

would not have accepted the agreement. Effect was not given to this contention, and properly so.

No authority was cited to shew that such an agreement as this, between parents living apart, that one of them should have the custody of children during their tender years, the other having reasonable access to them, was against public policy.

It was urged that, by giving up her right to the custody of the children, the plaintiff would, in case of the death of the defendant, be held to have given up all her rights to their control, and that this was contrary to public policy; but it was only in favour of the father that she gave up her rights, and in case of his death all her rights would revive.

The trial Judge rightly held that, in the circumstances and under the authorities, the plaintiff could not, on any of the grounds alleged, have the agreement set aside: Halsbury's Laws of England, vol. 7, p. 359; Pollock on Contracts, 8th ed., p. 617; Addison on Contracts, 10th ed., p. 119.

The plaintiff further contended that she was entitled to alimony, and that the defendant ought not to be entrusted with the custody of the children, because of adultery in 1903, on his own confession. But that was expressly condoned by the wife in 1904; and, if the husband had conducted himself properly for the past 13 years, he could not be held to have forever forfeited his right to the custody of his children.

Other questions raised were decided adversely to the plaintiff by the trial Judge, and rightly so.

The appeals should be dismissed.

MAGEE, J.A., and MASTEN, J., concurred.

GARROW, J.A., died while the appeals were standing for judgment.

Appeals dismissed.

FIRST DIVISIONAL COURT.

FEBRUARY 23RD, 1917.

REX v. BLYTH.

*Criminal Law—Carnal Knowledge of Child—Evidence—Confession
—Insufficiency to Support Conviction.*

Case stated by the Judge of the County Court of the County of Lambton, after the trial and conviction before him of the pri-