

of the son by the death of his mother, which might be an early or a very distant day; or when the devisee should arrive at twenty-one. It would seem unreasonable to impose on the son the payment of these legacies, when he should arrive at twenty-one, when the whole of the property was given to the widow for a term which the testator expected to continue after that time, and which might continue for so long a time that the payments and the interest might far exceed the value of the property. The natural construction would seem to be, that the son should become liable to pay the legacies, when he should come into possession of the property by the expiration of his mother's interest; as until that time he would have no means derived from the will to pay the legacies. If this is the just inference as to the testator's intention in the events which he anticipated, it seems equally just as the contingencies have occurred. By the death of the widow the son became entitled to the benefit of the property, and the means to pay the burdens upon it, and no reason is seen why his sisters should not at the same time become entitled to their shares of it; that is, to their legacies, unless it may be found in the provision that the executors should manage and carry on the farm till the son, Edgar, became of age; but we think it can not have that effect. The executors were to carry on the farm during the life of the widow, as well as after, and nothing in the will indicates that they were so to carry it on for the benefit of themselves, or any other person than the widow while her estate continued, and then of her son. They must, therefore, be deemed trustees for her, and after her death equally trustees for Edgar, and their possession for all substantial purposes, must be his possession, since they must be accountable to him for the income.

There must be a decree in favor of the plaintiffs, charging the land, the form of which, unless the parties agree, will be directed by the court.

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### BROWN v. WHITEMORE.

A contract of apprenticeship, entered into by a minor under the age of fourteen years, but not by an indenture in two parts, sealed by both the parties, and without any deposit of the instrument containing the contract in trust for the minor, according to the provisions of chapter 151 of the Revised Statutes, is voidable by the minor.

Any act by the minor, clearly showing his intention not to be bound by such contract, is a sufficient avoidance of it.

By consent of the parties this action was tried by the court. It was assumpsit, to recover for labor, &c., alleged to have been done by one Nute, as the servant and apprentice of the plaintiff, for the defendant, at his request. The plea was the general issue, with a brief statement that said Nute, "at the time of the alleged services, was neither the servant nor the apprentice of the plaintiff." To show that Nute was his apprentice, the plaintiff produced an

indenture, signed by Nute and himself, dated July 16, 1858, and approved by the selectmen of Wolfborough on the same day. A copy of this indenture was made part of the case, and from the copy it did not appear that the original was under seal. No duplicate of this indenture was made. It appeared that Nute was born August 8, 1845; that his mother died about 1851, and his father died about 1855. In February, 1860, Nute ran away from the plaintiff's service, and did not return, but after a time engaged in labor for the defendant. Soon after Nute left the plaintiff's service, the plaintiff caused an advertisement to be published in a newspaper printed in Ossipee, cautioning all persons against employing Nute, but it did not appear that this advertisement came to the defendant's knowledge. There was other evidence reported, which the view taken by the court renders it unnecessary to state. The court at the trial term found for the defendant, and, the plaintiff excepting to the finding, the questions of law were reserved.

*Carter*, and *L. D. Sawyer*, for the plaintiff.

*Chesley*, for the defendant.

BARTLETT, J. The plaintiff did not show that the minor became bound to him as an apprentice "by an indenture in two parts," sealed by both parties, and it did not appear that the instrument produced by him had been lodged with or kept by the town-clerk. The contract of apprenticeship was therefore voidable by the minor. Rev. Stat., ch. 151, sec. 3; *Page v. Marsh*, 36 N. H. 305.

We think that the acts of the minor in quitting the plaintiff's service and engaging in labor elsewhere were sufficient evidence of an avoidance of the contract by him. *State v. Plaisted*, 43 N. H. 413.

There must be judgment for the defendant upon the finding of the court.

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### MOORE v. TAYLOR.

Upon appeals from commissioners on insolvent estates, it is within the discretion of the court to allow the creditor to testify in his own favor, as well as to compel him to testify in favor of the estate, upon a proper case made, whether the administrator elects to testify or not.

But the creditor is not entitled, as matter of right, to be thus admitted as a witness in his own favor.

THIS was an appeal from the decision of the commissioner, to examine and allow the claims of the creditors against the estate of Cummings Moore, disallowing in part the claim of the appellants against said estate, consisting of a note made by the deceased, and an account for labor and services. The defendant is administrator upon the estate of said Cummings Moore, deceased.

44	370
68	255

44	370
71	540