

DATE: 19991007  
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COURT OF APPEAL FOR ONTARIO

RE: HER MAJESTY THE QUEEN (Respondent)  
v. MR. GAS LIMITED (Appellant)

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14 OCT 1999

DROIT DE LA CONCURENCE  
COMPETITION LAW

BEFORE: BROOKE, ROSENBERG and FELDMAN JJ.A.

COUNSEL: Frank Addario,  
for the appellant

Gene Assad,  
for the respondent

HEARD: October 1, 1999

On appeal from conviction by His Honour Judge David Dempsey on August 11, 1995  
and from the sentence imposed on January 26, 1996

ENDORSEMENT

[1] The narrow issue in this case was whether there was evidence to support a finding on Count 6 that there had been a threat within the meaning of s. 61(1)(a) of the *Competition Act*.

[2] The parties proceeded by way of an agreed statement of facts. Judging the issue on the basis of that agreed statement of facts, we think that there was not sufficient evidence to permit the trial judge to draw the inference of a threat as that term has been defined in the authorities.

[3] Accordingly, the appeal must be allowed, the conviction set aside, and an acquittal entered.

*Mr. Brooke J.A.*  
*John W. Rosenberg J.A.*  
*K. Feldman J.A.*