

INFANTS' LIABILITY IN TORT AND CONTRACT.—Infancy has in the eyes of the law many privileges, but the decision of Mr. Justice Kay in *Re Seager, Seeley v., Briggs* establishes a limit for them. There an infant misappropriated money, which he had received on behalf of his master's employers. On being accused, he admitted the truth of the allegation, and when he attained his majority signed a memorandum acknowledging that he owed the amount stated and costs, promising to pay within a week, and charging a certain sum of money, to which he had become entitled under a will, with payment thereof. He also authorized the trustees to pay the sum to his master, and the latter took out a summons for payment. The 1st section of the Infants' Relief Act, 1874, makes all contracts entered into by infants for repayment of money lent or to be lent or for goods supplied or to be supplied (except necessities), void, and the 2nd section provides "that no action shall be brought whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification made after full age of any promise or contract made during infancy, whether there shall or shall not be any new consideration for such promise or ratification after full age." It would have been stretching the meaning of this section, if the memorandum, signed after the infant came of age, had been held a ratification, and Mr. Justice Kay declined so to decide; and further holding that the charge was given to prevent an action in tort being brought against the boy, who was liable *ex delicto* not *ex contractu*, allowed the summons with costs. To determine, then, whether the Act applies, the crucial test would seem to be, does the alleged liability arise from a contract or a tort? If it arises from any contract, then no ratification will be of any use: *Ex parte Kibble; Re Onslow*, 32 L. T. Rep. N.S. 138; 10 Ch. App. 373. Indeed, so far-reaching is this rule that a person will not be held liable for a breach of promise of marriage made in infancy, and subsequently ratified (*Coxhead v. Mullis*, 39 L. T. Rep. N.S. 349; 3 C.P. Div. 439), unless there is evidence that what subsequently took place was intended as a new promise and not a ratification of the former one (*Nortcote v. Doughty*, 4 C.P. Div. 385; *Ditcham v. Worrall*, 43 L. T. Rep. N.S. 286; 5 C.P. Div. 410); and "it is not enough to give evidence of language, which is equally consistent with ratification of the old promise as with a fresh promise:" per Mr. Justice Charles, in *Holmes v. Brierly*, 58 L. T. Rep. N.S. 70. So strict is the rule that an infant cannot contract, that he was not bound at law if he induced the other party to enter into the contract by a fraudulent representation that he was of age: Simpson on the Law of Infants, p. 79. The doctrine of equity, however, which, since the Judicature Acts, presumably applies to all the divisions of the High Court, is that not even an infant can take advantage of his own fraud: *Ib.*; and Kerr on Fraud and Mistake, 2nd edit. p. 122. This is in reality hardly an exception to the rule, but rather an example of the crucial test, as the infant is not strictly made liable because he has contracted, but on account of the wrong his conduct has inflicted on the other party: Pollock on the Principles of Contract, 3rd edit. p. 75. If the other party is not deceived by the infant's false representation, then, as no wrong is done to that person, the privilege of infancy remains: *Nelson v. Stocker*, 33 L. T. Rep. N.S. 277; 4 DeG & J. 458.—*Law Times*.