 199 ; *Wisconsin R. Co. Commission v. C., B. & Q. R. Co.,* 257 U. S. 563 , and *Stafford v. Wallace,* 258 U. S. 495 . It is clear from these cases that, if Congress deems certain recurring practices though not really part of interstate commerce, likely to obstruct, restrain or burden it, it has the power to subject them to national supervision and restraint. Again, it has the power to punish conspiracies in which such practices are part of the plan to hinder, restrain, or monopolize interstate commerce. But, in the latter case, the intent to injure, obstruct, or restrain interstate commerce must

appear as an obvious consequence of what is to be done or be shown by direct evidence or other circumstance.

What really is shown by the evidence in the case at bar, drawn from discussions and resolutions of conventions and conference, is the stimulation of union leaders to press their unionization of nonunion mines not only as a direct means of bettering the conditions and wages of their workers, but also as a means of lessening interstate competition for union operators, which in turn would lessen the pressure of those operators for reduction of the union scale or their resistance to an increase. The latter is a

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secondary or ancillary motive, whose actuating force in a given case necessarily is dependent on the particular circumstances to which it is sought to make is applicable. If unlawful means had here been used by the national body to unionize mines whose product was important, actually or potentially, in affecting prices in interstate commerce, the evidence in question would clearly tend to show that that body was guilty of an actionable conspiracy under the Anti-Trust Act. This principle is involved in the decision of the case of *Hitchman Coal Co. v. Mitchell,* 245 U. S. 229 , and is restated in *American Steel Foundries v. Tri-City Central Trades Council,* 257 U. S. 184 . But it is not a permissible interpretation of the evidence in question that it tends to show that the motive indicated thereby actuates every lawless strike of a local and sporadic character, not initiated by the national body, but by one of its subordinate subdivisions. The very fact that local strikes are provided for in the union's constitution, and so may not engage the energies or funds of the national body, confirms this view. Such a local case of a lawless strike must stand on its own facts, and, while these conventions and discussions may reveal a general policy, the circumstances or direct evidence should supply the link between them and the local situation to make an unlawful local strike, not initiated or financed by the main organization, a step in an actionable conspiracy to restrain the freedom of interstate commerce which the Anti-Trust Act was intended to protect.

This case is very different from *Loewe v.Lawlor,* 208 U. S. 274 . There, the gist of the charge held to be a violation of the Anti-Trust Act was the effort of the defendants, members of a trades union, by a boycott against a manufacturer of hats, to destroy his interstate sales in hats. The direct object of attack was interstate commerce.

So, too, it differs from *Eastern states Retail Lumber Dealers' Association v. United States,* 234 U. S. 600 , where

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the interstate retail trade of wholesale lumber men with consumers was restrained by a combination of retail dealers by an agreement among the latter to blacklist or boycott any wholesaler engaged in such retail trade. It was the commerce itself which was the object of the conspiracy. In *United States v. Patten,* 226 U. S. 525 , running a corner in cotton in New York City, by which the defendants were conspiring to obtain control of the available supply and to enhance the price to all buyers in every market of the country, was held to be a conspiracy to restrain interstate trade because cotton was the subject of interstate trade, and such control would directly and materially impede and burden the due course of trade among the states, and inflict upon the public the injuries which the Anti-Trust Act was designed to prevent. Although running the corner was not interstate commerce, the necessary effect of the control of the available supply would be to obstruct and restrain interstate commerce, and so the conspirators were charged with the intent to restrain. The difference between the *Patten* case and that of *Ware & Leland Co. v. Mobile County,* 209 U. S. 405 , illustrates a distinction to be drawn in cases which do not involve interstate commerce intrinsically, but which may or may not be regarded as affecting interstate commerce so directly as to be within the federal regulatory power. In the *Ware & Leland* case, the question was whether a state could tax the business of a broker dealing in contracts for the future delivery of cotton where there was no obligation to ship from one state to another. The tax was sustained, and dealing in cotton futures was held not to be interstate commerce, and yet thereafter such dealings in cotton futures as were alleged in the *Patten* case, where they were part of a conspiracy to bring the

entire cotton trade within its influence, were held to be in restraint of interstate commerce. And so, in the case at bar, coal mining is not interstate commerce, and obstruction

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of coal mining, though it may prevent coal from going into interstate commerce, is not a restraint of that commerce unless the obstruction to mining is intended to restrain commerce in it, or has necessarily such a direct, material, and substantial effect to restrain it that the intent reasonably must be inferred.

In the case at bar, there is nothing in the circumstances or the declarations of the parties to indicate that Stewart, the president of District No. 21, or Hull, its secretary-treasurer, or any of their accomplices, had in mind interference with interstate commerce or competition when they entered upon their unlawful combination to break up Bache's plan to carry on his mines with nonunion men. The circumstances were ample to supply a full local motive for the conspiracy. Stewart said: "We are not going to let them dig coal -- the scabs." His attention and that of his men was fastened on the presence of nonunion men in the mines in that local community. The circumstance that a car loaded with coal and billed to a town in Louisiana was burned by the conspirators has no significance upon this head. The car had been used in the battle by some of Bache's men for defense. It offered protection, and its burning was only a part of the general destruction.

Bache's breach of his contract with the District No. 21, in employing nonunion men three months before it expired, his attempt to evade his obligation by a hugger-mugger of his numerous corporations, his advertised anticipation of trespass and violence by warning notices, by enclosing his mining premises with a cable and stationing guards with guns to defend them, all these, in the heart of a territory that had been completely unionized for years, were calculated to arouse a bitterness of spirit entirely local among the union miners against a policy that brought in strangers, and excluded themselves or their union colleagues from the houses they had occupied and

the wages they had enjoyed. In the letter which Bache dictated, in favor of operating the mines on a nonunion basis, he said: "To do this means a bitter fight, but in my opinion it can be accomplished by proper organization." Bache also testified that he was entering into a matter he knew was perilous and dangerous to his companies, because in that section there was only one other mine running on a nonunion basis. Nothing of this is recited to justify in the slightest the lawlessness and outrages committed, but only to point out that as it was a local strike within the meaning of the International and district constitutions, so it was in fact a local strike, local in its origin and motive, local in its waging, and local in its felonious and murderous ending.

But it is said that these district officers and their lieutenants among the miners must be charged with an intention to do what would be the natural result of their own acts, that they must have known that obstruction to mining coal in the Bache-Denman mines would keep 75 percent of their output from being shipped out of the state into interstate competition, and to that extent would help union operators in their competition for business. In a national production of from 10,000,000 to 15,000,000 tons a week, or in a production in District No. 21 of 150,000 tons a week, 5,000 tons a week, which the Bache-Denman mines in most prosperous times could not exceed, would have no appreciable effect upon the price of coal or nonunion competition. The saving in the price per ton of coal under nonunion conditions was said by plaintiff's witnesses to be from 17 to 20 cents, but surely no one would say that such saving on 5,000 tons would have a substantial effect on prices of coal in interstate commerce. Nor could it be inferred that Bache intended to cut the price of coal. His purpose was probably to pocket the profit that such a reduction made possible. If it be said that what District No. 21 feared

was that, if Bache were successful, the defection among union operators would spread, and ultimately the whole district field of District No. 21 in Arkansas, Oklahoma, and Texas would become nonunion, and interstate commerce would

then be substantially affected, it may be answered that this is remote, and no statement or circumstance appears in the record from which it can be inferred that the participants in the local strike had such a possibility in mind, or thought they were thus protecting union operators in a control or monopoly of interstate commerce. The result of our consideration of the entire record is that there was no evidence submitted to the jury upon which they properly could find that the outrages, felonies, and murders of District 21 and its companions in crime were committed by them in a conspiracy to restrain or monopolize interstate commerce. The motion to direct the jury to return a verdict for the defendants should have been granted.

Fifth. These conclusions make it unnecessary to examine the objection which the plaintiffs in error make to the supplemental charge of the court.

The case has been prepared by counsel for the plaintiffs with rare assiduity and ability. The circumstances are such as to awaken regret that, in our view of the federal jurisdiction, we cannot affirm the judgment. But it is of far higher importance that we should preserve inviolate the fundamental limitations in respect to the federal jurisdiction.

The judgment is reversed, and the case remanded to the district court for further proceedings in conformity to this opinion.

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1. Legalization of labor unions and labor combinations:

The Clayton Act -- approved October 15, 1914, 6, 38 Stat. 730, 731. *California* -- Penal Code 1906, p. 581. *Colorado* -- Rev.Stats.1908, 3924. *Maryland* -- Supp. Anno.Code 1913, Art. 27, 40. *Massachusetts* -- C. 778, Acts & Res. approved July 7, 1914. *Minnesota* -- C. 493, approved April 21, 1917. *Nevada* -- Rev.Laws 1912, 6801. *New Jersey* -- Comp.Stats.1910, 128, p. 3051. *New York* -- Consol.Laws 1909, c. 40, 582. *North Dakota* -- Rev.Code 1905, 8770. *Oklahoma* -- Rev.Laws 1910. 3764. *Pennsylvania* -- Dig. Statute Law 1920, 21247. *Texas* -- Rev.Civ.Stats.1911, Arts. 5244-5246. *Utah* -- C. 68, approved

March 8, 1917; Laws 1917, c. 68, 1. *West Virginia* -- Acts 1907, c. 78, 19.

2. Exemption from antitrust laws by statute or judicial decisions:

California -- Acts 1909, c. 362, 13. *Iowa-Rohlf v. Kasemeier,* 140 Iowa 182. *Louisiana* -- Acts 1892, Act No. 90, 8; Rev.Laws 1897, p. 205. *Michigan* -- Comp.Laws 1897, 11382. *Montana* -- Rev.Code 1907, 8289; Acts 1909, c. 97, 2. *New Hampshire* -- Laws 1917, c. 177, 7. *Nebraska* -- *State v. Employers,* 102 Neb. 768. *Wisconsin* -- Stats.1913, 1747h.

3. Right given to labor unions to sue to enjoin infringement of registered union label or trademark:

Arkansas -- Acts 1905, Act 309, 7. *Colorado* -- Mills' Supp. 1891-1905, 2985; Rev.Stats.1908, 6848. *Florida* -- Gen.Laws 1906, 3172. *Idaho* -- Rev.Code 1908, 1453. *Illinois* -- Rev.Stats. 1908, c. 140, 4. *Iowa* -- Code 1897, 5050. *Kansas* -- Gen.Stats.1915, 11657. *Kentucky* -- Stats.1903, c. 130, 4750. *Louisiana* -- Acts 1898, Act No. 49, 5. *Maryland* -- Supp. Anno.Code 1914, Art. 27, 53. *Montana* -- Rev.Code 1907, 8455. *Nebraska* -- Comp.Stats.1913, 3570. *Nevada* -- Rev.Laws 1912, 4636. *New Hampshire* -- Laws 1895, c. 42, 4. *New York* -- Consol.Laws 1909, c. 31, 16. *Oregon* -- Bellinger & Cotton's Anno.Stats.1902, 1845. *Pennsylvania* -- Acts 1901, Act No. 84, 4; Dig.Statute Law 1920, 21241. *Rhode Island* -- Gen.Laws 1909, c.196, 5. *South Dakota* -- Rev.Code 1903, 3194. *Tennessee* -- Acts 1905, c. 21, 6. *Texas* -- Civil St.1911, 705. *Vermont* -- Laws 1908, Act No. 121, 5. *Virginia* -- Code 1904, 1906d, par.(5). *Washington* -- Rem. & Bal.Code 1910, 9496. *West Virginia* -- Acts 1901, c. 5, 5; Code 1913, 3582. *Wisconsin* -- Stats.1911, c. 84a, 1747a5. *Wyoming* -- Comp.Stats.1910, c. 218, 3441.

4. Unauthorized use of registered union label or trademark made an offense:

Alabama -- Code 1907, 7322, 7323. *Arizona* -- Penal Code, 355-358. *Arkansas* -- Acts 1905, Act No. 309, 8 (amended by c. 131, Acts 1909). *California* -- Political Code 1906, 3200-3201; Penal Code 1906, 349a-351 (amended by chapter 181, Acts 1911). *Colorado* -- Mills' Supp. 1891-1905, 2985l to 2985s;

Rev.Stats.1908, 6844. *Connecticut* -- Gen.Stats.1902, 4907-4912 (amended by c. 151, Acts 1907). *Delaware* -- Acts 1899, c. 266. *Florida* -- Gen Stats.1906, 3169-3172. *Georgia* -- Civ.Code 1910, 1989-1992. *Idaho* -- Rev.Codes 1908, 1449-1455. *Illinois* -- Rev.Stats.1908, c. 140, 1-7. *Indiana* -- Anno.Stats.1901, 8693-8703; 3 Burns' Anno.Stats.1908, 10453-10463. *Iowa* -- Code 1897, 5049-5051. *Kansas* -- Gen.Stats.1909, 9675-9680; Gen.Stats.1915, 11654-11659. *Kentucky* -- Stats.1903, 4749-4755. *Louisiana* -- Acts 1898, Act No. 49. *Maine* -- Rev.Stats.1903, c. 40, 30-36. *Maryland* -- Pub.Laws 1904, Art. 27, 43-48. *Massachusetts* -- Pub.Laws 1902, c. 72, 7-14. *Michigan* -- Comp.Laws 1897, 11681-11686 (amended by c. 279, Acts 1913). *Minnesota* -- Rev.Laws 1905, 5072-5076. *Missouri* -- Rev.Stats.1909, 11789-11796. Montana-Penal Code 1907, 8452-8457. *Nebraska* -- Comp.Stats.1911, 4169-4173. *Nevada* -- Rev.Laws 1912, 4635-4637. *New Hampshire* -- Acts 1895, c. 42. *New Jersey* -- Comp.Stats.1910, p. 1802, 196, pp. 5643-5648. *New York* -- Consol.Laws 1909, c. 31, 15, 16. *Ohio* -- Gen.Code 1910, 6219-6227, 13102, 13103, 13153-13155; Acts 1911, p. 420. *Oklahoma* -- Rev.Laws 1910, 8211-8217. *Oregon* -- Anno.Codes and Stats.1902, 1841-1848. *Pennsylvania* -- Dig. Statute Law 1920, 21236-21243. *Rhode Island* -- Gen.Laws 1909, c.196. *South Dakota* -- Political Code 1903, 3190-3195. *Tennessee* -- Acts 1905, c. 21. *Texas* -- Rev.Civ.Stats.1911, Arts. 705, 706; Rev.Pen.Code, Arts. 1395, 1396. *Utah* -- Comp.Laws 1907, 2720-2723, 4482, 4483. *Vermont* -- Pub.Stats.1906, 4962-4967; Acts 1908, No. 121. *Virginia* -- Code 1904, 1906d. *Washington* -- Rem. & Bal.Code 1910, 9492-9500. *West Virginia* -- Acts 1901, c. 5; Hogg's Code, 3578-3585; Code W.Va. 3583, 3584. *Wisconsin* -- Stats.1911, 1747a. *Wyoming* -- Comp.Stats.1910, 3439-3444.

5. Unauthorized use of union card, badge, or insignia made an offense:

California -- Acts 1909, c. 331. *Connecticut* -- Acts 1907, c. 113, 2. *Massachusetts* -- Acts 1909, c. 514, 32. *Minnesota* -- Rev.Laws 1905, 5053, par. 4. *Montana* -- Rev.Code 1907, 8866. *New York* -- Consol.Laws 1909, c. 40, 1278. *Ohio* -- Gen.Code 1910, 13163. *Oregon* -- Acts 1911, c. 73, 1, 3. *Pennsylvania* -- Dig.Statute Law 1920, 1050. *Texas* -- Rev.Pen.Code 1911, Art.

425. *Virginia* -- Acts 1908, c. 54, 1.

6. Right to participate in selection of membership of boards of arbitration in labor controversies:

Alabama -- Acts 1911, p. 320, 6. *Alaska* -- Acts 1913, c. 70, 2. *Iowa* -- Acts 1913, c. 292, 1, 2. *Indiana* -- Anno. Stats, 1901, 7050, e, f. *Idaho* -- Rev.Code 1908, 1430, 1431. *Louisiana* -- Rev.Stats. 1897, p. 20, Act. No. 139; Acts of 1894, 1. *Minnesota* -- Rev.Laws 1905, 1828. *Nevada* -- Rev.Laws 1912, 1930. *Nebraska* -- Rev.Stats.1913, 3638. *Texas* -- Rev.Civ.Stats.1911, Art. 71.

7. Right to have member of union on board of arbitrators:

Connecticut -- Gen.Stats.1902, 4708. *Illinois* -- Hurd's Rev.Stats.1905, c. 10, 19. *Indiana* -- Anno.Stats.1901, 7050b. *Idaho* -- Rev.Code 1908, 1427. *Massachusetts* -- Acts 1909, c. 514, 10. *Maine* -- Acts 1909, c. 229, 2. *Missouri* -- Rev.Stats.1909, 7802. *Montana* -- Rev.Code 1907, 1670, 1671. *Nebraska* -- Rev.Stats.1913, 3633. *New Hampshire* -- Acts 1911, c.198, 3, as amended by c. 186, Acts 1913. *South Carolina* -- Acts 1916, Act No. 545, 8. *Utah* -- Comp.Laws 1907, 1324. *Vermont* -- Acts 1912, Act No.190, 1.

8. Embezzlement of funds of labor union made a special offense:

Nebraska -- Rev.Stats.1913, 8659. *New Hampshire* -- Pub.Stats. 1891, c. 273, 17, as amended by Acts 1905, c. 1. *Pennsylvania* -- Dig.Statute Law 1920, 21252.

9. Bribery of union representative made an offense:

Nevada -- Rev.Laws 1912, 6794. *New Jersey* -- Acts 1911, c. 94, 1. *New York* -- Consol.Laws 1909, c. 40, 380.

10. All public printing to bear union label:

Maryland -- Pub.Civ.Laws 1911, Art. 78, 9. *Montana* -- Rev.Code 1907, 254. *Nevada* -- Rev.Laws 1912, 4309.