be regarded as taking the position of either plaintiffs or defendants as their * interests of the nature of the case may require.
350 *Finch* v. *Winchelsea*, 1 *P. Will.* 281; *Leigh* v. *Thomas*, 2 *Ves.* 313; *McMechen* v. *Chase*, 1 *Bland*, 85, *note; Williamson* v. *Wilson*, 1 *Bland*, 433. And as it must appear, in all cases, where a creditor undertakes, by a creditor's suit, to represent the interests of others, that the relief sought is, in its nature, beneficial to those others, it follows, that where a creditor may sue either for his own claim alone, or as well in behalf of others as of himself, that he should, by an express averment in his bill, make his election to sue in the one way or the other; *Baldwin* v. *Lawrence*, 1 *Cond. Cha. Rep.* 331; and where he has sued merely in his own name, but can only obtain the relief he seeks by suing as well in behalf of the other creditors as himself his bill must be amended to that effect before or at the hearing. *Good* v. *Blewitt*, 13 *Ves.* 397; *Johnson* v. *Compton*, 6 *Cond. Cha. Rep.* 20. But, in general, it is the nature of the case which gives to it the character of a creditor's suit; for an allegation in the bill, that the plaintiff sues as well for himself as other creditors, will not alone justify its being treated as a creditor's suit where the case does not warrant it; nor will the omission of such an allegation prevent its being so considered, where the nature of the case is such as to require the creditors to be called in. *Shepherd* v. *Kent*, *Prec. Cha.* 190; *S. C.* 2 *Vern.* 435; *Martin* v. *Martin*, 1 *Ves.* 214; *Anonymous*, 3 *Atk.* 572; *Strike's Case*, 1 *Bland*, 84; *Williamson* v. *Wilson*, 1 *Bland*, 430.

The establishment of the whole, or a part, of the claims of all, or of some one or more of the originally suing creditors, is the first point to be determined. In all cases, it is indispensably necessary that the plaintiff should sustain the facts of his case, either by proof, or by the admission of his opponents; for, otherwise he can have no standing in Court, nor any right to sue, whatever may be the law arising out of such facts. If, therefore, the claim of the plaintiff be denied by all, or by any one of the defendants, it must be proved. *Lingan* v. *Henderson*, 1 *Bland*, 236; *Tyson* v. *Hollingsworth*, *ante*, 327, *note; Hindman* v. *Clayton*, *ante*, 337, *note.*

A guardian *ad litem* of an infant defendant, being appointed by the Court for the purpose of having the proceedings substantiated against him, so that justice may be done to the plaintiff, *Beauraine Beauraine*, 4 *Eccle. Rep.* 456; *Boraine's Case*, 16 *Ves.* 346, like a solicitor, becomes thereby so far one of the guardians of the *lis*, that he is bound to have it conducted with as much fairness and benefit to the infant as the nature of things will permit. *Co. Litt.* 88, *note* 70 *and* 135; *Taylor* v. *Atwood*, 2 *P. Will.* 643, *note* 1; *Snowden* v. *Snowden*, 1 *Bland*, 552. It is * his duty to use all
351 proper diligence in answering for the infant; *Snowden* v. *Snowden*, 1 *Bland*, 553; and in seeing that the proofs are correctly taken and brought in; *Quantock* v. *Bullen*, 5 *Mad.* 81; and he will