

3rd ed., p. 466, says that such an obligation "is absolutely void."

No authority is cited by either Pollock or Anson for their proposition, and it is somewhat remarkable that the exact point has not, apparently, been before determined. It has, however, in my opinion, been so approached and surrounded, so to speak, by what I must regard as high authority, that I feel myself unable to adopt the opinions of these learned authors. . . .

[Reference to and quotations from *Keane v. Boycot* (1785), 2 H. Bl. 511; *Baylis v. Dineley*, 3 M. & S. 477; *Cerpe v. Overton*, 10 Bing. 252; *Leslie v. Fitzpatrick*, 3 Q. B. D. 232; *Meakin v. Morris*, 12 Q. B. D. 352; *Corn v. Matthews*, [1893] 1 Q. B. 310; *Viditz v. O'Hagan*, [1900] 2 Ch. at p. 97.]

So that in these quotations, extending over a period of 115 years, we have a constant, and I think clear, expression of judicial opinion in favour of the proposition that the bond with a penalty of an infant is not merely voidable, but absolutely void, while not a single authority in the shape of a decided case can be found to the contrary. Lord Coleridge, in the case of *Meakin v. Morris*, speaks of it as a well settled rule, and Lush, J., in the earlier case of *Leslie v. Fitzpatrick*, uses similar language, while Lindley, M.R., as recently as the year 1900, in the case of *Viditz v. O'Hagan*, uses language equally explicit, although somewhat differently expressed.

The rule itself may perhaps be expressed thus, that, generally, all contracts of an infant are voidable, not void, but to this rule there are exceptions in which the contract is not merely voidable but void, and among these exceptions is the case of a bond with a penalty, and again, another class of exceptions in which the contract is neither voidable nor void, but valid and binding on the infant, such as simple contracts respecting necessities. The exception before stated in the case of a bond with a penalty may not be logical, but the question is, is it the law of the land, and, after giving the matter most careful consideration, I am clearly of opinion that it is.

Having reached this conclusion, I have not considered it necessary to discuss the question of ratification.

I, therefore, think the appeals should be allowed and the actions dismissed, but, under the circumstances, without costs, and there should be no costs of the appeals.