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GAMBLING CONTRACTS.

The Statute book of Illinois contains an Act specifying three offences for which punishment by fine or imprisonment, or both, is provided. The offences are the sale of "options," "forestalling the market" and "cornering" the market. Judge Jameson, in charging a grand jury lately, remarked that all these offences have either in name or in spirit, been always interdicted by the common law, and that of "forestalling" was, at a very early day, made punishable in England by statutes. "Over a century ago," he added, "a movement arose in England for abolishing the restrictions upon the freedom of trade, and these statutes were, as a part of them, repealed; but the common law has remained, both there and in this country, unchanged, though fallen into disuse. The exigencies of the times induced our Legislature a few years since to re-enact the statute against 'forestalling,' and to add to it those touching 'options' and 'corners' which I have read—offences in which the criminal ingenuity of our ancestors seems not to have been equal."

The learned Judge proceeded to define the offences as he understood them, and as some of the terms used, such as "cornering the market," have hardly yet emerged from the vocabulary of slang, a judicial interpretation of them may be useful.

"The first offence," he says, "is the illegal sale of options for future delivery of grain and other commodities. The fact that property is sold to be delivered at a future day does not make the contract illegal; or that it is not at the time possessed or owned by the seller; or that the time of its delivery is left within fixed limits, optional with the buyer or seller, though in one sense any such sale is a sale of an option apparently within the statute. What makes it a gambling contract is the intent of the parties that there shall not be a delivery of the commodity sold, but a payment of differences by the party losing upon the rise or fall of the market. Of this intent the jury are to be the

judges, and it may be inferred directly from the terms of the contract, or indirectly from the course of dealing of the parties: *Pickering v. Cease*, 79 Ill. 328; *Walcott v. Heath*, 78 Ill. 433; *Pixley v. Boynton*, 79 Ill. 351.

"By this legislation the General Assembly had no purpose to interdict *bona-fide* sales of commodities, but only such as are colorable or fraudulent, contrived by both parties as a cover merely for gambling transactions.

"The offence of forestalling originally consisted in the buying or contracting for merchandise or victuals coming to market, or dissuading persons from bringing their goods or provisions, or inducing them to raise their prices. 2 Wharton, Criminal Law, § 1849.

"Our statute has narrowed the offence, so that it covers only forestalling the market by 'spreading false rumors to influence the prices of commodities therein.' The obvious purpose of the Legislature in making this provision was to protect the people, the consumers as well as innocent traders, from the damage resulting from unnatural and fictitious fluctuations of prices, brought about by the false suggestions of interested persons.

"The offence of cornering the market is not, so far as I am aware, mentioned in the books, but it is one of the numerous family of frauds of which the various members in their fight with society assume an infinitude of shapes and colors. To detect and punish these, notwithstanding the novelty and apparent innocence of their disguises, is the first business of courts of justice. The thing which we know as a 'corner' in the market might be briefly described as a process of driving unsuspecting dealers in grain, stocks, and the like, into a 'corral' and relieving them of their purses. The essence of the offence consists in the party securing a contract for the future delivery of some commodity at his option, and then, by engrossing the stock of such commodity in the market, making it impossible for the other party to complete his contract, but by purchasing of his adversary at his own price, or paying in cash the difference fixed by such adversary."

The concluding observations of the Court evinced a disposition to enforce the law, which, if generally imitated, must carry dismay into a good many gambling circles in Chicago and elsewhere. "If the crimes indicated are