

by its withering blight. Such a combination is more than a contract; it is an offence. "I take it," said Gibson, J., "a combination is criminal whenever the act to be done has a necessary tendency to prejudice the public or to oppress individuals by unjustly subjecting to the power of the confederates, and giving effect to the purpose of the latter, whether extortion or mischief."* In *Rex v. De Berenquetel*, it was held to be a conspiracy to combine to raise the public funds on a particular day by false rumours. "The purpose itself," said Lord Ellenborough, "is mischievous; it strikes at the price of a valuable commodity in the market, and, if it gives a fictitious price, by means of false rumours, it is a fraud levelled against the public, for it is against all such as may possibly have anything to do with the funds on that particular day. Every 'corner,' in the language of the day, whether it be to affect the price of articles of commerce, such as breadstuffs, or the price of vendible stocks, when accomplished by confederation to raise or depress the price, and operate on the markets, is a conspiracy. The ruin often spread abroad by these heartless conspiracies is indescribable, frequently filling the land with starvation, poverty and woe. Every association is criminal whose object is to raise or depress the price of labour beyond what it would bring if it were left without artificial aid or stimulus."†

An agreement was entered into by several commercial firms, by which they bound themselves for a term of three months not to sell any Indian cotton bagging, except with the consent of the majority of them. *Held*, that it was a combination to enhance the price of the article, which is in restraint of trade, and contrary to public order, and that the agreement could not be enforced in a court of justice.‡

A contract entered into by the grain dealers of a town which, on its face, indicates that they have formed a partnership for the purpose of dealing in grain, but the true object of which is to form a secret combination, which would stifle all competition, and enable the parties, by secret and fraudulent means, to control the price of grain, cost of storage, and expense of shipment at such town, is in restraint of trade, and, consequently, void on the ground of public policy.§ The proprietors of several lines of boats, engaged in the business of transporting persons and freight on the Erie and Oswego canals, entered into an agreement among themselves to run for the remainder of the season of navigation at certain rates for freight and passage then agreed upon, but which were to be changed whenever the parties should deem it expedient, and to divide the net earnings among themselves according to certain provisions fixed in the articles. In an action on the agreement, against a party who had failed to make

* *Morris Run Coal Co. v. Barclay Coal Co.*, 68 Penn. 173; *Commonwealth v. Carlisle*, Brightly's Rep. 40.

† 3 M. & S. 67; 1 M. & S. 179; *Commonwealth v. Hunt*, 4 Metcalf, 111; 3 Whart. C. L.; *People v. Fishbee*, 14 Wend. 9.

‡ *India Bagging Association v. B. Kock & Co.*, 14 La. Ann. 164 (1859). See, also, Black-

stone's Comm., Book 4, chap. 22, par. 8-9; Chitty on Cont. (ed. 1855), p. 678; 1 Smith's L. C. 367, 381; French Penal Code, art. 419; Pardess. Droit Comm., vol. 1, p. 265; Lang v. Weeks, 2 O. (N.S.) 519; *Thomas v. Files*, 3 Ohio, 274.

§ *Craft v. McConoughy*, 79 Ill. 346 (1875).