

the legislature on any specific act or omission is *prima facie* equivalent to an express prohibition. Thus, for example, by the Court of Exchequer—"that where the contract which the plaintiff seeks to enforce, be it express or implied, is expressly or by implication forbidden by the common or statute law, no Court will lend its assistance to give it effect. It is equally clear that a contract is void if prohibited by a statute, though the statute inflicts a penalty only, because such a penalty implies a prohibition." *Cope v. Rowlands*, 2 M. & W. 149, 157.

Where a penalty is imposed by an Act of Parliament upon any transaction, the transaction will be illegal, though it is not expressly prohibited by the Act. *In re Cork & Youghal Railway Co.*, L. R. 4 Ch. App. 748.

"It is also settled that the imposition of a penalty for the contravention of a statute avoids a contract against the statute." *Brown v. Moore*, 32 S. C. R. 93, 97. See, also, *Maxwell on Statutes*, 3rd ed., p. 555.

But it is not necessary to multiply the citation of authorities which are numerous on this point. The sale of the cow was illegal because prohibited by statute, and plaintiff cannot recover the balance of the purchase money. There will be judgment for the defendant and dismissal of the appeal, but, under all the circumstances of the case, without costs.

I may say, if I may express an opinion apart from the legal question as to what was right and fair and equitable between these parties, both of whom were contracting in good faith and without any knowledge as to the existence of the disease in the animal, that, in my view, the loss should be divided about as it has been, and the plaintiff has received for the cow all he ought to expect, and probably as much as he would have realized if he had not sold the cow to the defendant.