

So far as I knew, no case has arisen under this section. The plaintiff's counsel assumes that the effect of it is to make not only the receipt from but the repayment to an infant of any sum exceeding \$500 unlawful; and from this he argues that, because \$1,800 was received unlawfully, and \$500 only could be paid lawfully, he is now entitled to demand payment of \$1,300, the disability having ceased.

In the first place, it is to be observed that there is no restriction upon repayment. The restriction is upon the amount of deposit; and if, as a matter of policy, the Legislature requires an infant's account to be kept under \$500; and the bank, in ignorance of the fact that the depositor is an infant, receives a sum exceeding this limitation, it then becomes its duty immediately to repay the excess to the infant on learning of his minority. I cannot find in this section any sanction for the theory upon which the action is brought.

But, as said, I do not think that there is any "law of the Province" which prevents an infant from depositing money in and withdrawing it from the bank, even assuming that the expression "law of the Province" is not to be confined to an express statutory provision.

Upon another ground I think the plaintiff fails. The action is not brought until more than a year and a half after the infant attained his majority. The money withdrawn from the bank was used by him for his father's benefit, and applied in reduction of the mortgage on the father's hotel. Before making any claim he waited until the mortgage on the hotel had been foreclosed, and the father had absconded. If he intended to repudiate what he had done during his minority, I think that, under the circumstances, he ought to have acted with greater promptness.

In answer to this, the plaintiff suggests that he had been misled by his mother as to the actual date of his birth, and that he was a year younger than it now turns out that he is.

I do not think that this affords him any excuse. His competency depends upon his age, not upon what he thinks his age is. If the defendants had misled him, they might be estopped. The fact that his mother misled him—if, indeed, she did—is quite immaterial.

I find as a fact that the defendants acted throughout honestly, without any knowledge of the plaintiff's infancy, and that there is nothing in his appearance to indicate infancy or to provoke inquiry. If it had not been for the fact that the