

do I think it covers a case in which what is required is a general personal representative who has active duties to perform. In these cases a general administrator must be appointed in the Surrogate Court.

Without attempting to define all the cases in which Con. Rule 195 may be applied, it is intended to enable the Court to facilitate litigation in which the parties mainly concerned are before the Court, by appointing some one to represent an estate which has a nominal interest only, or as the form of order says: "For the purpose of attending, supplying, substantiating, and confirming these proceedings only." Such an administrator has no power to deal with the assets of the estate, and a valid foreclosure cannot be granted against him: *Aylward v. Lewis*, [1891] 2 Ch. 81.

In the case of an intestacy the estate will not vest in an administrator ad litem, and proceedings against the administrator ad litem cannot be resorted to when the desire is to reach the assets of the deceased. The estate may be bound by the findings of fact when it is represented under the rule in question, but neither under the Devolution of Estates Act nor under general law are the assets of the deceased vested in him.

In this case the duties of the executor, as such, have been discharged by the administrator with the will annexed for over twenty years between the deaths of Mrs. Walker and Mrs. Hoover, and all that remains to be done is in the nature of a trust rather than administration, and a new trustee may be appointed under the Trustee Act. See *Re Bush*, 19 O.R. 1.

On the material being put in proper shape for such an order I do not see why an order of this kind should not be granted, and why it will not meet the situation.

It will probably be thought proper that the beneficiaries, or some of them, should be before the Court, and it would be proper to have an order under Con. Rule 200, authorising a defence for the class.

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CROWTHER V. TOWN OF COBOURG—MASTER IN CHAMBERS—MAY 18.

*Parties—Several Defendants—Motion to Compel Plaintiff to Elect Against Which Defendant to Proceed—Unity in Matters Complained of.*]—Motion by the town requiring the plaintiff to elect against which of the defendants the action shall proceed. The action was against the town and two other defendants, of whom one did not appear, and the other delivered statement of