

chooses or he may affirm it and compel the other party to perform it.

Contracts, not for necessities, made with minors, or with persons of unsound mind, or with Indians on their reservations, are voidable, not void, as it is optional with such persons whether they will honor their contracts or repudiate them. Also fraudulent contracts are voidable, not void. See Section 19.

14 Illegal Contracts are utterly void from the beginning and cannot be enforced. They have no legal effect except in so far as a party to them may incur a penalty. An illegal contract is where the thing to be performed, or not to be performed, is forbidden by law. In all such cases, if either party has performed his part of the contract he cannot compel the other to perform his, and if either party has paid money he cannot recover it back, as the contract is regarded as wholly vicious, and no court would attempt to enforce it. But if an innocent party has paid money it may be recovered back.

In a contract containing two or more promises that are entirely distinct, so that one could be performed without the others, and it turned out that one was illegal, the illegal part would fall, but the others can be enforced.

But illegality does not always appear "on the face" of a contract, and in such a case it must be established by *evidence*.

The following are examples of illegal contracts:

1. Contracts in restraint of trade.
2. Contracts in restraint of marriage.
3. To obstruct the course of public justice.
4. Contracts with alien enemies in time of war.
5. Contracts to lead an immoral life.
6. Sabbath desecration.
7. Bets or wagers.

15 Contracts Against Public Policy.—The policy of every community or State is to advance the public good, hence whatever contracts are opposed to the general good are said to injuriously affect public policy, and are, therefore, void. Among such the following three sections are included:

16 Contracts in Restraint of Trade, are void. For instance, a merchant sells his business, including stock and good will, and agrees not to engage in business again of any kind; it is void, because lawful trade is considered beneficial and in the public interest. He could, therefore, commence business again and the purchaser would have no redress. He could, however, legally bind himself not to engage in business again in a particular locality, or in a certain line of business, as that would be only a partial restraint of trade, hence not within the meaning of the law.

All combines, as among manufacturers, dealers, etc., which attempt by coercive measures to control the trade, or the market, for the purpose of inflating prices, are illegal, and render the individuals or firms composing them liable to penalties. This does not penalize concerted action to secure fair and reasonable prices. It is the coercive feature that refuses to sell to or bars out such dealers or workmen as do not enter the "combine," or who refuse to co-operate with it, or sell at a lower price, that is illegal and punishable.

17 Contracts in Restraint of Marriage.—Marriage is held to be in the public good, hence any contract which wholly restrains marriage is void. The *condition* that he or she must not marry if attached to a bequest to any