LENNOX, J.

JANUARY 31ST, 1913.

RE BEAIRD.

Executor—Absence from Jurisdiction—Refusal to Account be fore Surrogate Court—Protection of Interests of Infant Appointment of Receiver—Ex Parte Order—Right to Move against, Reserved to Executor.

Motion by Annie Regan, a beneficiary under the will of Wilnestern Beaird, decorated for liam Beaird, deceased, for an order appointing the Union Trust Company, received of Company receiver of the moneys and property of the estate, for the reason that for the reason that the executor lived out of the jurisdiction and had refused to account.

W. J. Elliott, for the applicant.

LENNOX, J.:—I think the beneficiary Annie Regan has made out a case for the appointment of a receiver in this matter.

A receiver will be appointed where the executor has been lty of misconduct on has been controlled where the executor has been controlled by the controlled where the executor has been controlled by the controlle guilty of misconduct, or has improperly managed the estate, or has been guilty of a hour of a lawell, 13 has been guilty of a breach of duty: Middleton v. Dodswell, 13. Ves. 266; Gawthorns v. G. G. G Ves. 266; Gawthorpe v. Gawthorpe, [1878] W.N. 91; Evans v.

The time which has elapsed without accounting and with information and the out information, and the executor's disregard of the proceedings in the Surrogate Court in in the Surrogate Court, clearly bring him within these rules and principles

So, too, a receiver should be appointed where it appears, it does in this ages to be appointed where it appears, the as it does in this case, to be necessary in order to protect the interests of an infant. interests of an infant: Kerr on Receivers, 6th ed., p. 15; and where a sole executor where a sole executor resides beyond the jurisdiction of the Court: Noad v. Backbon 2000 beyond the jurisdiction Westby, Court: Noad v. Backhouse, 2 Y. & C. Ch. 529; Westby v. Westby, 2 Coop. C.C. 210 and 2 Coop. C.C. 210; and particularly if the beneficiaries are unable to get an account of the beneficiaries. able to get an account from the persons left in charge of the estate: Dickens v. H. estate: Dickens v. Harris, [1866] W.N. 93, 14 L.T. 98.

Here the case is stronger, for there is no one left in charge, the executor whell is the executor whell in the executor whell in the executor whell is the executor whell in the executor whell in the executor whell is the executor whell in the executor whell in the executor whell is the executor whell in the executor where the executor where executors are the executor and the executor are the executor and the executor are the executor and the executor are the executor are the executor are the executor are the executor and the executor are the e and the executor wholly ignores the Surrogate Court when called upon to account

Generally speaking, however, the order should not be made parte, but it may be ex parte, but it may be where the property is in danger: Raw. son v. Rawson. 11 I m son v. Rawson, 11 L.T. 595; and upon the ground of absence from the jurisdiction from the jurisdiction and other causes above-stated.