

I feel it difficult to reconcile some of the provisions of the 35th chapter with those of the 40th chapter of the Code. It is hard to ignore or to explain away the plain words of section 582, "no person shall be entitled to institute or defend any action connected with the estate of a minor of which he claims charge until he shall have obtained such certificate."

Is the solution to be found in the words "of which he claims charge"?

A next friend may have no pretension to have charge of the minor's property; perhaps if he does not a certificate is not necessary.

It is clear that in some circumstances a next friend may sue in the minor's name without getting a certificate; for instance, under section 590 the next friend may sue the curator.

I therefore concede that it is a reasonable construction of the 35th chapter, that a man regularly appointed under section 481 is clothed with authority to sue without getting a certificate, and also a man appointed under section 479 may defend without the same certificate.

I agree with my brother WITHERS, and in the result arrived at by my brother BROWNE, but not with all his comments on the Ordinance.

