

The evident purpose in the enactment of Gen. St., c. 207, ss. 8, 9, was, that any amendment, whether of form or substance, required by justice and the legal rights of parties, should be made, and to prevent a recurrence of that state of things described by Blackstone, 3 Com. 410, "which under the English practice had operated to the great obstruction of justice and ruin of suitors; who have formerly suffered as much by this scrupulous obstinacy and literal strictness of the courts as they could have done even by their iniquity, and in consequence of which justice was perpetually entangled in a net of mere technical jargon, and the legislature was forced to interpose by no less than twelve statutes to remedy these opprobrious niceties."

These provisions of the statute, construed liberally, as all remedial statutes are (*Holt v. Smart*, 46 N. H. 10), for the advancement of the remedy, give all the liberality of a code, so far as a code is intended to regulate civil procedure, without any of its formalities or objectionable features. Under these circumstances, in view of the fact that titles to a property will not be disturbed, that the rights of parties will not be prejudiced, and that the speedy and economical administration of justice will be promoted, we do not feel bound to adhere to what may seem to be the rule established by our former decisions on the subject of amendments, when, upon examination, it is found opposed to reason, to what we regard the true construction of the statute, and to the liberal and progressive spirit of our legislation.

Our conclusion is, that it was within the power of the court to allow the proposed amendment, and that upon the facts stated it should have been allowed.

Exception sustained.

BINGHAM, J., did not sit: the others concurred.

PETTES v. UPHAM.

Under Gen. Laws, c. 184, s. 6, the revocation of a guardianship, the personal cause of which has ceased, is not prevented by a pending process of settling the ward's estate in the insolvent course, under Gen. Laws, c. 186, s. 10.

PROBATE APPEAL.

Woodward, for the plaintiff.

Lane, for the creditors.

BINGHAM, J. The plaintiff is under guardianship as a spend-thrift. Upon his petition for revocation, the probate court found that the cause for guardianship had ceased; but his petition was denied, on the ground that his creditors' rights might be injuriously affected by a revocation before the completion of the pending process of settling his estate in the insolvent course, under Gen. Laws, c. 186, s. 10. Without undertaking to determine what effect, if any, a revocation will have upon that process, or upon the rights of his creditors, we are of the opinion that he is entitled to personal freedom and a decree of revocation.

Decree reversed.

All concurred.

GOODNOW v. BOND.

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A declaration on a written promise to pay the debt of a third person must allege a good consideration for the promise. The recital of a consideration in a written promise to pay the debt of another is not necessary to its sufficiency as a memorandum within the meaning of the statute of frauds.

ASSUMPSIT, on this writing:

EAST SULLIVAN, Dec. 31, 1875.

I promise to pay D. W. Goodnow, collector, one hundred and thirty-two and 27-100 dollars, on demand, for taxes due the town of Sullivan from John N. Grout, for the year 1875.

L. S. BOND.
N. G. LYMAN.

The writ described the plaintiff as collector of taxes, and the first count alleged that the defendant and N. G. Lyman, by their writing, jointly and severally promised to pay the plaintiff one hundred and thirty-two dollars and twenty seven cents on demand. The writing was also declared on as a promissory note, and there were the common money counts. Plea, the general issue. The defendant excepted to the allowance of an amendment of the first count, alleging the consideration of the promise to be the plaintiff's refraining, at their request, from levying upon and advertising for sale the property of John N. Grout. The defendant also excepted to the admission of the writing in evidence, the signatures being admitted, and to the admission of evidence, outside the writing, of the consideration alleged. The question reserved was the plaintiff's right to recover.