of Assembly in relation to this matter.(*j*) It appears to have been formerly usual, where the infant resided within the State, either to have him brought into court by the messenger, if able to attend, and a guardian assigned him, by whom he was to answer,(*k*) or to issue a commission to *four*, or a plurality of persons, any *three* or *two* of whom were authorized to appoint a guardian and take his answer by such guardian in exact conformity to the English practice.(*l*)

If it appears upon the face of the proceedings, or upon enquiry into the fact, that the defendant is an infant, the court cannot proceed without a guardian to answer and defend for him;(*m*) and for that purpose the court may either have him brought before it, or allow a commission to be issued, which is now much the more usual course; for, although there can be no doubt of the power of the court to have an infant defendant brought in from any part of the State;(*n*) yet it is rarely found to be convenient, or necessary to do so merely for the purpose of assigning to him a guardian *ad litem*. If a guardian so appointed refuses to act, or after accepting the trust dies, another may be appointed in his stead by special order or under a commission.(*o*) But although a person appointed guardian *ad litem* cannot be compelled to take upon himself the trust; yet if he does accept it, he may be compelled by attachment to appear and answer.(*p*) For a long time past it has been

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(*j*) 1785, ch. 72, s. 1; 1797, ch. 114, s. 5.—(*k*) Eyles *v.* Le Gros, 9 Ves. 12; Hill *v.* Smith, 1 Mad. Rep. 290.—(*l*) Gist *v.* Gist, 3d November 1798, Chan. Proc. lib. S. H. H. No. 7, fol. 48, 52; Merriweather *v.* Hood, MS. June 1800; McCoy *v.* Springer, MS. October 1800.—(*m*) Roberts *v.* Stanton, 2 Mun. 133.—(*n*) Dulany *v.* Frazer, MS. per Hanson, Chancellor, 19th November, 1792.

GRIFFITH *v.* DAVIS.—1789.—ROGERS, *Chancellor*.—On motion of complainant's counsel, ordered, that the messenger bring into court the body of Henrietta Davis, the infant, on the fourth day of next court, she being heretofore returned by the sheriff of Montgomery county, summoned to appear in this cause, and attachment having been awarded on her failure to appear on the said summons.—*Chan. Proc. lib. S. H. H. let. C. fol.* 61.

(*o*) 2 Newl. Chan. 155; Wilson *v.* Bott, 1 Pric. 62; Perkins *v.* Hammond, Dick. 287; Smith *v.* Marshall, 2 Atk. 70; McMechen *v.* Evans, MS. 3d November 1817. (*p*) Taylor *v.* Durben, 1787, Chan. Proc. lib. S. H. H. let. B. fol. 41.

PERKINS *v.* GLEAVES.—*February*, 1790.—HANSON, *Chancellor*.—Rule that Doctor William Gleaves shew cause to this court on the first of April next, why an attachment should not issue against him for a contempt in refusing to answer on behalf of the infant to whom he was appointed guardian *ad litem*, by a commission issued by this court and returned. No cause having been shewn, it is ordered that attachment issue against William Gleaves to answer, &c.—*Chan. Proc. lib. S. H. H. let. C. fol.* 582.