MIDDLETON, J., IN CHAMBERS.　　　　MAY 22ND, 1911.

RE HOOVER AND NUNN.

Practice—Administrator ad Litem—Proposed Action to Set Aside Deed—Plaintiff in, Seeking Aid of Court to Find a Defendant — Con. Rule 195 — Limited Application of — Suggested Application under Trustee Act and Con. Rule 200.

Motion to appoint an administrator ad litem for the purposes of an action not yet begun.

Glyn Osler, for the applicant.

MIDDLETON, J.:—On 17th November, 1851, by Crown Patent Mary A. Hoover became the owner in fee of the lands in question. On the 6th April, 1870, she conveyed these lands to Jane Walker, her mother. On the 25th March, 1887, Jane Walker died and by her will devised the lands in question to her executors in trust for M. A. Hoover for life, and on her death for sale, and the proceeds are then to be divided.

The executors renounced and letters of administration with will annexed were on the 15th August, 1887, granted to the inspector of prisons during the lunacy of M. A. Hoover, who was then in the asylum.

M. A. Hoover died on the 1st November, 1908, without having recovered her sanity.

The applicant, the "eldest lawful uncle" of M. A. Hoover, has now obtained letters of administration to her estate, and desires to attack the deed from her to her mother made in 1870, upon the ground that she was then insane.

No one appears to be willing to apply for administration with the will annexed, to Mrs. Walker's estate, and to enable the contemplated action to be brought the plaintiff seeks the aid of this Court to find him a defendant.

I think this motion is misconceived. This Court has no probate jurisdiction unless expressly conferred by statute: Mutrie v. Alexander, 2 O.W.N. 884.

Con. Rule 195 does not apply to a case of this kind and is of very limited application. There must be an action or proceeding, and in that action or proceeding representation of the estate must be required. This does not cover the case of a person deceased who has no executor or administrator, and against whose estate no action or proceeding can be brought, nor