The restrictions or limitations upon their contractual freedom in this behalf may be generally stated to be, first: That the parties cannot agree to anything in violation of any express law; and, secondly: That the interests of the public, or of third persons, must not be prejudiced by the execution of the contract.

Then, the meaning by the maxim may not be more broadly stated than this, viz.: That where no rule of law, or principle of public policy or matter of private right is invaded, the parties to a contract may thereby make a law for themselves(*e*).

It is difficult to say just when the maxim under consideration came into use in its exact current phraseology; but its principle can be traced back clearly enough to the Corpus Juris. In the *Digest* we have Ulpian's dictum: "Contractus legem ex conventione accipiunt"—which simply means that what the parties have agreed to is the law of their contract. But by reference to Lib. II., Tit. XIV., 28, we find that this freedom of contract is restricted in these words: "Contra juris civilis regulas pacta conventa rata non habentur." Again, in Lib. L. Tit. XVII., 45, we meet with much the same sort of a limitation, purporting to be derived from Ulpian's Ad Edictum, viz.: "Privatorum conventio juri publico non derogat."

In the *Codex*, 2, 3, 6, contractual freedom is restricted in this wise: "Pacta quae contra leges constitutionesque, vel contra bonos mores fiunt, nullam vim habere, indubitati juris est"(*f*).

The principle was also crystallized into a regula of the Canon Law. In a work entitled: Les Regles du Droit Canon(*g*), we find the following rule: "Contractus ex conventione legem accipere dignoscuntur." Dantoine thus freely translates the rule into French: "On doit juger de la qualité d'un contract par les conventions qu'il contient, et qui sont autant de loix entre les parties."

(*e*) See *Knettle* v. *Newcomb*, 22 N.Y., at p. 252.

(*f*) And see Codex 2, 3, 29.

(*g*) By J. B. Dantoine, LL.D., published at Lyons in 1720, p. 465.