master maintain an action against a third person for enticing him away from the employment[10].

The mere fact that some conditions in the contract are against the servant or apprentice does not enable the court on that ground only to say that it is void. To have such an effect the stipulation which is objected to must be so unfair that it makes the whole contract, as between the infant and the master, an unfair one to the infant[11]. This description is applicable to any stipulation which violates the rule of law under which "an infant is incapable of contracting himself out of his acquired rights, or subjecting himself to a penalty"[12].

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after trial. In the lower court Chitty, J. relied on the more technical ground that the deed which defined the rights of the parties was one of apprenticeship, and that it had been decided in the old case of *Gylbert* v. *Fletcher* (1629) Cro. Car. 179, that no action would lie in such a deed against the apprentice himself, although it was for his advantage to be bound apprentice to be instructed in a trade, and that the only remedy available to the master, if the apprentice misbehaved himself was to correct him, or complain to a justice to have him punished. The learned judge considered that, as the right to the injunction asked for depended upon the master's legal right to sue upon the covenant in the deed to the effect that the apprentice should neither "contract professional engagements, nor accept such unless with the full written permission of his master," the non-enforceability of that covenant necessarily involved the consequence that, apart from any question whether the contract was for their benefit or not, the master was not entitled to an injunction.

The rule applied in *Gylbert* v. *Fletcher*, *supra*, is also recognized in *Jennings* v. *Pitman* (1624) Hutton, 63; *Lylly's Case* (1702) 7 Mod. 15; *Whitley* v. *Loftus* (1824) 8 Mod. 190; *Knight* v. *Hogg* (1812) 3 Brevard, 44; *Frazier* v. *Rowan* (1806) 2 Brevard, 41.

It was from a very early period deemed to be subject to the qualification that, by the custom of London, an infant might bind himself in an indenture of apprenticeship, so as to subject to an action, even in the superior courts at Westminster. *Stanton's Case* (1583) Moore, 135; *Horn* v. *Chandler* (1671) 1 Mod. 271, cited in Chitty, Contr. 13th ed., p. 177, note (u).

In *Walter* v. *Everard* (1891) 2 Q.B. 369, (see note 2, *supra*), Lopes, L.J. remarked that the decision which was being rendered did not in any way conflict with the cases in which it had been held that an action could not be maintained for the breach of an infant's covenant to serve his master as an apprentice.

[10] *De Francesco* v. *Barnum* (1890) 45 Ch. Div. 165.

[11] *Corn* v. *Matthews* (1893) 1 Q.B. 310 (for facts see note 7, *supra*, per Lord Esher, M.R., stating what he understood to be the rule formulated by Fry, L.J., in *De Francesco* v. *Barnum*, note 8, *supra*.

[12] Lush, J. in *Leslie* v. *Fitzpatrick* (1877) L.R. 3 Q.B. Div. 229. He pointed out that this was a second and distinct ground upon which the decision in *R.* v. *Lord* (1848) 12 Q.B. 757, 3 New Sess. Cas. 246, 12 Jur.