

That an essentially non-beneficial contract of service is not binding on an infant is apparent on general principles, the only logical distinction between the English and American doctrines on this point being, that the latter doctrine may be regarded as *a fortiori* deduction from the rule as to the non-obligatory quality of merely beneficial contracts*.

5a. Conflict between English and American decisions discussed.—

An examination of the earlier Massachusetts decisions which in that State established the doctrine that no executory contracts of employment are binding upon infants except those entered into

fant, and teaching him a trade); *Meeker v. Hurd* (1859) 31 Vt. 639 (minor wa to work until she became of age, she to receive for her services her support and clothing, be sent to school a portion of the time, and at her majority received a certain sum in money); *Wilhelm v. Hardman* (1858) 13 Md. 140 (minor agreed to work for seven years in consideration of food, lodging, clothing, and schooling, whenever a school was available). Indeed it is difficult to see how any of these decisions can be reconciled with the doctrine that contracts of service made for the purpose of procuring necessities are *prima facie* binding on infants. Are not food, clothing, and education, all necessities?

By the Iowa Code (§§ 2238, 2239, 2240) a minor is bound by contracts for necessities and for all other contracts, unless he disaffirms them within a reasonable time after attaining majority. Disaffirmance before majority is of no effect. If a minor renders personal services under a contract, and accepts payment for them according to the contract, he cannot maintain an action by next friend, upon the contract, to recover again. *Murphy v. Johnson* (1876) 45 Iowa 57, disapproving of an instruction which recognized the doctrine that the minor may disaffirm the contract during his minority. In stating that such a doctrine is "unknown to the common law," the court is clearly in error. See the quotation, note 4, *supra*, from the judgment in *Moses v. Stevens*.

* In *Nickerson v. Easton* (1831) 12 Pick. 110, a written agreement not under seal, signed by a minor, his mother and step-father, of the one part, and by the defendant, of the other part, recited that the minor had been living with the defendant as an apprentice to learn the trade of a cooper, but that no indenture had been executed, and stipulated that the minor should go on a whaling voyage, and should do "the duty he ships to perform," and that the defendant should furnish him outfits, and should receive all his earnings on the voyage, and that at the end of the voyage the minor should be free from his apprenticeship. It was held, that so far as the relation of master and apprentice subsisted *de facto* by the actual residence of the minor with the defendant, it was waived and terminated by the written agreement; that the written agreement itself did not constitute a contract of apprenticeship; that independently of the supposed relation of master and apprentice, the contract was not reasonable and beneficial to the minor; and not binding upon him; and that he was entitled to recover his earnings on the voyage to his own use.

An infant is not bound by a stipulation as to the forfeiture of wages, if he should leave without notice. *Danville v. Amoskeag Mfg. Co.* (1882) 62 N.H. 133. Compare cases cited in the last section, note 10.