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NOTES

INFANT'S DISAFFIRMANCE OF A CONTRACT: METHODS OF HANDLING THE RESULTING INJUSTICE

The courts are not in harmony when faced with the issue of who should suffer the loss when an infant disaffirms his contract.[1] The problem seems to be, on the one hand, to protect the infant from the improvidence incident to his youth and inexperience, and how, on the other hand, justice can be maintained. One can more aptly visualize the problem by an illustration of its application.

In *Snodderly v Brotherton,*[2] a minor purchased a new automobile from the defendant. A conditional sales contract was signed, and as part payment, the minor traded in a truck. The defendant proceeded to overhaul the truck. Two and one-half months later, the minor disaffirmed the contract after having driven the car twenty-one hundred miles and depreciating its value. He sought recovery of the overhauled truck plus damages for loss of its use. The Washington Supreme Court, affirming the lower courts decision, balanced the cost of overhauling the truck against the damages claimed by loss of use, and allowed the minor recovery only for the truck, on his returning the auto.

Obviously, the minor received the benefit of a new car for two and one-half months plus the return of the overhauled truck; whereas the defendant lost time, labor, and expenses in overhauling the truck, and acquired back his car in a depreciated condition.

Query; does one side always have to suffer a loss? Is it possible to protect the minor from the adult, the world, and himself, yet protect the adult from the dishonest minor?

This note will deal with the various methods used by courts in handling this situation. Not within the scope of this note is the

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1. Stanhope v. Shambow, 54 Mont. 360, 170 Pac. 752 (1918) (legislation), Rodriguez v. No. Auto Auction, Inc., 35 Misc. 2d 395, 225 N.Y.S.2d 107 (1962) (seller entitled to recoup loss sustained) Standard Motor Co. v. Stillians, 1 S.W.2d 332 (Tex. Civ. App. 1928) (minor not liable for depreciation).

2. 173 Wash. 86, 21 P.2d 1036 (1933).

problem of the minor's misrepresentation of age, so as to obtain contractual advantage.[3]

Society has always felt a moral obligation to protect large classes of its members who are unable to protect themselves. The need to protect infants from their lack of experience in contractual matters was recognized at common law.[4] Thus, the general rule was that a contract made by an infant was voidable at his option.[5] Those contracts which were prejudicial to the infant were void; others which were possibly beneficial were merely voidable.[6] Those of definite benefit, such as contracts for necessaries and those of service, were valid and binding upon the infant.[7]

Although an infant could disaffirm his contract, thereby relieving himself of all future responsibility, early English law prohibited a recovery of sums paid under the contract.[8] To quote from Lord Mansfield: "If an infant pays money with his own hand, without a valuable consideration for it, he cannot get it back again."[9]

Later cases qualify this statement by deciding the question of a recovery on whether or not the infant had derived a benefit from the contract.[10] Where the infant does not enjoy the benefit of the purchase he can recover the purchase money on restoring the thing purchased; if he has enjoyed the benefit of the purchase, or had the use of the thing purchased, the money cannot be recovered.

Steinberg v Scala[11] extended the "benefit" rule to include any detriment. In that case the infant applied for shares in the defendant company, paying the amount due on application. No dividend was paid on the shares, which were only half paid up when the infant repudiated the contract. The court held that since, at one time, the shares had a marketable value the plaintiff could not recover the money paid by claiming a failure of consideration. In the words

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3. Some jurisdictions allow an action against the minor in deceit on the theory that infants are liable for their torts, while other jurisdictions permit an estoppel on the infant to plead his non-age. See generally 41 Ind. L. J. 140 n. 16 (1965) 20 IOWA L. REV. 785 (1935).

Statutes have been enacted by various jurisdictions which prohibit disaffirmance by the misrepresenting minor· IOWA CODE ANN. § 599.3 (1950), KAN. STAT. ANN. § 38-1023 (1964) UTAH CODE ANN. § 15-2-23 (1953), REV. CODE OF WASH. ANN. § 26-28-040 (1961).

4. 2 WILLISTON, CONTRACTS § 223 (3rd ed. 1959).

5. Goode v. Harrison, 5 B. & Ald. 147, 106 Eng. Rep. 1147 (1821) Cork & Bandon Ry. v. Cazenove, 10 Q.B. 935, 116 Eng. Rep. 355 (1847) No. Wes. Ry. v. M'Michael, 5 Ex. 114, 155 Eng. Rep. 49 (1850).

6. See, CHESHIRE AND FIFOOT, LAW OF CONTRACTS 347 (6th ed. 1964).

7. Zouch v. Parsons, 3 Burr. 1794, 97 Eng. Rep. 1103 (1765), Nash v. Inman, 2 K.B. 1, (1908) Roberts v. Gray, 1 K.B. 520.

8. Buckingham v. Drury, 2 Eden 60, 28 Eng. Rep. 818, (1762), Holmes v. Blogg, 8 Taunt. 508, 129 Eng. Rep. 481 (1818), See generally 2 KENT'S COMMENTARIES 240 (Gould's ed. 1896).

9. Buckingham v. Drury, *supra* note 8, 2 Eden at 72, 28 Eng. Rep. at 823.

10. Corpe v. Overton, 10 Bing. 252, 131 Eng. Rep. 901 (1833) Hamilton v. Vaughan-Sherrin Eng'r Co., 3 Ch. 589 (1894).

11. [1923] All E. R. 239.

of the court, "the question is not, Has the infant derived any real advantage? but the question is, Has the consideration wholly failed?"[12]

In 1874, by an act of the English Parliament,[13] all contracts entered into by infants for goods supplied (other than contracts for necessaries) were to be declared absolutely void. But both before[14] and after[15] the enactment of the law, infants have been held liable for contracts of service if such were for their benefit. Infants are also held liable on their contracts for necessaries on the theory that they are beneficial to them.[16]

Ordinarily, if the contract for a non-necessary is void by law, the infant should be able to recover the consideration running from him. But such is not the case. Reasoning that the demands of natural justice apply, it is said that the infant cannot recover unless there has been a total failure of consideration.[17]

It follows that the rationale in treatment of executed contracts for non-necessaries as opposed to those for necessaries follows a very fine line, the benefit received being the determinate factor of the infant's liability in both cases.[18] Under this reasoning, it is hard to contemplate a situation in which the infant is permitted to use the defense of infancy to his advantage, other than to eliminate future contractual liability on contracts for non-necessaries. Apparently little consideration is given to the disparity in experience between the infant and the adult.

The majority of American jurisdictions regard the returning of property received a prerequisite to a recovery[19] The right to disaffirm is absolute,[20] and "the seller must take the returned property in the condition in which he finds it."[21] It has been said that "equity will treat the infant as a trustee for the other party and require

12. *Id.* [1923] All E.R. at 244 Comment, 72 U OF PA. L. REV. 195 (1924) American jurisdiction in accord, Adams v. Beall, 67 Md. 53, 8 Atl. 664 (1887).
13. INFANT'S RELIEF ACT, 37 & 38 Vic. c. 62, § 1.
14. King v. Great Wigston (Inhabitants). 3 B. & C. 483, 107 Eng. Rep. 813 (1824) where the court said, "It is a general rule of law that an infant cannot do any act to bind himself unless it be manifestly for his benefit."
15. Fellows v. Wood, 59 L.T. 513, (1888).
16. See cases *supra* note 7.
17. Valentini v. Canali, 24 Q.B. Div. 166, (1889) Pearce v. Brain, 2 K.B. 310, 98 L.J.K.B. 559 (1929), Chaplin v. Leslie Frewin, 3 All E.R. 764, (Ct of App., Eng. 1965) (where the question of whether the contract is benefical must be determined as of the date the contrcat is made).
18. See cases *supra* notes 7 (necessaries) and 17 (non-necessaries).
19. Riley v. Mallory, 33 Conn. 201 (1866), Merritt v. Jowers, 184 Ga. 762, 193 S.E. 238 (1937) Wuller v. Chuse Grocery Co., 241 Ill. 398, 89 N.E. 796 (1909), Gray v. Grimm, 157 Ky. 603, 163 S.W. 762 (Ct. App. 1914), Adams v. Barcomb, 216 A.2d 648 (Vt. 1966).
20. Carpenter v. McGuckian, 43 R.I. 94, 110 Atl. 402 (1920) Rotondo v. Kay Jewelry Co., 84 R.I. 292, 123 A.2d 404 (1956) where the court said, at 405, "Nothing in the nature of a condition precedent can be interposed to defeat the right of an infant to disaffirm his contracts for non-necessaries and to recover the consideration that moved from him."

restoration, on the ground that the infant is in possession of property, which, in good conscience, he will not be permitted to retain when he has elected to disaffirm."[22]

Conflict exists as to whether or not the consideration received must first be returned in order to effectuate the rescission.[23] Indiana courts have consistently held that the infant need not tender back the consideration before suing for the value or possession of the money or property given by him to the adult,[24] implying that a countersuit in replevin may be necessary in certain situations.[25]

Where the infant has lost, squandered, or otherwise disposed of the consideration which he received, he may nevertheless, by the majority rule, disaffirm his contract and recover the consideration running from him.[26] One reason underlying this rationale is taken from *Mutual Life Ins. Co. of N Y v Schiavone*:[27]

> Even if the carrying charges to the company had been shown here, to allow them would be to hold that an infant is liable not only for necessaries, but for the cost price of purchases not necessary, so that an adult could knowingly sell anything to an infant, secure in the doctrine that if he fails to gain a profit, at least he cannot lose.[28]

The Georgia court, in *White v Sikes*,[29] intimates mere difficulty in assessing the value of the consideration received as a reason for the majority position. To quote:

> It may be that the education thus received would be of value to him, but it is not a thing of value, within the ordinary meaning of that term, and the law does not require him to estimate its value and tender the amount of the estimate thus made.[30]

Most jurisdictions holding the majority viewpoint, however, believe that it is the same lack of foresight which induced the

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21. Rutherford v. Hughes, 228 S.W.2d 909 (Tex. Civ. App. 1950).
22. Hurwitz v. Barr, 193 A.2d 360 (D.C. Cir. 1963).
23. Compare Carpenter v. McGucklan, *supra* note 20, with Sassenrath v. Lewis Motor Co., 246 S.W.2d 520 (Mo. Ct. App. 1952). See Mosko v. Forsythe, 102 Col. 115, 76 P.2d 1106 (1938) Ross P Curtice Co. v. Kent, 89 Neb. 496, 131 N.W 944 (1911).
24. Bowling v. Sperry, 133 Ind. App. 692, 184 N.E.2d 901 (1962).
25. Carpenter v. Carpenter, 45 Ind. 142 (1873).
26. Adamowski v. Curtiss-Wright Flying Service, Inc., 300 Mass. 281, 15 N.E.2d 467 (1938) (flying lessons) Downey v. Northern Pac. Ry., 72 Mont. 166, 232 Pac. 531 (1924) (a cause of action) Rotondo v. Kay Jewelry Co., *supra* note 20, (diamond ring given to fiancee) Turney v. Mobile & O.R. Co., 127 Tenn. 673, 156 S.W 1085 (1913) (check turned over to mother) Dawson v. Fox, 64 A.2d 162 (D.C. Cir. 1949) (scooter stolen from infant).
27. 71 F.2d 980 (D.C. Cir. 1934).
28. *Id.* at 982.
29. 129 Ga. 508, 59 S.E. 228 (1907).
30. *Id.* 59 S.E. at 230.

infant to make the contract that leads to the dissipation of the proceeds. To require him to return the consideration before disaffirming the contract would deprive him "of the very defense which the law intended that he should have against the results of his indiscretion."[31]

Unlike English cases, no distinction is made between executory or executed contracts.[32]

The question arises as to the manner of coping with the situations in which the infant receives an obvious benefit from the contract he later disaffirms. In *Shutter v Fudge*,[33] the Connecticut Supreme Court faced this very problem. A seventeen year old purchased merchandise from the plaintiff, paying part of the total price. He used the merchandise to assemble radio sets for re-sale, thereby gaining a profit on each sale. The court held that the infant could disaffirm the contract and recover the consideration paid, without making restitution for the disposed merchandise or for the profits received.

Boyton v Wedgewood[34] presented the issue as to whether the plaintiff, upon such disaffirmance by him, could recover the full amount paid, while a minor, if any or all of it was received by him from others as rental for their use of the property Holding for the plaintiff, the court said:

> Had the plaintiff paid for the property out of his own funds received from sources not related to the property, he would have been entitled to recover the full sum thereof without credit to the defendant in the amounts which the plaintiff may have benefited in receipts from the use or renting out of the property The fact that payment was made out of such receipts themselves rather than out of funds derived by the plaintiff from other sources presents a distinction without a difference insofar as applicable rules of law are concerned.[35]

Likewise, the infant cannot be held liable for the depreciation and use of the article[36] or for the seller's loss,[37] because "the right to recover the value of such use, if it exists, rests on contract, express or implied, and a plea of infancy would bar a suit thereon."[38]

31. Carpenter v. McGuckian, *supra* note 20 at 403.
32. Woolridge v. Hill, 124 Ind. App. 11, 114 N.E.2d 646 (1953) Wuller v. Chuse Grocery Co., *supra* note 19.
33. 108 Conn. 528, 143 Atl. 896 (1928) Comment, 77 U. OF PA. L. REV. 811 (1928).
34. 346 Mich. 393, 78 N.W.2d 134 (1956).
35. *Id.* 78 N.W.2d at 136.
36. Mast v. Strahan, 225 S.W 790 (Tex. Civ. App. 1920).
37. Icovino v. Haymes, 191 Misc. 311, 77 N.Y.S.2d 316 (Munic. Ct. N.Y. 1948) Harvey v. Hadfield, 13 Utah 258, 372 P.2d 985 (1962).
38. Utterstom v. Kidder, 124 Me. 10, 124 Atl. 725 (1924) *accord,* Yancey v. Boyce, 28 N.D. 187, 148 N.W 539 (1914).

But the infant has been held to account "for any tortious use or disposition of the property after such avoidance and before its surrender "[39]

A few courts have broadened the duty to account for the consideration received, stating that the infant must follow the consideration (including money), offering to return it or its substitute.[40] It is best expounded by the Maine court in a famous case:

> [W]hy should not the duty to accountability attach to the substitute or equivalent as firmly as to the original, and why should not the minor account for it on avoiding the contract? The same reason that impressed the original impresses the substitute. In fact, it is the generally accepted rule a little more widely applied.[41]

The burden is on the infant to show that he no longer has the consideration in any traceable form.[42]

An increasing number of jurisdictions apply the minority doctrine, requiring of the infant the restoration of the status quo in the other party as a condition precedent to a recovery [43] This has been accomplished by allowing the seller the reasonable compensation for the use and depreciation of the article while in the infant's hands. In the words of the Oregon court: "We think this rule will fully and fairly protect the minor against injustice and imposition and at the same time it will be fair to the businessman who has dealt with such minor in good faith."[44] A doctrine contra to this "can only lead to the corruption of young men's principles and encourage them in habits of trickery and dishonesty "[45]

In one case, a fifteen year old purchased an air transportation ticket, receiving one meal on the flight from New York to Los Angeles. On returning to New York, she repudiated the transaction. The plaintiff was denied recovery in that she could not return the consideration.[46]

Various jurisdictions have merely codified the majority common law rule of requiring an infant to restore that part of the considera-

39. Fisher v. Taylor Motor Co., 249 N.C. 617, 107 S.E.2d 94 (1959) Mast v. Straham, *supra* note 36, at 791 (dictum).

40. Worman Motor Co. v. Hill, 54 Ariz. 227, 94 P.2d 865 (1939) White v. Sikes, *supra* note 29 Whitman v. Allen, 123 Me. 1, 121 Atl. 160 (1923) Collins v. Norfleet-Baggs, Inc., 197 N.C. 659, 150 S.E. 177 (1929).

41. Whitman v. Allen, *supra* note 40, 121 Atl. at 163.

42. Whitman v. Allen, *supra* note 40.

43. Rice Auto Co. v. Spillman, 51 App. D.C. 378, 280 Fed. 452 (1922) Rice v. Butler, 160 N.Y. 578, 55 N.E. 275 (Ct. App. 1899) Pettit v. Liston, 970 Ore. 464, 191 Pac. 660 (1920) Cain v. Coleman, 396 S.W.2d 251 (Tex. Civ. App. 1965) (dictum).

44. Pettit v. Liston, *supra* note 43, 191 Pac. at 662.

45. *Ibid.*

46. Vichnes v. Transcontinental & W Air, Inc., 173 N.Y. Misc. 631, 18 N.Y.S.2d 603 (1940).

tion in his control when he attained majority[47] The Iowa Supreme Court interpreted the statute to read that an infant, disaffirming a contract, need not restore the consideration until his majority.[48]

Although Montana requires, by statute,[49] that the infant restore the consideration to the party from whom it was received, on disaffirming a contract, one case holds that the infant's inability to return the consideration cannot defeat the disaffirmance,[50] stating that the statute does not contain the clause requiring an infant to pay "its equivalent."[51]

A number of states recognize the need to differentiate between the infant over eighteen years of age from the one under that age. Consequently, by legislation, several jurisdictions require the infant of eighteen years to return the consideration received or pay its equivalent as a condition to a disaffirmance.[52] Where by the nature of the consideration it cannot be returned, the infant must pay its reasonable value.[53] North Dakota, as one of the jurisdictions with this statute, has not ruled on this precise issue. The California courts have defined the purpose of this statute as one operating in equity, permitting the person dealing with an infant to be placed in status quo,[54] yet discouraging adults from contracting with minors.[55]

Although the infant can be held liable for the depreciation of the article,[56] he does not have to account for profits made by use of the article[57] nor does he have to account for the rental value of the article.[58]

The statute has no application in those situations in which the infant is under eighteen years.[59]

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47. IOWA CODE § 599.2 (1962) KAN. GEN. STAT. ANN. § 38-102 (1961) UTAH CODE ANN. § 15-2-2 (1953), WASH. REV. CODE ANN. § 26.28.030 (1961).
48. Beickler v. Guenther, 121 Iowa 419, 96 N.W 895 (1903).
49. MONT. REV. CODES ANN. § 64-107 (1947).
50. Downey v. No. Pac. Ry., 72 Mont. 166, 232 Pac. 531 (1924).
51. *Id.,* 232 Pac. at 537.
52. ARK. STAT. ANN. § 68-1601 (1953), Cal. Civ. Code § 35 IDAHO CODE ANN. § 32-103 (1963), N.D. CEN. CODE § 14-10-11 (1960) OKL. STAT ANN. 294 § 1 (1965) S.D. CODE § 43.0105 (1939).
53. Spencer v. Collins, 156 Cal. 298, 104 Pac. 320 (1909) Clark v. Stiles, 89 Ida. 191, 404 P.2d 339 (1965) (where the infant was denied recovery because he did not offer to pay for the services).
54. LeBaron v. Berryessa Cattle Co., 78 Cal App. 536, 248 Pac. 779 (1926), Murdock v. Fisher Fin. Corp., 79 Cal. App. 787, 251 Pac. 319 (1926).
55. Flittner v. Equitable Life Assur, Soc. of the U.S., 30 Cal. App. 209, 157 Pac. 630 (1916).
56. Toon v. Mack Int'l Motor Truck Corp., 87 Cal App. 151, 262 Pac. 51 (1927) (recoupment allowed), Barber v. Gross, 74 S.D. 254, 51 N.W.2d 696 (1952).
57. Lakey v. Caldwell, 72 Ida. 52, 237 P.2d 610 (1951) (dictum).
58. Loomis v. Imperial Motors, Inc., 88 Ida. 74, 396 P.2d 467 (1964).
59. Robertson v. King, 222 Ark. 276, 280 S.W.2d 402 (1955) Quality Motors v. Hays, 216 Ark. 264, 225 S.W.2d 326 (1949), Tracy v. Gaudin, 104 Cal. App. 158, 285 Pac. 720 (1930) (deceased minor's personal representative could disaffirm without restoring consideration), Rice v. Anderson, 39 Okl. 279, 134 Pac. 1120 (1913).

In *Maier v Harbor Centerland Co.*,[60] an infant under eighteen purchased land, but continued to make payment of installments after becoming eighteen. On disaffirmance of the contract, the court did not allow the seller recoupment for damages suffered, stating that the "payment of installments after the minor reached the age of eighteen did not remake the old contract or make a new one."[61]

Minnesota and New Hampshire have consistently followed the benefit rule, under which the infant becomes liable in quasi-contract to the extent that the contract was beneficial to him.[62] It is regarded as an extension of the necessaries rule as the same reasoning is applied to both. It is best illustrated in a leading case promoting this doctrine:

> The right to recover for necessaries is given, because the infant has derived a benefit therefrom. It is upon no other ground. If the benefit is the foundation of the right, why should it be limited to necessaries. . [63]

As with the necessaries rule, not all infants are held liable on their contracts. The test of whether or not the article purchased by the infant and used by him resulted in a benefit is determined by the reasonableness of the purchase as compared with the infant's station in life.[64] Thus, it is recognized that a contract beneficial to one person may be injurious to another.[65]

The adult is not permitted to take advantage of the infant, under this doctrine, as the infant cannot be held liable unless the contract be "free from any fraud or bad faith and otherwise reasonable, fair, and a provident contract for the infant."[66] The burden of proof as to the fairness of the contract lies with the one dealing with the infant.[67]

Again, similar to the necessaries rule, an infant is not held liable for the contract price of the article, but for the benefit received as is measured by the fair value of the article.[68]

Johnson v Northwestern Mutual Life Ins. Co.[69] distinguishes the benefits rule from the English law[70] by emphasizing the fact

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60. 41 Cal. App. 79, 182 Pac. 345 (1919).
61. *Id.*, 182 Pac. at 346 (decided under the presently effective CAL. CIV. CODE § 35).
62. Braucht v. Graves-May Co., 92 Minn. 116, 99 N.W. 417 (1904) Bartlett v. Bailey, 59 N.H. 408 (1879).
63. Hall v. Butterfield, 59 N.H. 354 at 359 (1879).
64. Klaus v. Thompson Auto & Buggy Co., 131 Minn. 10, 154 N.W 508 (1915) Wooldridge v. La Voie, 79 N.H. 21, 104 Atl. 346 (1918).
65. Stack v. Cavanaugh, 67 N.H. 149, 30 Atl. 350 (1892) (infant derived no benefit from the contract).
66. Berglund v. Am. Multigraph Sales Co., 135 Minn. 67, 160 N.W 191 at 193 (1916).
67. Gislason v. Henry L. Doherty & Co., 194 Minn. 476, 260 N.W 883 (1935).
68. Porter v. Wilson, 106 N.H. 270, 209 A.2d 730 (1965).
69. 56 Minn. 365, 57 N.W. 934, 59 N.W. 992 (1894).

that, in order for the benefits rule to apply, the contract must be fair and free from fraud. In that case, a seventeen year old took out a life insurance policy from the defendant insurance company He made a number of payments until he reached majority at which time he disaffirmed the contract and sought to recover all the moneys paid. Holding for the defendant, the court allowed the plaintiff recovery of only the present cash surrender value of the policy, stating that the contract was a fair and provident one for the infant, the benefits being such that they could not be restored.

On examining the various methods used by courts in handling this problem, one begins to wonder as to the amount of protection today's infant requires. Sociologists tell us that adolescence[71] should be regarded as a developmental period,[72] not merely a transitory or in-between stage in which the individual goes from childhood to adulthood.[73]

Human development involves a constant progression through successive stages of dependence. One can reasonably assume that an adult mental level is reached at some time between the age of sixteen and twenty-five.[74] In the legal area, this is exemplified in the passage of statutes by several jurisdictions[75] recognizing that the infant over eighteen should be made to account for his contractual actions.

Society's problem is teaching our young citizens to become mature, responsible adults. "It seems clear that the learning of responsibility is rooted in the significant interpersonal relation of a responsible adult with the child and youth."[76] Much emphasis is placed on the school as the place for the clarification of this experience.

Although the youth of today spend more years in school,[77] thereby delaying their entry into the business world, they are not

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70. English courts would grant no relief on the grounds of fraud or undue influence where they would not grant it to an adult on the same grounds.

71. Adolescence covers the ages from 14 to 21 years and is the term used by sociologists.

72. FRIEDENBERG, THE VANISHING ADOLESCENT 9 (1959). The author, one of the leading authorities in this field, gives this frequently quoted definition. "Adolescence is the period during which a young person learns who he is and what he really feels. It is the time during which he differentiates himself from his culture, though on the culture's terms."

73. Maier, *Adolescenthood,* 46 SOCIAL CASEWORK 3 (1965).

74. Cole and Hall, *The End of Adolescence,* PSYCHOLOGY OF ADOLESCENCE 629 6th ed. (1964).

75. See statutes *supra* note 52.

76. Harris, *Work and the Transition to Maturity,* STUDIES IN ADOLESCENCE 54 Grinder ed. (1963).

77. In 1950, 9% of the 20-24 year olds were still in school, whereas in 1963, 16.8% were still in school. BUREAU OF THE CENSUS, U.S. DEPT. OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 108 (86th ed. 1965).

greatly helped by the school in the area of responsibility development.[78]

> [A] study of what happens to the values of American students of today shows that their college experience barely touches their standards of behavior, quality of judgment, sense of social responsibility, perspicacity of understanding, and guiding beliefs.[79]

That be the case, it makes sense to instill in the youth desirable moral attitudes which can be obtained through everyday experiences outside of the school. The role of the law should not conflict with or complicate society's goal.

Therefore, in regard to infant's contracts, it is difficult to imagine why an infant should not be held to account for any benefits received under the contract. Yet the "benefit" rule has been applied in only two jurisdictions.[80] "The probable reason why the doctrine has not been widely adopted is that if the transaction has really benefited the infant, he does not, after majority, seek to disaffirm it."[81]

It is common knowledge that today's youth have a substantial amount of money to spend and constitute a vital percentage of the total consumer market.[82] The information is scarce, if non-existent, as to the percentage of infants who disaffirm their purchases. Nevertheless, the potential to disaffirm is always present.

It becomes clear that it is possible to return the adult to a near status quo position, and yet not take away the infant's protection, if all infants, both over and under eighteen years, were held accountable for the benefits they received under their contracts. Such a rule would seem to supplement society's goal—that of developing responsibility in the youth of today

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78. FRIEDENBERG, *op cit. supra* note 72, at 63.

79. Jacob, *Does Higher Education Influence Student Values?*, THE ADOLESCENT — A BOOK OF READINGS 670 (Seidman ed. 1960).

80. *Supra* note 62.

81. MADDEN, DOMESTIC RELATIONS, 592 (1931).

82. It is estimated that 50 billion a year is spent by and for youth, of which the youth spend 20 billion a year on personal items. The teen-ager today is said to have $6 a week to spend freely Studies indicate that 1/2 comes from savings on odd jobs, while the other 1/2 is obtained from an allowance. Shaffer, *Youth Market*, EDITORIAL RESEARCH REPORTS (1965).

One extensive study found the median weekly income for the 15-18 year old boys surveyed was $11.50 for girls in this age group, the weekly incomes averaged $6.85. Consumer Survey, *Youth Market*, SCHOLASTIC MAGAZINES (1965).

In one survey, 22% of the respondents spent 2 hours shopping per day. 50% of the teen-agers interviewed spent $4 or more per week on thier hobbies. Samli and Windeshausen, *Teen-Agers As a Market*, U. OF WASH. BUS. REV. (Feb. 1965).

It is believed that advertisers are becoming more conscious of dealing sincerely with today's youth on the theory that "brand loyalty" is formed in the early years. Shaffer, *Youth Market*, EDITORIAL RESEARCH REPORTS (1965).