

considered as the settled practice, to let a commission go to *one* commissioner only within the State to appoint a guardian and take the answer of an infant defendant; which has been found to be so cheap and convenient a method, that I have never known a commission, in my time, to be issued for that purpose to more than *one* commissioner within the State.(q)

In England, when an infant defendant resides out of the jurisdiction of the court, a commission may be sent abroad to appoint a guardian and take his answer, and on a supplemental bill being afterwards filed the same guardian may be authorized to answer for him.(r) But no instance has been shewn, prior to the year 1797, in which a commission has issued from this court, to obtain the answer of an infant defendant beyond the jurisdiction of the court, to a single commissioner only. In the case cited,(s) the bill was filed to obtain a conveyance of lands in specific performance of a contract; it was stated in the bill, that the infant defendants lived in Adams county in Pennsylvania; and *subpœnas* were prayed generally. Upon which a commission was, on the 14th of December 1802, issued to *one* commissioner only in *Frederick county* in this State, which is conterminous with Adams county in Pennsylvania; who in pursuance thereof appointed a guardian, stated to be of *Frederick county*, by whom the answers were taken and returned. The inference from this case is, that it was believed to be more convenient thus to send the commission to *one* commissioner in *Frederick* than to *four* in Pennsylvania.

Such appears to have been the understanding of the profession as to the practice when the legislature declared, that in cases of *partition*, the Chancellor on the complainant's motion may direct a commission to issue unto *three* persons such as he shall approve, authorizing them or any two of them to go to the infant and appoint a guardian for the purpose of answering and defending the suit, and authorizing them likewise to take the answer and return it to the court.(t) Which provision was afterwards extended to cases where all the persons reside out of the State. And it has been also provided, that in case of lands in this State descending to minors residing out of this State, on a bill filed by the *prochein ami* of any such minor, a commission may be issued to *three* per-

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(q) *Brown v. Brooker*, MS. October 1800, &c. &c.—(r) *Jongsma v. Pfiel*, 9 Ves. 357; *Lushington v. Sewell*, 6 Mad. 28.—(s) *Diffendall v. Diffendall*, Chan. Proc. lib. S. H. H. No. 7, fol. 148, 155.—(t) 1797, ch. 114, s. 5.