# 1919.

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# LAW REPORTS

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## HOUSE OF LORDS,

## JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

AND

## PEERAGE CASES.


EDITOR—RIGHT HON. SIR FREDERICK POLLOCK, BART., *Barrister-at-Law.*

REPORTERS.

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| House of Lords . . . . | H. B. HEMMING, | *Barrister-at-Law.* |
| Privy Council . . . . | A. M. TALBOT, | *Barrister-at-Law.* |


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# Appeal Cases

BEFORE

# THE HOUSE OF LORDS

(ENGLISH—IRISH—AND SCOTTISH)

AND

# THE JUDICIAL COMMITTEE

OF

HIS MAJESTY'S MOST HONOURABLE

# PRIVY COUNCIL.

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[HOUSE OF LORDS.]

NEW ZEALAND SHIPPING COMPANY, LIMITED. . . . . } APPELLANTS;

AND

SOCIÉTÉ DES ATELIERS ET CHANTIERS DE FRANCE. . . . . } RESPONDENTS.

H. L. (E.)* 1918 *April* 25.

*Contract—Construction—Contract to be "Void" in a certain Event—Void or Voidable.*

By a contract made in 1913 a French company (called the builders) agreed to construct a steamer for a shipping company (called the purchasers) to be completed by January 30, 1915, subject to an extension of time if the construction was delayed by an unpreventable cause beyond the control of the builders; and in case the builders should be unable to deliver the steamer within, in the event of France becoming engaged in a European war, eighteen months from the date agreed by the contract for completion, "thereupon this contract shall become void and all money paid by the purchasers shall be repaid to them" with interest at 5 per cent.

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* *Present:* LORD FINLAY L.C., LORD ATKINSON, LORD SHAW OF DUNFERMLINE, and LORD WRENBURY.

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On August 2, 1914, while the steamer was in course of construction, France became engaged in a European war, and had ever since continued to be so engaged; and the builders had been prevented by unpreventable causes beyond their control from completing the steamer by January 30, 1915, and had ever since been prevented by the same causes. On the expiration of the eighteen months on July 30, 1916, the question arose whether the builders were entitled to treat the contract as null and void, notwithstanding that the purchasers required the builders to complete and deliver the vessel.

*Held*, that the contract became void and not merely voidable at the option of the purchasers, and that as the avoidance of the contract had not been brought about by any wrongful act or default on the part of the builders, the latter were not precluded from alleging that the contract was void.

A stipulation in a contract that it shall be void in a certain event is to be construed according to its natural meaning, subject to the principle of law that a party shall not take advantage of his own wrong or, *semble*, of an event brought about by his own act or omission.

Decision of the Court of Appeal [1917] 2 K. B. 717 affirmed.

APPEAL from a decision of the Court of Appeal (Viscount Reading C.J., Pickford L.J., and Scrutton L.J.) (1) affirming a decision of Bailhache J. upon an award stated by an umpire in the form of a special case.

The dispute between the parties arose under a contract dated March 6, 1913, between the appellants as purchasers and the respondents as builders, whereby the respondents agreed to construct a steamer for the appellants on the terms and conditions therein mentioned.

The terms of the contract and the facts which gave rise to the dispute are fully stated in the report of the case before the Court of Appeal and in the judgment of the Lord Chancellor.

1918. March 19, 21, 26. *Leck, K.C.*, and *Simey* for the appellants.

1. Upon the true construction of this contract the date of completion had not arrived at the date of the award. Clause 5 of the contract provides for an extension of the time for completion where the construction is delayed by any unpreventable cause beyond the control of the builders, and the date of completion cannot be ascertained until the extension of time provided by that clause has been exhausted.

2. Clause 12, which provides for the avoidance of the

(1) [1917] 2 K. B. 717.

contract in certain events, is a stipulation in favour of the purchasers, the appellants, and the contract does not become automatically void on the happening of those events, but is voidable at the option of the appellants. Any other construction of the clause would enable the builders to treat the contract as void, although the event was brought about by their own default. But that is contrary to the well established principle of law that a provision for the avoidance of a contract will not be so construed as to enable one of the parties to take advantage of his own wrong: *Rede* v. *Farr* (1); *Doe* v. *Bancks* (2); *Hughes* v. *Palmer*. (3)

*Douglas Hogg, K.C.* (with him *F. T. Barrington Ward* and *Captain Jacques Quartier*, E.M.A. French Army), for the respondents (called upon as to the second point only).

In all cases where "void" has been construed as "voidable," at the option of one of the parties, the ground for adopting that construction is that a party shall not be entitled to take advantage of his own wrong; but here the respondents have committed no wrong, and therefore there is no ground for construing the stipulation for avoidance otherwise than in its natural and ordinary meaning: *Grey* v. *Pearson* (4); *Hughes* v. *Palmer* (5); *Magdalen Hospital* v. *Knotts*. (6)

*Leck, K.C.*, replied.

The House took time for consideration.

April 25. LORD FINLAY L.C. My Lords, this is an appeal from the decision of Bailhache J. upon an award stated in the form of a Special Case for the opinion of the Court.

The appellants agreed to purchase from the respondents a steamship to be constructed for them by the respondents in terms of a contract dated March 6, 1913. The price was to be 98,450*l*., payable by instalments. The clauses material for the purpose of this appeal are set out in the Special Case, and are as follows: "5. The said steamer unless the construction thereof shall be delayed by fire, strike, or lock-out of workmen, or any other unpreventable cause beyond the control of the

(1) (1817) 6 M. & S. 121.
(2) (1821) 4 B. & Al. 401.
(3) (1865) 19 C. B. (N. S.) 393.
(4) (1857) 6 H. L. C. 61, 106.
(5) 19 C. B. (N. S.) 393, 405.
(6) (1879) 4 App. Cas. 324, 332.

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Builders (in which case a fair proportionate extension of time shall be allowed), shall be completed ready for trial by the 30th October, 1914, and delivered afloat as usual in the port of Dunkirk free of dock and other dues as soon as such trial has been completed to the satisfaction of the Purchasers or their representatives." "7. In the event of the said vessel not being completed and ready for trial on or before 30th October, 1914, . . . . the Builders undertake to pay the Purchasers as liquidated damages the sum of 10*l*. per working day for each working day during which such delivery may be delayed beyond the 30th October, 1914, unless such delay is due to any of the causes specified in clause 5 hereof. . . ." "12. In case the Builders become bankrupt or insolvent or shall fail or be unable to deliver the steamer within eight months from the date agreed by this contract, thereupon this contract shall become void and all money paid by the Purchasers shall be repaid to them with interest accrued thereupon at 5 per cent., and that without it being necessary for the Purchasers to take any legal action for the recovery of this money. The Builders will hand to the Purchasers the guarantee of a Bank who will undertake to repay this money in the event of its becoming due as stated above. Except only in the event of France becoming engaged in a European war, then the above limit of eight months shall be extended equal to the duration of the said war, but in no case to exceed eighteen months in all."

The date, January 30, 1915, was subsequently substituted in the contract for October 30, 1914, as the date by which the vessel was to be completed ready for trial.

The vessel was in course of construction when on August 2, 1914, France became engaged in the present European war. It is found as a fact in the Special Case that the builders were prevented by unpreventable causes beyond their control within the meaning of clause 5 from completing the vessel ready for trial by January 30, 1915, and had ever since been prevented by the same causes.

It was contended by the respondents—the builders—that the eighteen months mentioned in clause 12 began to run on

January 30, 1915, and therefore expired on July 30, 1916, while the appellants—the building owners—contended that the eighteen months would not begin to run until the builders were in default on the expiration of the extension of time allowed by clause 5 in case of delay caused by unpreventable causes. It was further contended by the respondents, the builders, that in the events which have happened the contract became void on July 30, 1916, while the appellants—the building owners—contended that on the true construction of clause 12 it was voidable at *their* option only.

The umpire decided by his award that the eighteen months expired on July 30, 1916, and that the builders in the events which have happened are entitled to treat the contract as null and void. The questions for the opinion of the Court are whether his decision on these two points was right. Bailhache J. held that the umpire was right upon both points, and the Court of Appeal took the same view. I agree with the Courts below in thinking that the umpire was right on both points.

The first point appears to me to be very clear. The words " the date agreed by this contract " in clause 12—or, as in the French version, " la date de livraison fixée par ce contrat "—denote, in my opinion, January 30, 1915. That is the only date specified for completion in the contract. It is true that an extension of time beyond that date is provided for by clause 5 in the case of delay due to fire, strikes, or lock-outs of workmen, or any other preventable cause beyond the control of the builders, in which case a fair proportionate extension of time was to be allowed. But neither in the English nor in the French version do the words of clause 12 appear to be apt to denote the expiration of the extension to be allowed in respect of such unavoidable delay. Clause 5 fixes no date for the expiration of the extension, but provides that the extension is to end when the cause of delay ceases to operate. The date mentioned in clause 12 as that from which the eight months or eighteen months were to run is obviously that specified in clause 5—namely, January 30, 1915.

Upon the second point I also agree with the umpire and with the Courts below. It appears upon the facts found on the

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Special Case that the builder was in no degree responsible for the delay which took place in completion, and that it was due entirely to causes beyond his control covered by clause 5 in the contract. Under these circumstances I think that the builder is entitled to say that under clause 12 the contract became void when the eighteen months expired. Clause 12 deals with four different cases : (*a*) Bankruptcy of the builder. (*b*) Insolvency of the builder. (*c*) Failure of the builder to deliver. (*d*) Inability of the builder to deliver. It seems to me clear that the builder could not say that the contract was void in consequence of his own bankruptcy or insolvency, as for this he would be as between himself and the building owners responsible, even if the bankruptcy or insolvency were entirely due to unavoidable misfortune. Nor could the builder claim a right to treat the contract as void in case of his failure to deliver—the word used in the French version is " refus "—and a breach of contract, whether by actual refusal or omission to perform, cannot confer any right upon the person in default. The fourth case provided for inability—in the French the word used is " impossibilité "—and might be due to failure on the part of the builder to proceed with the construction with due diligence, in which case the builder could not claim release from the contract under this clause. On the other hand, the inability may have been the result of causes beyond the control of the builder, for which he is not, under the terms of the contract, to be held liable.

It is a principle of law that no one can in such case take advantage of the existence of a state of things which he himself produced. This is illustrated by the case of *Roberts* v. *Wyatt*. (1) There the plaintiff had purchased an estate, and it was provided in the contract that the vendors should make out a good title, and on or before December 21, 1808, on receiving from the plaintiff the purchase-money, execute a legal conveyance of the fee-simple. There was a proviso that " in case the vendors could not deduce a good and marketable title, such as the purchaser or his counsel should approve, or if the purchaser should not pay the purchase money on the appointed day,

(1) (1810) 2 Taunt. 268, 276.

the agreement should be utterly void." An abstract was sent to the plaintiff by the defendant, who was the vendors' solicitor. The abstract was sent back to the defendant for the purpose of having the title cleared up. The defendant said that the objections to the title could not be met, and refused to return the abstract, asserting that the contract was void under the proviso. Sir James Mansfield, Chief Justice, in the course of his judgment said: "Something has been argued on the construction of the proviso that in case the vendor could not make a title, the contract should be void. But in order to adapt that defence to the present case, the argument must be, that if the defendant *says* he cannot answer the objections, it shall be absolutely void at the choice of either party. But that is not so: the meaning is, that if the seller cannot make a good title by the time mentioned, the contract shall be void as against him, and the plaintiff has a right to be off his bargain. So, e contrà, if the plaintiff does not pay the money, the defendant may avoid the contract; but the plaintiff cannot say, I am not ready with my money, therefore I will avoid the contract; nor can the seller say, my title is not good, therefore I shall be off. And the word is, 'if they *cannot* make,' so it must appear by sufficient proof that they cannot make a title." Lord Ellenborough in *Rede* v. *Farr* (1) applied the same principle to a case in which it was alleged that a lease became void by the failure of the lessee to pay the rent. I may quote the following sentences from his judgment: "In this case, as to this proviso, it would be contrary to an universal principle of law, that a party shall never take advantage of his own wrong, if we were to hold that a lease, which in terms is a lease for twelve years, should be a lease determinable at the will and pleasure of the lessee; and that a lessee by not paying his rent should be at liberty to say that the lease is void. On this principle, even if it were not borne out so strongly as it is by the current of authorities, it would be sufficient to hold that the lease was only void as against the lessee, not against the lessor. In Co. Litt. 206b it is laid down: 'If a man make a feoffment in fee, upon condition that the

(1) (1817) 6 M. & S. 121, 124.

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feoffee shall re-infeoff him before such a day, and before the day the feoffor disseise the feoffee, and hold him out by force until the day be past, the state of the feoffee is absolute; for the feoffor is the cause wherefore the condition cannot be performed, and therefore shall never take advantage for non-performance thereof. And so it is if A. be bound to B. that J. S. shall marry Jane G. before such a day, and before the day B. marry with Jane, he shall never take advantage of the bond, for that he himself is the mean that the condition could not be performed. And this is regularly true in all cases.' If that be a principle of law, that a party shall not take advantage of his own wrong, then a lessee shall not avail himself of his own act to vacate his lease." If it had been the case here that the builder was—to use Lord Coke's language—" himself the mean " that the vessel was not completed within the eighteen months, he could not say that the contract had thereby become void. But, as the umpire has found, the non-completion was not in any way brought about by the builder, but was the result of causes for which under the contract he is not responsible.

Questions of this sort have often arisen in case of provisions that a lease should be void on non-payment of rent or non-performance of covenants by the lessee. It has always been held that the lessee could not take advantage of his own act or default to avoid the lease, and the expression generally employed has been that such proviso makes the lease voidable by the lessor, or void at the option of the lessor. The decisions on the point are uniform, and are really illustrations of the very old principle laid down by Lord Coke (Co. Litt. 206b) that a man shall not be allowed to take advantage of a condition which he himself brought about. In the present case the builder was in no way responsible for the non-completion within eighteen months, and there is no reason why clause 12 should not be interpreted according to the natural meaning of the words so as to render the contract void.

For these reasons I agree with the decision of the Court of Appeal, and think that this appeal should be dismissed with costs.

LORD ATKINSON. My Lords, I cannot but think that the contest in this case is upon the main point very much a contest about names.

It is undoubtedly competent for the two parties to a contract to stipulate by a clause in it that the contract shall be void upon the happening of an event over which neither of the parties shall have any control, cannot bring about, prevent or retard. For instance, they may stipulate that if rain should fall on the thirtieth day after the date of the contract, the contract should be void. Then if rain did fall on that day the contract would be put an end to by this event, whether the parties so desire or not. Of course, they might during the currency of the contract rescind it and enter into a new one, or on its avoidance immediately enter into a new contract. But if the stipulation be that the contract shall be void on the happening of an event which one or either of them can by his own act or omission bring about, then the party, who by his own act or omission brings that event about, cannot be permitted either to insist upon the stipulation himself or to compel the other party, who is blameless, to insist upon it, because to permit the blameable party to do either would be to permit him to take advantage of his own wrong, in the one case directly, and in the other case indirectly in a roundabout way, but in either way putting an end to the contract.

The application to contracts such as these of the principle that a man shall not be permitted to take advantage of his own wrong thus necessarily leaves to the blameless party an option whether he will or will not insist on the stipulation that the contract shall be void on the happening of the named event. To deprive him of that option would be but to effectuate the purpose of the blameable party. When this option is left to the blameless party, it is said that the contract is voidable, but that is only another way of saying that the blameable party cannot himself have the contract made void, cannot force the other party to do so, and cannot deprive the latter of his right to do so. Of course, the parties may expressly or impliedly stipulate that the contract shall be voidable at the option of either party to it. I am not dealing with such a case as that.

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It may well be that the question whether the particular event upon the happening of which the contract is to be void was brought about by the act or omission of either party to it may involve a determination of a question of fact.

On the first point I think that the words "date agreed by this contract" in article 12 of the agreement meant originally for all practical purposes October 30, 1914, and now by the addition which has been made to the contract means July 30, 1916, when the further eighteen months given for the completion of it expired. I do not think that it can mean the termination of the further period allowed as a fair proportionate extension for completion under article 5 of the agreement. That is a quite indefinite period. The parties might disagree as to its duration, and, if so, the dispute would be a matter for arbitration within the thirteenth article of the agreement, since it would be a dispute "touching the completion of the steamer" and the construction or meaning of the contract. This delay might be much prolonged.

Under article 12 several of the events, the happening of any one of which is to render the contract void, are clearly events for which the builders are responsible, or over which they have control—namely, the event of their bankruptcy, the event of their insolvency, or the event of their refusal (refus) to deliver the steamer, the event of their inability (impossibilité) to deliver her, might be the result of the neglect of the builders to begin to build her soon enough, or to keep a sufficient staff at work upon her. In such a case the event, the happening of which is to make the contract void, would be brought about by their act or omission, and they could not avail themselves of it. But the umpire has found as a fact that the builders were prevented by unavoidable causes beyond their control from completing the vessel ready for trial on January 30, 1915. The two parties therefore are equally blameless. By the act or omission of neither has the event been brought about on the happening of which the contract was to become void. The principle that a man shall not take advantage of his own wrong does not apply, and the contract becomes null and void absolutely,

as its words in their natural meaning provide that it should. In my opinion the order appealed from was right, and this appeal should be dismissed with costs here and below.

LORD SHAW OF DUNFERMLINE. My Lords, by contract and supplementary agreement of parties the respondents undertook to build a steamship for the appellants and to have her ready for trial by January 30, 1915. By the fifth clause of the contract it was agreed that if the stipulation as to time for completion could not be complied with, by reason of causes beyond the control of the builders, the time should be extended in proportion to the delay so caused. By the twelfth clause of the contract it was provided as follows : " In case the Builders become bankrupt or insolvent or shall fail or be unable to deliver the steamer "—these words in the French version are " ou de leur refus ou impossibilité de livrer le vapeur "—" within eight months from the date agreed by this contract, thereupon this contract shall become void and all money paid by the Purchasers shall be repaid to them with interest." In this clause the following interpolation was inserted : " Except only [in the French version " cependant "] in the event of France becoming engaged in a European war, then the above limit of eight months shall be extended equal to the duration of the said war, but in no case to exceed eighteen months in all." As to the running of time under these clauses, it appears to me to be clear that both the eight months and the eighteen months ran from a fixed point—namely, January 30, 1915—and I am further of opinion that, with reference to the extended period of eighteen months, the contract has definitely stated that period as the maximum of prolongation. By reason, however, of the outbreak of the European war the building of the ship has been still further delayed, and the ship is still incomplete. A state of affairs has accordingly arisen for which neither party is responsible which is covered by clause 12 of the contract. " Thereupon," says clause 12, " this contract shall become void."

The arbitrator decided " that the builders in the events which have happened are entitled to treat the contract as null and void (except for the repayment with interest of 5 per cent. of

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all moneys already paid to the builders by the purchasers)." In my opinion this judgment was right, and has been properly upheld by the Courts below.

The attack upon these judgments was centred upon this, that the terms employed—namely, that the contract " shall become void "—must be taken to mean that the contract was voidable only at the instance of the building owner. According to the agreement that owner might say : " Although the stipulated time for delivery is and may be long exceeded, I am willing to suffer the delay ; and I do not choose to found upon the stipulation : accordingly you the builder must—along with us—remain bound, so long as I choose." The answer to the whole of this is clearly put by Bailhache J.—that the stipulation as to the contract becoming " void " is a stipulation in favour of both parties. This is subject only to this, that the conduct or situation of the party treating the contract as void shall not have been the means whereby the event which gives rise to the condition has been brought about. What I have ventured last to express appears to me to be sound in principle and to be a better and broader expression of the principle than a reference to either a party's own wrong or a party's own default, for without either definite wrong or default the action, or even the situation, of one of the parties may be sufficient to produce the condition. I prefer more than any other as an expression of the principle that which occurs in Coke upon Littleton (1), and is quoted with approval by Lord Ellenborough in *Rede* v. *Farr* (2), " for that he himself is the mean that the condition could never be performed." As to authority, I refer in particular to Lord Ellenborough's judgment in *Rede* v. *Farr* (3), to *Doe* v. *Bancks* (4), and to *Hughes* v. *Palmer*. (5)

When a contract describes an event or events which may happen, and declares that on the occurrence of any of these the contract shall become void, the results may be tabulated thus: (1.) Such a contract may be declared void, as said, at the instance

(1) 206b.
(2) 6 M. & S. 125.
(3) 6 M. & S. 121.
(4) 4 B. & Al. 401.
(5) 19 C. B. (N. S.) 393.

of that party who has not by his own wrong or default brought about the event, or, in Coke's words, has not been "the mean that the condition could never be performed." (2.) Therefore, such a contract is voidable (*a*) sometimes by one party—for instance, a builder who has not been able to proceed on account of the default of the building owner, say, by failure to pay the stipulated instalments of price, and (*b*) sometimes by the other party—for instance, the building owner, where the bankruptcy of the builder has prevented timeous completion or delivery. (3.) And such contracts are voidable by both or either when the impossibility to complete or deliver was something for which neither was responsible. Each party is innocent, neither is in default: the conduct of neither has brought about the event, and in such a case the contract is interpreted with even and equal justice to both sides; and the law does not allow one party only to avoid while the other is held bound. If both parties go on, that is another and their own affair. But either can claim that the contract is void, and then both are free. In my opinion, such an overruling and equally applicable case was brought about by the present European war, an event by reason of which the respondents are entitled to treat this shipbuilding contract as void. I agree that the appeal should be disallowed.

LORD WRENBURY. My Lords, article 5 of this contract provides that the steamer shall be completed for trial by a calendar date—which, as varied, is January 30, 1915—"unless" something happens which has happened. In the event, therefore, that calendar date is not fixed for completion. The article goes on to provide that in the event named "a fair proportionate extension of time shall be allowed." It is not provided in express terms that—but upon a true construction I think that it results that—in the event the completion is to be achieved by the expiration of that extended time.

The question then is as to the meaning of article 12. That article is not artistic. There is, in fact, no date *for delivery* fixed by the contract. The calendar date is a date for *completion*; delivery is to follow. But nothing really turns upon

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this difference. By calendar date I subsequently mean the date after the calendar date when, having regard to article 5, delivery is to be made.

The appellant says that "the date agreed by this contract" in article 12 is, in the event which has happened, not the calendar date but the expiration of the "fair proportionate extension of time." I am not of this opinion. If this were so, there would be eight months—or eighteen months, as the case may be—from the expiration of the "fair proportionate extension of time." Article 12 has, I think, explained article 5 by naming a period at the expiration of which both the fair proportionate extension of time and also a further allowance before the contract "shall become void" will have elapsed. For this purpose "the date agreed by this contract" is the calendar date from which the former commences to run—that is to say, the calendar date—namely, January 30, 1915. Upon this point in my judgment the decision under appeal is right.

The next question is as to the meaning of "shall become void" in article 12. Does this include "shall be voidable at the option of the builder"? In my opinion it does. The article begins by naming certain events, four in number: In case the builders shall (1.) become bankrupt or (2.) insolvent, or (3.) shall fail, or (4.) be unable to deliver. Of these the first three are events which may be said to be the fault of the builder; the fourth is not or may not be his fault at all. He may be unable from an unpreventable cause beyond his control. If the word "void" is to be read "voidable," it results in the fourth case that upon principles well settled the meaning is that the contract is to be voidable at the option of the builder; for an event is named in which, through no fault of his own, a contract expressed to be voidable has become impossible or commercially impossible. If the contract be voidable at the builder's option he has by defending this case elected to avoid it, and this appeal must fail. If, on the other hand, the word means "void" and not "voidable," it equally results that the appeal fails. Whether the word be read "void" or be read "voidable," therefore, the appeal fails, unless the appellant can maintain that it means voidable at the option of the build-

ing owner, but not at the option of the builder. He has argued that this is the effect. In my opinion this is not so. The rule is that in a contract " void " is to be read " voidable," if the result of reading it as " void " would be to enable a party to avail himself of his own wrong to defeat his contract. It may be stated either in the form that if one party is in default it is " void as against him," or that if one party is in default it is " voidable at the option of the other party." The two amount to the same thing. But the contract is not " void " in favour of or " voidable at the option of " the party in default. He cannot say that it is void, and has no option of avoiding it in his own wrong. Here the contract is, in my opinion, voidable at the option of either party provided always that he is not seeking to avoid it in his own wrong. The contingency of war lasting more than eighteen months is a contingency not within the control of either party. The contract is void as against each, or, if you like so to express it, is voidable at the option of either, if the contingency occurs.

I notice that the award found that the eighteen months expired on July 30, 1916. This is not strictly accurate. But nothing turns upon the fact that an allowance should have been made for time for trial trip.

The appeal must in my judgment be dismissed with costs.

*Order of the Court of Appeal affirmed and appeal dismissed with costs.*

*Lords' Journals,* April 25, 1918.

Solicitors for the appellants : *William A. Crump & Son.*
Solicitors for the respondents : *Calder Woods & Pethick.*