Index

[References are to pages]

Abatement. See Apportionment.

Absolute Transfer. See also complete Transfer.

custom of London, 54, 57.
gift, 186.
reality test, 129.
trust, 68, 83.

Accounting Proceedings. See Procedure.

Actions. See Procedure.

Adoption, 40, 367.

Adultery. See Equities; Statutory Share.

Advancements.
cases, listed, 404.
custom of London, 50, 57.
Kentucky, 113.
motivation, 17.
policy, 44–45.
Tennessee, 195.

Alabama, 23, 168. See also Table E.

Alienation, Freedom of. See Community Values.

Aliens. See Inheritance.

Alimony. See also Creditors’ Rights; Divorce; Fraud; Fraudulent Conveyance; Separate Maintenance.
distinguished from statutory share cases, 162, 260.
pension fund, 244.
transfers in evasion of, 102, 147, 160, 164, 184.
participation by donee, 160.
U.S. savings bond, 226.
veteran’s benefits, 239.
widow as creditor, 261–263.
wife as creditor, 259.

Animus donandi.
bank account trust, 210.
colorable transfer, 133.
equities, effect on, 145.
gift, 188.

Halpern, Matter of, 121.
intent test, 104.

Newman v. Dore, 75.

Animus testandi, 70.

Annulment, 363.

Annuity. See also Insurance.
cases, 242–244.
family maintenance acts, 293, 295.
family protection statutes, 236.
knowledge of claimant, 243.
model act, 320.
promissory note, 106.
separation agreement, 374.
Swiss Civil Code, 286.

Antenuptial Transfer. See also “Kerr” Passages; Table E.

cases, 112.
bank deposit, 362.
bill of sale, 361.
bride, compared with widow, 260.
business, transfer of, 361.
certificate of deposit, 362.
claimant’s independent means, 168.
collusion, 356.
colorable, 133–134.
contemplation of marriage, 355–366.
control test, 360–361.
deed, 361.
defeasance, extent of, 356.
estoppel, 356.
fraud, 101–102.
historical development, 354–355.
illusory nature, 88, 93, 360–362.
insurance, 361.
irrevocable trust, 203.
Kentucky cases, 113.
misrepresentation, 247, 357, 362.
mortgage, 355, 361.
moral claim of transferee, 165.
note, 361.
participation by transferee, 159–160.
Antenuptial Transfer (continued)
postnuptial transfers, compared, 7, 147, 181–182.
proof, 355–360.
provision for spouse, 155.
purchase by decedent, title in name of another, 249.
scope of action, 360–365.
suit in lifetime, 360–365.
transfer before meeting spouse, 355.
trust, 71.
widow as creditor, 261–263.
Apartment Building, 88, 90, 167, 212.
Appeals. See Model Act.
Apportionment.
civil law, 288–289.
model act. See Model Act.
Arizona. See Table E.
Arkansas. See Table E.
Art Collection. See Paintings.
Assets, Summary Distribution of. See Model Act.
Assignment, 239. See also Custom of London; Insurance; Model Act.
Attachment, 230. See Model Act.
Attorney Fees. See Model Act.
Australia, 327. See also Table E.
Automobiles, 288, 401.

Bailment, 221.
Bank Account. See also Bank Account Trust; Certificate of Deposit; Joint Bank Account.
gift, 401.
property of transferee, 167.
Bank Account Trust. See also Defeasance, Extent of; Halpern, Matter of.
Analogy to U.S. savings bond, 225.
animus donandi, 210.
cases, 121–128, 205–211.
colorable transfer, 210.
defeasance, extent, 122.
delivery, 122.
described, 205–207.
ilusory nature, 93.
irrevocability, 122.
passbook, 122.
reality test, 122–128, 178.
secrecy, 210.
Bankruptcy. See Creditor’s Rights.
Beneficial Interest. See Cut-off; Retention of An Interest; Taxes.
Bigamy. See Equities; Mistress; Statutory Share.
Bill of Sale, 90, 99, 133, 195, 405. See also Antenuptial Transfers; Gifts.
Bolles v. Toledo Trust Co., 79–87, 103. See also Table E.
Bona Fide Gift, 111. See also Gift; “Kerr” Passages; Tennessee.
Bona Fide Purchaser, 63–64.
Bonds. See also U. S. Savings Bond. “Kerr” passages, 100.
payable after death, 228, 248, 401.
payable at death, 71, 401.
secured by mortgage, 142, 228.
state, 228.
British Columbia, 291. See also Table E.
British Commonwealth. See Maintenance Legislation.
Burden of Proof. See Antenuptial Transfer; Maintenance and Contribution; Proof.
Business, Transfer of, 167, 401–402. See also Antenuptial Transfer; Close Corporation; Deeds; Gift; Securities.
Buy and Sell Agreement. See Partnership.
California. See also Table E.
community property, evasions, 283.
life insurance, 240.
statute, U. S. savings bond, 225.
Canada. See also Table E.
maintenance legislation, 291.
Uniform Family Maintenance Act, 321.
Cattle, 401.
Certificate of Deposit, 188, 401. See also Bank Account.
Charity, Inter Vivos Gift to. See Table B.
Charity, Testamentary Gift to. See also Community Values.
evasions, 203.
legislation, 33–34.
Check. See Gift.
Child. See also Custom of London; Equity; Homestead; Lapse; Marital Disharmony; Model Act; Procedure; Revocation by Operation of Law.
as forced heir, 165, 283.
as plaintiff, 157.
capacity to sue, 264.
illegitimate, 292.
maintenance legislation, 294.
need, 272.
of prior marriage, Table B.
statutory protection against disinheritance, 35-36.
stepchildren, 16, 272, 302.
Chose in Action, 16. See also Obligations Payable at Death.
Church
courts, 52.
relation to freedom of testation, 53.
testamentary jurisdiction, 50.
Civil Law
in general, Chapter 20.
Louisiana, 281-285.
Germany, 285-286.
Roman law, 279-281.
Switzerland, 286-287.
Close Corporation. See also Colorable Transfer; Partnership.
colorable transfer, 135.
control test, 93, 192-199.
defeasance, extent of, 130.
estate planning, 130.
revocable trust, 83-84.
Cloud on Title, 266.
Collaterals. See Inheritance; Procedure.
Collusion. See Colorable Transfer; Equities.
Colorable Transfer. See also Antenuptial Transfer; Colorado; Control Test; Halpern, Matter of; Intent Test; “Kerr” Passages; Reality Test.
cases, 132-135.
control test, 83.
examples
close corporation, 135.
deed, reconveyance on condition, 133.
gift causa mortis, 133.
personalty, 135.
power of attorney, 134.
reality, 134-135.
revocable trust, 133, 204.
safe-deposit box, 135.
illusory nature, 88, 132-133.
“mere depository,” 100, 133.
power to revoke, effect of, 132-133.
shams, 75, 102, 104, 120, 127, 131-134, 136, 140, 142, 190, 210, 265.
Colorado. See also Table E.
cases, 135-137.
equities, 137.
participation by donee, 160.
trust “causa mortis,” 199.
widow as creditor, 261.
Commercial Bank Account. See Bank Account.
Commissions. See Trustee.
Community Property. See also Civil Law; Custom of London.
annuities, 242.
described, 21, 147.
evasions, 244, 283.
life insurance, 229, 240.
savings bonds, 229.
Community Values. See also Equities; Maintenance and Contribution; Reliance Interest; Statistical Share.
creditors, protection of, 38, 259-261.
custom of London, 54.
death taxes, 38, 276-278.
delivery, concept of, 188-189.
family support
charities, testamentary gifts to, 29, 33-34.
children, statutory protection, 35.
evasion cases, 179-180.
family allowances, 29, 31-33.
hoemestead, 29-31.
inchoate dower, 30, 63-64.
judicial doctrines, 29.
légitime, 282.
pensions, 29.
public welfare, 29.
relation to Statute of Wills, 73.
revocation by operation of law, 34.
freedom of testation, 25, 39.
in general, Chapters 2-5.
Community Values, family support  
(continued)
security of title, ix, 41–43, 45, 161, 260, 296, 325.
testation, freedom of, 38–41.
Compensation, Deferred. See Deferred Compensation Plan.
Complete Transfer, 67, 120, 128–129. See also Absolute Transfer; Reality Test.
Condition Subsequent, 189, 194.
Confession of Judgment, 405. See also Colorable Transfer; Judgment.
Confidential Relationship, 229. See also Undue Influence.
Conflict of Laws, 201, 311. See also Domicile; Jurisdiction; Model Act. Cases may be found under “Related Cases: Miscellaneous” in Table E.
Connecticut, 178. See also Table E.
Consent of Surviving Spouse. See also Waiver.
bar of dower, 251–252.
custom of London, 50.
Consideration. See also Bona Fide Purchaser; Custom of London; Deeds; Model Act.
contract to make a will, 182, 371–372, 378.
excessive, 99, 190.
false recital, 111.
in general, 37.
joint tenancy, 214.
meritorious, 110–111.
notes, 141.
sale at low price, 88.
separate maintenance, 99.
Conspiracy, 243, 266. See also Equities.
Constructive Trust. See also Equitable Lien.
joint bank account, 217.
Consum, Power to, 138.
Contemplation of Death. See also Equities.
ambiguity, 151–153.
estate tax analogy, 275–278.
Kentucky, 112.
Missouri, 115–119.
Pennsylvania, 143.
Constitutionality. See Model Act.
Contract. See also Antenuptial Transfer; Contract to Make a Will; Joint Bank Account; Obligations Payable at Death.
contract of sale, 370.
death benefits, Chapter 15.
partnership, 163, 233–235.
“Contracting Out.” See Marriage Settlement; Model Act; Waiver.
Contract to Make A Will. See also Table E.
annuity, 374.
antenuptial, 367–368.
bona fide purchaser, 377–378.
contemplation of marriage, 367.
definition, 7, 366–367.
defeasance, extent of, 368.
equitities, 368–369, 373–375.
estate planning, 367.
evasions
beneficiary’s rights, 377–378.
spouse’s rights, x, 147, 228, 367–370, 377–378.
“illusory” transfer, 126.
inchoate dower, 370.
joint bank account, 216.
maintenance legislation, 295.
partnership, 234.
postnuptial transfers, affinity to, 181–182.
proof, 117.
rationales, 368–370.
statistics, 373–375.
U.S. savings bond, 378.
Control Test. See Halpern, Matter of; Illusory Transfer; Settlor. For application to particular methods of transfer see appropriate title.
affected by equities, 5.
criticized, 87–97.
described, 68.
factual control, 85, 89–90, 185.
illusory transfer, 75–76, 87–97.
in general, Chapter 7.
Control Test (continued)
  intent, influence of, 94–95.
  land, 96.
  Ohio case law, 76–87.
  predictability, 89–90.
  proximity to death, 95.
Corporation, 16. See also Business,
  Transfer of; Close Corporation;
  Securities.
Corporation, Close. See Close Corpo-
  ration.
Costs, 169. See also Model Act.
  Co-trustee. See Settlor.
Courts. See Judiciary; Model Act.
Creditors' Rights. See also Bank Ac-
  count Trust; Community Val-
  ues; Custom of London; Equi-
  ties; Intent Test.
  early common law, 59.
  defeasance, extent of, 129, 132.
  family allowance, 259.
  fraudulent conveyance, 259.
  function in administration of es-
  tates, 73.
  homestead, 30–31, 259.
  inchoate dower, 259–260.
  life insurance, 236, 241.
  participation by transferee, 159.
  power of appointment, 256.
  U.S. savings bond, 229.
  widow as creditor, Chapter 17.
Curative Acts, 16.
Curtesy, 21, 59, 74.
Curator. See Procedure.
Custom
  Anglo-Saxon, 51.
  custom of Chester, 52.
  custom of London, Chapter 5.
  custom of York, 52.
  Norman, 50.
Custom of London. See also Table E.
  absolute transfer, 54, 57.
  advancement, 57.
  American cases, influence on, 70, 99–
  101, 114.
  antenuptial settlement, 51.
  assignment, 55.
  "bairn's part," 50.
  bar of, 51, 57.
  cases
    compared with statutory share
    cases, 54–58.
    precedent, value as, 56.
  children, 50, 57.
  community of goods, 51.
  consideration, effect of, 50.
  creditors' claims, 51, 57.
  creditor, widow as, 57.
  deeds, 54–55.
  "dead's part," 50.
  described, 49–50, 59.
  draftsmanship, 56.
  fraud on, 54–57, 99.
  gift causa mortis, 55, 198.
  grandchildren, 51, 57.
  history, 49–54.
  illusory transfer, 55.
  in general, Chapter 5.
  interest, retention of, 55, 70.
  intestacy rules, relation to, 40, 53.
  judgment, confession of, 56.
  leasehold, 54.
  life estate, retention of, 55.
  marriage settlement, 56.
  obsolescence, reasons for, 52–54.
  possession, retention of, 54.
  proportion transferred, 55–56.
  proximity to death, 55–56.
  purchase by decedent, title in name
    of another, 55.
  realty, purchase of, 51.
  rents, 54.
  Roman law, compared, 51, 280.
  satisfaction, 57.
  statutory share, compared, 35, 49.
  testamentary transfer, 56–57.
  trust, 55.
  value, purchase for, 51.
  volume of transfers, 58.
  widow as creditor, 260–263.
  "wife's part," 50.
  Wills Act, 57.
  writ de rationabili parte bonorum,
    50.
Custom of York. See Custom.
Cut-off Provision. See also Statute of
  Limitations.
  apprehension of death, 152–154.
  civil law, 286, 288–289.
  inter vivos gift, 46.
  model act, Chapter 22.
  revocable trust, 46.

Daggett, 240.
"Dead's Part." See Custom of London.
Death Taxes. See Community Values; Taxes.

Decedent's Estate. See also Contract to Make A Will.
defined, 21, 120–121.
delay in administration, 31.
geography, influence of, 53.
modern composition, 3, 17.
summary distribution, 301.


Deceit Action, 363. See also Misrepresentation.

Declaration of Trust. See Self-Declaration of Trust.

Declaratory Judgment, 228, 266.

Deeds. See also Colorable Transfer; Control Test; Custom of London; Defeasance, Extent of.
antenuptial, 184–185.
cases, 182–186.
colorable, 135–137, 182.
control test, 91, 93.
effective at death, 135.
equities, 183, 185.
flexibility, 16.
illusion, 127.
in general, Chapter 12:1.
intent test, 99, 111–112.
interest, retention of, 111–112, 184–185.
power of attorney, 183.
revocation clause, 137, 183–184.
secrecy, 182, 185–186.
testamentary nature, 71, 72, 183, 264.

Defeasance, Extent of.
antenuptial transfer, 130, 356.
cases, 131–132.
contract to make a will, 368.
in general, 128–132.
"invalid as to the widow," 131–132.
légitime, 284.
Missouri statute, 114.
procedure, 265.
revocable trust, 81–82, 86.
Tennessee statute, 111–112.

 Deferred Compensation Plan, 367.
Delaware. See Table E.

Delivery. See also Community Values; Gift; Joint Bank Account; Joint Safe Deposit Box.

Deposit Certificates. See Certificate of Deposit.

Depreciation, 288. See also Value.

Derivative Action. See Securities.

Desertion. See Equities; Statutory Share.

"Device or Contrivance." See "Kerr" Passages.


Disability. See Equities; Maintenance Legislation; Mental Incompetence; Procedure.

Disinheritance. See also Community Values; Statutory Share.

children's protection against, 35–36.
effect on
community, 25.
family, 24–25.
widows, 24–25.

protection against, related to need, 299.

spouse's protection against, 24–34.

Distributee. See Procedure.

District of Columbia. See Table E.

Divorce. See Equities; Marital Disharmony; Model Act.

"Dominion." See also "Kerr" Passages; Possession, Retention of.

control test, 68, 84–85, 262.
illusionary transfer, 82, 87–88.
in general, 87–88.
joint interest in stock, 193.

Donations. See Légitime.

Donee. See Transferee.

Domicile, 242. See also Conflict of Laws.

Draftsmanship. See also Custom of London; Estate Planning.
deed, 189.
irrevocable trust, 204.
judicial tests, vulnerable to, 6.
New Zealand, 297.
partnership, 234.
revocable trust, 70, 89–90.

Ecclesiastical Courts. See Church.

Elective Share. See Statutory Share.
Employee Death Benefits, 244–245, 261. See also Obligations Payable at Death.

Engagement Ring, 186. See also Gift; Jewelry.

England
  Administration of Estates Act, 41.
  custom of London, Chapter 5.
  divorce rate, 11.
  history of intestacy law, 39.
  maintenance legislation cases, Table E.
  in general, 290–297.
  marriage settlements, 296.

Entireties, Tenancy By, 364. See also Joint Tenancy.

Equitable Conversion, 231.

Equitable Lien, 363.

Equities. See also Contemplation of Death; Control Test; Intent Test; Maintenance and Contribution; Model Act; Reality Test.

“clean hands,” 170.
  contemplation of death. See “proximity to death.”
  defined, 175–176.

individual equities
  abandonment of claimant by decedent, 163–164.
  bigamy, 165, 170, 251.
  cases, Tables A, B, and C.
  claimant’s financial position, 168–169.
  claimant’s treatment of decedent, 169–170.
  decedent’s promise to first wife, 119, 168.
  decedent’s wife’s own savings, 167–168.
  desertion, 163–164.
  disparity in age, 171–172.
  duration of marriage, 147, 172–173, 193, 205, 368.
  intoxication, 164, 203.
  moral claim of donees, 165–166.
  moral claim of widows, 161–162.
  promise to first wife, 168.
  proportion included in the transfer, 147–148.

  provision by decedent for the surviving spouse, 112, 154–156.
  cases, Table A.
  statistics, 148.
  relationship of the donee, 156–159.
  cases, Table B.
  remarriage of claimant, 167.
  reprehensible conduct by decedent, 164.
  sex of claimant, 173.
  source of decedent’s property, 166–167.
  standard of living, 111, 153–154, 293.
  unpleasantness between the spouses, 170–171.
  whether claimant helped accumulate decedent’s estate, 113, 162–163.
  whether decedent was testate or intestate, 173–174.
  statistics, 174.

  widow’s own property, 167.
  in general, Chapters 10–11.
  judicial confusion, xi, 5, 19, 273.
  maintenance legislation, 293.
  maintenance and contribution, 45.
  predictability, 146.
  proof, 146.
  role in judicial process
    in general, Chapter 11, Table D.
  statistics, 177.

Estate. See Decedent’s Estate; Maintenance Legislation.

Executors and Administrators. See Procedure.

Exoneration. See Model Act.

Estate Planning. See also Draftsmanship.

  affected by widow’s claim, 42.
  antenuptial transfers, 358.
  contract to make a will, 367.
  defeasance, effect of, 130.
  irrevocable trust, 202–204.
  joint safe-deposit box, 220.
  joint tenancy in realty, 213.
  judicial doctrines, 273.
  large estates, 156.
Estate Planning (continued)
life insurance, 241.
maintenance legislation, 296.
North Carolina proposal, 274.
Pennsylvania statute, 144.
powers of appointment, 256.
predictability, ix.
proximity to death, 151.
testacy or intestacy, 174.
Estate Tax. See Model Act; Taxes.
Ergänzung des Pflichtteils, 285. See also German Civil Code; Legislative Solutions.
Estoppel, 112.
Evasions. See also Inter Vivos Transfers.
bibliography, 57.
cases
distinguished from alimony and separate maintenance cases, 162.
"evasion" case, defined, 7, 147.
involving inter vivos gifts, Table D.
listed by equities, Table C.
listed by proximity to death, Table A.
listed by relationship of donee to decedent, Table B.
listed by states, Table E.
summarized, 271–273.
family maintenance acts, 294–298.
gravity of, 3–19.
involving testacy, statistics, 174.
litigation
actual evasions, relation to, 8.
aggravating factors, 10–19.
chronology, 7–9.
equities, influence of, 8–9.
relation to divorce rate, 14–15.
remarriage, effect on, 12–15.
volume of, 6–9.
winning party, 7–9.
women's wealth, 26.
statutes
civil law, Appendix B.
Israel, 297.
Missouri, 114–116.
Model Probate Code, Appendix B.
North Carolina proposal, Appendix B.
Tennessee, 110–112.
U.S. savings bond, 225.
under maintenance legislation, Chapter 21, Table E.
Eve of Marriage Transfer. See Antenuptial Transfer.
Evidence. See Antenuptial Transfer; Control Test; Equity; Intent Test; Parol Evidence Rule; Proof.
"Expressio Unius," 86.
Family. See Community Values; Marital Disharmony.
Family Allowances. See also Community Values; Model Act.
creditors, 31.
evasions, 264.
policy, 31.
typical provisions, 31–33.
will, effect on, 31.
Family Maintenance Legislation. See Maintenance Legislation.
Farm, Transfer of.
antenuptial, 368.
control test, 93.
maintenance legislation, 295.
Fiduciary Powers. See also Control.
defined, 89.
Florida. See also Table E.
claimant preferred to creditors, 262.
"dominion," 262.
family allowance statute, 32.
intestacy statute, 308.
irrevocable trust, 204.
joint safe-deposit box, 222.
judicial sale, 143.
life insurance statute, 232.
"orphan" statute, 35.
reasonableness, 232.
remarriage of claimant, 167.
statutory share, 21–22, 130, 174.
trust, 232.
France
life insurance, effect on légitime, 240.
original protection for children, 282.
testation, frequency of, 40.
Fraud. See also Community Values; Equities; Fraudulent Conveyance; Legislative Solutions.
Fraud (continued)
actual, 102, 106, 109, 140–141, 143, 243.
alimony, 102.
antenuptial transfer
    presumed, 356–360.
anticipation of a reconciliation, 102.
badge of fraud, 100, 186.
community property, 244.
    constructive, 103, 106, 125.
    express, 133.
good faith, 106, 108.
gross, 114.
    implied, 109.
in the inducement, 129.
knowledge by transferee, 109.
legal, 121.
    male fide transfer, 108.
    meanings, 101–103.
    non-disclosure, 202.
    "on the marital right," 102, 103, 114–116, 228, 234, 248, 274.
positive, 102.
    rebuttal of, 113–114.
    reasonableness, 102–103.
    reconciliation between spouses, 237.
risk in defining, 5, 97.
shams, 102.

Fraudulent Conveyance, 261–263. See also Creditor's Rights.
Freedom of Alienation. See Community Values.
Freedom of Testation. See Community Values; Intestacy.
Furniture, 361, 401.
Future Interests, 247, 310, 314.

Gift. See also Fraud; Proof.
    burden of proof, 190.
cases
    analysed, 186–193.
    listed by subject-matter, Table D.
check, 247.
delivery, 80, 188.
in general, Chapter 12:2.
Kentucky rule, 113.
loan, distinguished from, 107.
of note, 246–247.
post-obit, 40, 49.
proximity to death, 192.
requirements for validity, 187.
    retention of life estate, 190.
    retention of possession, 190, 192.
    secrecy, 190.
    "unreasonableness," 191.
Gift Causa Mortis. See also Colorable Transfer.
creditors, 194.
defeasance, extent of, 131.
donationis mortis causa, 40.
donee's own property, 167.
described, 194.
gift, relation to, 189, 196–197.
in general, 194–199.
    intent test, 112.
irrevocable trust, 198–199, 203.
    passage of title, 197.
    reliance interest, 43, 181.
revocability, 194, 198.
title, when passes, 194–195.
U.S. savings bond, 226.

Good Faith Divestment, 4, 75, 98, 107–108, 115, 123. See also Contract to Make A Will; Control Test; Fraud; Intent Test; Reality Test.
Good Faith Purchaser. See Consideration; Fraudulent Conveyance; Inchoate Dower; Légitime.
Grandchildren. See Custom of London; Model Act; Table B.
Grandparents. See Model Act; Table B.
Gulliver and Tilson, 73.

Halpern, Matter of. See also Table E.
distinguished, 185.
effect of, 6, 76, 126–127, 173, 178, 207.
equities, 108, 209–211.
Halpern, Matter of (continued)
in general, 121-128.
procedure, 264.
Hawaii. See Table E.
Homestead. See also Community Values; Model Act.
defeasance
abandonment, 31.
frad, 243.
improvements on, as remedy, 364.
Louisiana, 283.
policy, 30, 64.
typical provisions, 30-31.
Horses, 401.
Husband estate
during coverture, 59.
in wife's personality, 60.
power to defraud, 3-6.
protection against fraud, 4.
reliance interest, 41.
rights in wife's property, 355.
Idaho. See Table E.
Illegitimate Child. See also Model Act.
maintenance legislation, 296.
model act, 301-302.
Illinois. See also Table E.
"inequitable" decisions, 178.
widow as creditor, 261.
Illusory Transfer. See also Control Test; Halpern, Matter of. For application to particular methods of transfer see appropriate title.
antenuptial, 360-362.
cases, listed, 88-89.
control, formal retention, 82.
equities, relation to, 82-83, 87, 93-95.
Halpern, Matter of, 76, 124-125.
in general, 74-97.
judicial confusion, 4.
meaning, change in, 82.
narrowness of test, 96-97.
Ohio cases, 76-87.
predictability, 88, 88-90.
revocation clause, 82-83.
revocable trust, 68, 74-97.
testacy, relation to, 173-174.
testamentary transfer, 88.
Inchoate Dower. See also Statutory Share.
assignment of, 131-132.
creditors, 61, 64.
defined, 60-61.
disadvantages, 62-64.
evans, 63, 110, 126, 140, 147, 152, 166, 247, 251, 262.
maintenance legislation, relation to, 64, 301.
history, 59-62.
in general, Chapter 6.
jointures, 61, 355.
judicial sale, 64, 143.
marketable title, 63.
model act, 301.
partnership, 231.
personality, 4, 60.
policy, 60, 160.
settlements, in lieu of, 355.
United States, 62-64.
utility, 63-64.
Income. See also Reliance Interest; Retention of an Interest.
beneficiaries, 189, 314.
retention of, 75.
Incorporation by Reference, 79.
Indiana. See also Table E.
judicial sale, 64.
Inheritance policy, 37-41.
restrictions
aliens, 39.
collaterals, 39.
Roman law, 280.
Russia, 39.
suggestions for reform, Chapters 4, 19-22.
testation, distinguished from, 38.
theories of, 38.
Inheritance Tax. See Model Act; Taxes.
Injunction, 230, 320, 364.
Insolvency, 141. See also Creditors' Rights; Obligations Payable at Death.
Instructions, Seeking, 266. See also Procedure.
Insurance. See also Annuities; Contract; Obligations Payable At Death.
accident, 245.
companies, 241-242.
health, 245.
Insurance (continued)

life
antenuptial, 361, 364.
as evasive device, 236–237, 240.
assignment, as collateral, 239.
cases, 238–240.
community property, 240.
control test, 94.
decedents’ estates, 17.
estate tax approach, 276.
family business, 71, 232.
gift causa mortis, 194.
in general, 235–242.
insurable interest, 236.
loan, 239.
Louisiana statute, 284.
maintenance legislation, 295.
model act, 305–306.
partnership, 231–235.
Pennsylvania statute, 144.
reliance interest, 43.
statutory share, relation to, 239.
Swiss approach, 287.
testamentary nature, 72.
U.S. savings bond, analogy, 225.
war risk, 239.
Intent Test. See also Equities; Fraud.
For application to particular methods of transfer see appropriate title.
actual intent, 118.
collusion, 105.
colorable transfer, 105
Colorado, 135-137.
contract to make a will, 378.
criticism, 118–119.
described, 107-108.
equities, 106-108.
evidentiary factors, 107-108.
 fraud
 meanings, 101–103.
 requirement of, 105.
illusory transfer test, relation to, 81–82.
in general, Chapter 8.
judicial confusion, 5.
Kentucky, 112–114.
Israel, 298.
Missouri, 114–116.
motive, 75, 118.
New Hampshire, 109–110.
New York, 125.
participation by donee, 159–160.
Pennsylvania, 141.
proof, 171.
reasonableness, 109.
reliance interest, transferee, 117.
Tennessee, 110–112.
variations, 108.
Interest, Retention of. See Retention of Interest.
Interpleader, 266.
Inter Vivos Transfers. See also Evasions.
death duties, effect on, 16–17.
diversity, 16–19.
increase in, 17.
estate planning, effect on, 17.
flexibility, 16–19.
popularity, 15–17.
Intestacy. See also Custom of London; Inheritance.
history, 39.
liberty of testation, relation to, 39–41.
model act, 299, 308.
statistics, 174.
Intoxication. See Equities.
"Invalid as to the Widow." See Defeasance, Extent of.
Investments, Power to Make, 89. See also Control Test.
Iowa. See also Table E.
equities, 162–163.
judicial sales, 64.
partnership, 233–234.
Irrevocable Inter Vivos Trust. See also Reliance Interest; Revocable Inter Vivos Trust.
cases, 203.
draftsmanship, 6, 90–92, 96, 203–205.
fraudulent, 90.
gift causa mortis, 198–199.
in general, 202–205.
model act, 305–306.
remedy for antenuptial transfer, 364.
testamentary nature, 71.
Virginia cases, 249.
undue influence, 204.
Irrevocable Self-Declaration of Trust, 86.
Israel. See also Legislative Solutions.
evasions, 297.
maintenance legislation, 297.
Jewelry, 402.
Joinder of Parties. See Procedure.
Joint Bank Account
cases, 216–217.
consideration supplied by transferee,
167.
control test, 94.
doctrinal basis, 215.
illegitimate test, 88.
in general, 214–220.
common book, 94.
popular misunderstanding of, 216.
reality, 219–220.
testamentary nature, 71–72, 219.
Joint Ownership. See also Joint Bank
Account; Joint Tenancy in
Realty; Joint Safe Deposit Box;
Survivorship Devices.
in general, 16.
Joint Safe-Deposit Box.
in general, 220–222.
joint tenancy, 221–222.
title to contents, 221–222, 401.
Joint Tenancy. See also Joint Bank
Account; Joint Safe-Deposit Box.
apartment house, 90.
family home, 16.
illegitimate transfer, 88, 90–91, 133.
reality, in general, 212–214.
partnership, 223–225.
Pennsylvania statute, 144.
Jointures. See Inchoate Dower.
Joint Will. See Wills.
Judgment. See also Colorable Transfer;
Custom of London; Fraudulent Conveyance.
collusive, 140–141.
confession of, 134, 405.
gift of, 402.
notes, 71, 402.
Judicial Sale. See Colorable Transfer;
Inchoate Dower.
Judicial Separation, 112.
Judiciary. See also Model Act.
model act, function under, 300–303.
need for legislative directive, Chapter 4.
Jurisdiction, 266. See also Conflict of
Laws; Model Act.
Jury Charge, 399.
Kansas. See also Table E.
equities, 162.
"inequitable" decisions, 178.
judicial sale, 64.
provision for surviving spouse, 156.
shams, 134.
Kentucky. See also Table E.
equities, influence of, 179, 112–114.
gift cases, 191.
"inequitable" decision, 178.
in general, 112–114.
partial defeasance, 132.
participation by donee, 159.
"Kerr" Passages. See also Fraud; In-
tent Test.
colorable test, related to, 134–135.
defeasance, extent of, 129.
dominion, related to, 87.
equities, related to, 137.
in general, 98–101.
Knowledge, by Claimant. See Annuity;
Antenuptial Transfer; Con-
tact to Make a Will; Fraud;
Secrecy; Waiver.
Lapse
anti-lapse statutes
defeasance, 34.
policy, 34.
typical provisions, 34.
gift causa mortis, 194.
Lease
consideration supplied by donee, 167.
gift of leasehold, 54, 361, 402.
joint safe-deposit box, 221.
paintings, 192.
Legislative Solutions
civil law, 279–289.
federal estate tax
discussed, 276–278.
excerpts, 340–347.
German Civil Code
in general, Chapters 19–22.
Legislative Solutions (continued)
literature, 121.
maintenance legislation, Chapter 21.
model probate code.
discussed, 273–276.
 excerpts, 333–334.
North Carolina Commission, report
discussed, 274–276.
 excerpts, 334–340.
querela inofficiosi testamenti, 279–
281.
statutory share, retention of, 271–278.
suggested model act, Chapter 22.
Swiss Civil Code
discussed, 286–289.
 excerpts, 351–353.
tests based on “fraud,” 273–276.
Legitim, 50.
Legitima Portio. See Roman Law.
Légitime. See also Civil Law; Roman
Law.
as legislative solution, 281–285.
family maintenance, contrasted with,
291.
good faith purchaser, 285.
life insurance, 240.
simulated sale, 286.
statutory share, contrasted with, 35.
Life Estate, Retention of. See also
Control Test; Deeds; Purchase
by Decedent, Title in name of
another; Retention of an In-
terest.
with power to encumber, 250.
Life Insurance. See Insurance.
Litigation. See also Costs; Evasions;
Procedure.
increase in, 6–9.
 statistics, 7.
result of, statistics, 7.
tactics, 169.
under maintenance legislation, 293.
under model act, 299–300.
Loan. See Insurance; Mortgage.
Loss, Risk of, 288.
Louisiana. See also Table E.
life insurance, 240, 284.
Lump Sum Award, 286, 291–293. See
also Model Act.
Maine. See also Table E.
family allowance statute, 32–33.
“inequitable” decision, 178.
Maintenance and Contribution. See
also Community Values; Main-
tenance Legislation, Model
Act; Statutory Share.
American case-law, related to, 68,
176, Chapter 11.
anteuptial transfer, 359–360.
contract to make a will, 372.
contribution
anteuptial transfer, 359–360.
gift causa mortis, 197.
joint tenancy in realty, 213–214.
life insurance, 241.
policy, 45.
cut-off, 154.
estate tax regulations, 277–278.
gifts causa mortis, 198.
 in general, x, 44–46.
inchoate dower, 63.
intent test, 118–119.
life insurance, 239.
obligations payable at death, 249.
partnership, 255.
Pennsylvania statute, 144.
power of appointment, 256–258.
proximity to death, 150.
statutory share, tested by, 271–273.
Maintenance Legislation
amount of award, 293.
annuity, 293.
Canadian Uniform Act, 321.
children, 294.
contrasted with
family allowances, 32–33.
model act, 323.
statutory share, 35, 167, 169.
disability, 291.
evasions, 294–298.
in general, Chapter 21.
litigation, volume of, 293.
proximity to death, 153.
scope, 291–292.
suggested for
Israel, 297–298.
U.S., ix, xi, Chapter 22.
suspensory orders, 293, 321.
Management of Property. See also Con-
trol Test.
continuation of, 192.
factual control, 89–90.
Manitoba, 291. See also Table E.
Marital Deduction. See Taxes.
Marital Disharmony. See also Community Values; Divorce; Maintenance and Contribution; Marriage Settlement; Statutory Share.

British Commonwealth, evasions, 296. 
divorce 
causes, 10. 
children, statistics, 14. 
contract to make a will, 367. 
evasion problem, affected by, 12–15, 296. 
longevity, effect of, 11. 
misrepresentation, ground for, 363. 
relationship to divorce laws, 14. 
remarriages, relation to, 12–15. 
spouse as creditor, 259. 
war, effect on, 11. 
influence on “evasions,” 10, 158. 
remarriage 
antenuptial contract, 14, 367. 
antenuptial transfer, 181, 358. 
chances of, 13. 
chances of success in, 13. 
contract to make a will, 14, 181, 367–368, 377. 
frequency 
by age, 12–13. 
by divorced persons, 12–13. 
by sex, 13. 
by states, 12, Appendix A. 
effect of longevity, 13. 
over the years, 12. 
widows, chances for, 14. 
shifting concept of family, 165, 294. 
succession laws, harshness on wives, 15. 
suicide 
statistics by sex, 10. 
“Marital Fourth,” 283. 

Marketability, Restrictions on. See Community Values; Reliance Interest.

 Marketable Title, 16. 
“Market Pattern,” 58. 

Marriage Settlement, 359. 
antenuptial, 263, 325, 359. 
British Commonwealth, 296. 
contract to make a will, 367. 
custom of London, 54. 
evasons, 359. 
remarriage, on, 14. 

Maryland. See also Table E. 
“inequitable” decision, 178. 
intent test, 106. 
life insurance, 237–238. 
participation by transferee, 160. 
provision for surviving spouse, 155. 
“reasonableness” test, 126, 193. 

Massachusetts. See also Table E. 
“inequitable” decisions, 178. 
intent test, 104. 
provision for surviving spouse, 156. 
reality test, 120–121. 
statutory share, 21, 120. 
strict statutory construction, 162. 

Master, Permanent. See Model Act. 

Mental Incompetence 
claimant, 164, 211, 239, 267, 291. 
family protection, 29. 
inoacoate dower, 62. 
transferor, 266. 

Michigan. See also Table E. 
statute 
joint safe-deposit box, 222. 
U.S. savings bond, 225. 

Minnesota. See also Table E. 
anuity, 243–244. 
raud, 243. 
judicial sale, 64. 

Misrepresentation. See also Fraud. 
antenuptial transfer, 247, 357, 362. 
community property, 240. 
deceit action, 363. 
raud, relation to, 101–102. 
inacoate dower, 252. 
promissory note, 247. 
widow as creditor, 261. 

Mississippi. See also Table E. 
dower, abolition of, 64. 
“inequitable” decisions, 178. 
“separate estate” statute, 22. 
statutory share, 22. 

Missouri. See also Table E. 
children as plaintiffs, 157. 
death 
apprehension of, 72, 152, 187–188. 
proximity to, 151. 
deed, 185–186. 
equities, 179. 
gift causa mortis, 195. 
gift, 187–188, 191. 
“inequitable” decision, 178. 
in general, 114–116.
Missouri (continued)
Merz v. Tower Grove Bank & Trust Co., ix, 115, Table E.
partial defeasance, 132.
participation by donee, 159.
Mistress. See also Family Disharmony;
Equities; Statutory Share.
as losing party, 165.
as winning party, 164.
maintenance legislation
eligible under, 294.
settlement on, 296.
purchase in name of, 250.
Model Act. See also Legislative Solutions.
administration, 300–301.
expenses, 303.
antenuptial transfers, 182, 305–306,
311, 359–360.
appeals, 323.
apportionment
estate beneficiaries, 310.
taxes, 326.
transferees, 315.
application, 327.
attachment, 319.
appointee fees, 326–327.
award
burden of, 310.
conditions of, 319–320.
satisfaction of, 319–320.
benefits, public, 309.
beneficial interest, 314.
charities, 313.
child
adopted, 301.
antenuptial contracts, protection for, 306.
defined, 301.
illegitimate, 301–302, 305.
posthumous, 302.
stepchild, 302.
condemnation proceedings, 307.
conflict of laws, 311.
consideration, 305–307, 312, 324.
constitutionality, 327.
contract, 305.
"contracting out," 324.
contracts to make a will, 182, 305–306, 372–375.
contribution order
authority for, 310–313.
conditions, 318–320.
described, 300.
satisfaction of, 319–320.
costs, 326–327.
court
defined, 301–302.
judicial administration, 300–301.
jurisdiction, 311.
powers, 308.
creditors, 303–304, 322.
death benefits, 305–306.
deed, 306.
definitions, 301–307.
divorcee, 302.
distribution of assets, 320.
equities, 301.
estate, defined, 303.
estate planning, 311.
evasions, 300–301.
exoneration, 326.
future interests, 310.
family allowance legislation, 301, 311, 320.
family allowance legislation, 301, 311, 320.
fees, 318.
funeral expenses, 303.
garnishment, 319.
gift, 193, 305–306.
gift causa mortis, 305–306, 316.
grandchildren, 302.
grandparents, 302.
guardian, 324–325.
hearing in decedent's lifetime, 325–326.
homestead, 301.
inchoate dower, 301.
injunction, 320.
Internal Revenue Code, compared, 304.
Israeli statute, compared, 298.
joint bank account, 306.
judicial doctrines, 301.
judicial sale, 307.
jurisdiction, 301–302, 311.
Model Act (continued)
life estate, 314.
limitations, 322.
lump sum, 318, 322–323.
marrige settlement, 325.
malrepresentation, 323.
moral obligation, 312.
non-claim statute, 322.
non-resident, 311.
obligations payable on death, 249, 306.
officials, 300–301, 318.
partnership, 235, 306.
periodic payments, 318–319, 322.
perishables, 316.
personal representative, 317.
permanent master, 317, 325.
petitioners, 307, 322.
policy, 299–301, Chapter 4.
"postnuptial," 305.
power of appointment, 256–258, 303, 305, 314.
power to amend, 314.
power to revoke, 314.
preliminary hearing, 317, 325.
preservation of assets, 320.
probate court, 303, 317.
procedure, 317–318, 325.
reasonable provision, 308–309, 312.
receiver, 320.
recipient from transferee, 307.
rehearing, 321.
relatives, 302.
reliance interest, 300, 316.
report, of permanent master, 318.
reversionary interest, 314.
revocable trust, 201, 305–306.
scope, 299–301.
secure claim, 303.
service, 317.
simultaneous transfers, 312–313.
small estates, summary distribution of, 301, 322.
suit in lifetime, 300.
surplus assets, 320, 323.
suspensory order, 320–322.
taxes, 303, 304, 316, 326.
temporary maintenance, 320, 322.
title in third party, 306.
transfer, defined, 304–306.
trusts, 96, 205, 305–306.
Uniform Reciprocal Enforcement of Support Act, 299, 311.
unsecured claim, 303.
value, 288, 315–316.
waiver, 300, 312, 324–325.
Model Probate Code. See also Legislative Solutions.
discussed, 273–276.
excerpts, Appendix B.
Missouri statute, contrasted with, 114.
proximity to death, 150.
Model Written Obligations Act. 246.
Money cases, 402.
Moral Claim or Duty. See Equities; German Civil Code; Maintenance Legislation; Model Act; Reliance Interest.
Mortgage
antenuptial, 355, 361.
cases, 402–403.
flexibility, 16.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
Louisiana, 285.
INDEX 471

New York. See also Halpern, Matter of; Newman v Dore; Table E. bank account trust, 6, 205-211.
contract, 234.
employee death benefits, 244-245. "inequitable" decisions, 178.
intent test, 95-96.
Law Revision Commission, 128, 225, 245.
life insurance, 237-238.
partnership, 234-235.

statutes
charitable gifts, 203.
intestacy, 173.
joint bank account, 217.
pension plan, 244.
personal property, 230.
statutory share, 8, 22, 24, 74-76, 88, 125, 173, 293.

New Zealand. See also Table E.
evasion experience, 297.
maintenance legislation, 290-295, 321, 327.

Non-Relatives. See Table B.
Non-Residents. See Conflict of Laws; Model Act.

North Carolina. See also Table E.
statutory share, 21.

North Dakota, 22-23. See also Table E.
Northern Ireland, 290.
Note. See also Mortgage; Obligations Payable at Death.
antenuptial, 361.
cancellable at death, 106-108, 192, 247, 403.
of third party, 403.
payable at death, 246-247, 403.
testamentary nature, 71, 106-108.

Obligations Payable at Death. See also Mortgage; Note.
in general, 246-249.
Pennsylvania, 141-143.
Ohio. See also Table E.
case law, 76-87.
creditors' statute, 77-78, 81.
draftsmanship, 204.
"inequitable" decisions, 178.
in general, 76-87.
joint bank account, 218.
reality test, 218-219.
Oklahoma, 178. See also Table E.
Ontario, 64, 291. See also Table E.
Option, 71.
Oregon. See Table E.

Paintings, 71, 130, 364-365, 403.
Parol Evidence Rule, 222.
Participation by Transferee. See Equities.

Parties, Proper. See Chapter 18.
Partition. See Procedure.
Partnership
"buy and sell" agreement, 231.
contract to make a will, 367.
in general, 231-235.
joint tenancy, 234-235.

Passbook. See Bank Account Trust; Joint Bank Account.

Pennsylvania. See also Table E.
bank account trust, 139-140.
evasion statute, 126, 138-140, 143-144, 178, 214, 275.
good faith divestment, 140.
"inequitable" decisions, 178.
in general, 138-144.
intent, 140-141.
joint tenancy, 144.
life insurance, 144.

obligations payable at death, 141-143.
participation by transferee, 140, 141.
power of appointment, 138-139, 255, 258.
re revocable inter vivos trust, 144.
written obligations, 246.
U.S. savings bond, 144.
Pension Plan. See Employee Death Benefits.

Periodic Payments. See Annuities; Maintenance Legislation; Model Act.
Perishables. See Consumables; Model Act.

Personal Representative. See Procedure.
Plaintiff. See Proof; Procedure; Statistics.
Pledge, 239.
Policy. See Community Values.

Population
increase in, 7.
mobility of, 28.

Possession, Retention of, 111, 116, 133.
See also Control Test; Custom of London; Dominion; “Kerr” Passages.

“Pour Over” Provision, 79.

Power of Appointment
antenuptial transfer, remedy, 364.
created by another, 253, 257.
created by decedent, 254.
defined, 252.
exercisable in conjunction with another, 257.
in general, 252-258.
irrevocable trust, with, 203.
maintenance legislation, 295.
model act, treatment in, 256-258, 276.
Pennsylvania, 138-139, 255.
“relation back,” 253-254.
spouse of donee, 255.

Power of Attorney. See also Colorable Transfer.
gifts, 192.
irrevocability, 204.
shams, 131, 134.
testamentary transfer, 71.

Power of Sale, 91.

Power to Amend. See Model Act.

Power to Dispose, 134. See also Colorable Transfer.

Power to Revoke. See Revoke, Power to.

Predictability, 6, 117, 273, 288. See also Reliance Interest.

Preservation of Assets. See Model Act.
“Present Interest” Test, 102, 225, 227.
See also Reality Test.

Presumption. See Fraud; Proof.

Preventive Measures. See Estate Planning.

Probate
disadvantages, 69, 213.
publicity, 216.
utility, 73.

Procedure. Chapter 18. See also Defeasance, Extent of; Model Act; Proof.

accounting proceedings, 226, 368.
children, 264.
collaterals, 264.
declaratory judgment, 228, 266.
defeasance, extent of, 265.
derivative action, 265.
distributee, 265.
executor, 265.
Halpern, Matter of, 264.
in general, Chapter 18.
injunction, 230, 320, 364.
interpleader, 266.
joinder, 265.
lifetime, suit in, 266.
North Carolina proposal, 274.
personal representative
co-defendant, 265.
co-plaintiff, 265.
partition, 368.
quieting title, 368.
revival, 267.
suit, when brought, 266-267.
trover, 266.
who may sue
curator, 266.
spouse, mentally incompetent, 267.
spouse, remarried, 267.
spouse, infant, 267.
who must sue, 123-124.
widow, as executrix, 265.
will construction, 368.

Profit-Sharing Agreement. See Employee Death Benefits.

Promise to First Wife. See Equities.

Proof
antenuptial transfer, 355-360.
burden of, 45, 190, 203, 209, 228.
difficulty of, 204.
presumptions, 126, 217, 274.

Property Settlement. See Marriage Settlement.

Provision for Spouse. See Equities.

Proximity to Death. See Equities.

Puerto Rico. See Table E.

Purchase by Decedent. Title in Name of Another, 55, 63, 160, 249-252.

Purchaser for Value, 42, 363. See also Model Act.
INDEX

Purchase Money Resulting Trust, 167. See also Purchase by Decedent, Title in Name of Another.

Quasi-Contract, 366.
Queensland, 291.
Querela Inofficiosi Testamenti. See Legislative Solutions; Roman Law.
Quiet Title, Suit to. See Procedure.

Reality Test. See also Halpern, Matter of. For application to particular methods of transfer see appropriate title.
absolute transfer, 120.
complete transfer, 120.
consideration, effect of, 141.
equities, 120.
future interest, 120.
in general, Chapter 9.
litigation, effect on, 7.
knowledge of spouse, 120-121.
present interest, 120-121.
retention of possession, 90.
vested interest, 120.
"Reasonableness" Test, 110, 126, 155, 193, 228, 237, 364-365. See also Intent Test; Unreasonable Transfer.
Receiver. See Model Act.
Recordation, 111, 116, 324, 363.
Reconciliation of Spouses, 171. See also Equities; Misrepresentation.
Relationship of Transferee. See Equities; Statistics; Table B.

Reliance Interest

gift, 181, 288-289.
gift causa mortis, 181.
inchoate dower, 63-64.
irrevocable trust, 181.
joint tenancy, 213.
lapse of time, 42-43.
life insurance, 241-242.
maintenance and contribution, x, 45, 68.
model act, 300
Pennsylvania statute, 144.
proximity to death, 153-154.
U.S. savings bond, 181.
Remarriage. See Equities; Marital Dis-harmony.
Remedies. See Procedure.
Rental Cards. See Joint Safe-Deposit Box.
Rent, 59, 185. See also Lease.
Reservation of an Interest. See Retention of an Interest.
"Reserved Portion," 285-289. See also France; Germany; Legislative Solutions; Légitime; Switzerland.
Restatement, Property, § 332, 254.
Restatement, Trusts, § 57, 70, 90; § 58, 139, 207; § 185, 89.
Resulting Trust, 228-229.
Retention of an Interest, 55, 68, 105, 137. See also Control Test;
"Kerr" Passages.
Retirement Plan. See Employee Death Benefits.
Reversionary Interest. See Model Act.
Revindication, 285.
Revival. See Procedure.
Revocable Self-Declaration of Trust. See also Control Test; Halpern, Matter of; Illusory Transfer Test; Model Act; Newman v Dare; Testamentary Transfer.
cases listed, 200-201.
charitable, 72.
control, degree of, 78, 90, 93-94.
creditors' rights, 77-78, 92.
estate tax, 276.
fraud, 141.
in general, 74-87.
intent test, 115.
New York law, 6, 74-76.
Ohio law, 76-87.
Pennsylvania law, 141-142.
revoke, power to, 70.
settlor, for exclusive use of, 77.
termination, 92.
testamentary nature, 68-73, 85, 91.
utility, 17, 69.
veto power, 78.
Revocation by Operation of Law, 34.
Revoke, Power to. See Colorable Transfer; Control Test; Revocable Inter Vivos Trust.
draftsmanship, 204.
effect of, 76, 90–92, 203.
revocation fee, 92–93.
with trustee's consent, 78.
Rheinstein, 53, 64, 371.
Rhode Island. See Table E.
Rings. See Engagement Ring; Jewelry.
Roman Law
custom of London, relationship, 51.
quereola inofficiosi testamenti, 279–281.
wills, 40.
Russia, 39, 287.
Safe-Deposit Box. See Joint Safe-Deposit Box.
Sale. See Consideration; Contract; Légitime.
Saskatchewan, 291.
Satisfaction cases, 405.
custom of London, 57.
Savings Bank Trust. See Bank Account Trust.
Savings and Loan Association, 216.
Savings Bonds. See U.S. Savings Bonds.
Scotland.
Sassenachs, defined, 290.
"wha's like us?" 54.
Secrecy. See also Equities.
Colorado cases, 137.
colorable transfer, 132–133.
deed, 185–186.
Kentucky, 112–113.
Securities. See also Close Corporation cases, 403.
derivative action, 265.
gift causa mortis, 198.
maintenance legislation, 295.
option, 71.
Security of Title. See Community Values; Reliance Interest.
Self-Declaration of Trust. See Irrevocable Self-Declaration of Trust; Revocable Self-Declaration of Trust.
Separation Agreement, 88, 367, 374.
"Separate Estate." See Alabama; Mississippi.
Separate Maintenance cases, distinguished from evasion cases, 147, 162.
joint bank account, 216.
secrecy, 185.
spouse as creditor, 259.
veteran's benefits, 239.
widow as creditor, 261–263.
Separation of Spouses. See Equities.
Settlement. See Marriage Settlement.
Settlor. See also Control Test; Revocable Inter Vivos Trust.
as co-trustee, 91, 95–96.
Shams. See Colorable Transfer.
Slaves, 404.
Small Estates, Summary Distribution of. See Model Act.
Source of Decedent's Property. See Equities.
South Australia, 291.
South Carolina. See also Table E.
"mistress" statute, 23, 361.
South Dakota. 22–23, 64. See also Table E.
Sparks, 370, 377.
Specific Performance, 366, 368–370.
Spendthrift Trust, 257.
Standard of Living. See Equities.
Statistics. See also Marital Disharmony, antenuptial transfer, 363.
children as plaintiffs, 157.
involved in divorces, 13–14.
contract to make will, 373–375.
litigation unreasonable transfers, 9.
volume, 7.
longevity, 13.
proximity to death, 148–149, Table A.
reasonableness of transfer, 177, Table C.
relationship of donee, 157, Table B.
remarriages, 12, 13, Appendix A.
suicides, 10.
 surviving spouse, sex of, 267.
testacy or intestacy, 174.
women’s wealth, 25–27.
Statute of Limitations. See also Equities—proximity to death.
civil law, 286–287.
INDEX

Statute of Limitations (continued)
common law, 63, 71, 355.
model act, 322.
Statute of Wills, 40–41, 72–73. See also Bank Account Trust; Testamentary Transfer.
Statutory Share. See also Equities; Legislative Solutions.
alimony, compared, 260.
amount, vii.
annuity, 24.
ante nuptial transfer doctrines, compared, 260–263.
apparent aims, 24–25.
architectural nature
exception, 22, 23.
merits of claim, 17–18.
misconduct, 18.
widow’s need, 17–18.
bar of
judicial separation, 112.
trust, 74.
evansons
perpetual problem, 272.
vulnerability to, xi, 3–4, 74–76.
when laudable, 18.
history, 21, 74–76.
in trust, 23.
judicial confusion, 3–6.
life estate, 24.
litigation, amount of, 293.
maintenance legislation,
compared, 291.
misconduct
adultery, 23.
bigamy, 23.
desertion, 23.
remarriage, 167.
typical provisions, 3, 21–24.
Stepchild. See Child.
Stepmother, 18, 158, 272, 302. See also Child; Model Act; Remarriage.
Stephenson, Gilbert, 16.
Stock-Purchase Agreement. See Employee Death Benefits.
Stock, Voting of, 193.
Succession Law. See Inheritance.
Suicide, 10, 237.
Suit in Lifetime.
alimony, 187, 243.
ante nuptial transfer, 360–365.
dower, 143, 251.
model act, 300, 325–326.
transferor mentally incompetent, 266.
Summary Distribution of Assets. See Model Act.
Support. See Alimony; Community Values; Separate Maintenance; Statutory Share; Uniform Reciprocal Enforcement of Support Act.
Surviv orship Devices
increasing popularity, 16.
in general, Chapter 14.
Suspensory Orders. See Maintenance Legislation; Model Act.
Sweden, 14, 287.
Switzerland, 286–289, 351–353. See also Civil Law; Legislative Solutions.
Sykes, 155.

Tasmania, 291.

Taxes. See also Community Values; Homestead; Model Act.
cases, 106, 195.
estate
as legislative solution, 276–278.
contemplation of death, 152, 198, 275.
estate planning, 216.
life insurance, 241.
marital deduction, 253.
model act, 326.
power of appointment, 256.
gift, 254.
inheritance, 97, 277, 326.
Tax Sale, 389. See also Colorable Transfer; Fraudulent Conveyance.
Teachers’ Retirement Fund. See Employee Death Benefits.
Tennessee. See also Table E.
dower, lack of, 64.
“inequitable” decision, 108.
Tentative Trust. See Bank Account Trust.
Testation, Freedom of, 40. See also Community Values; France; Inheritance; Intestacy.

Testamentary Transfer. See also Control Test; Custom of London; Illusory Transfer Test; Intent Test; "Kerr" Passages; Ohio; Pennsylvania; Statute of Will. For application to particular methods of transfer see appropriate title.

contract to make a will, 375, 378.


Texas. See also Community Property; Table E.

children, 264.

community property evasions, 283.

life insurance, 240.

Title-Holder, 307.

Title Insurance, 63.

Title, Passage of, 197–198. See also Testamentary Transfer.

Totten Trust. See Bank Account Trust.

"Trading Account," 90. See also Control Test; Illusory Transfer.

Transfer. See Inter Vivos Transfer.

Transferee. See also Equities; Maintenance and Contribution; Model Act; Reliance Interest.

improvements by, 213.

inconvenience to, 41–43, 300.


relationship to decedent, Table B.

sales, by, 42, 213.

wealth of, 163.

Transfer to Self as Executor, 121.

Trover, 266.

Trusts. See Bank Account Trust; Constructive Trust; Irrevocable Inter Vivos Trust; Irrevocable Self-Declaration of Trust; Resulting Trust; Revocable Inter Vivos Trust; Revocable Self-Declaration of Trust; Testamentary Trust; Trustee.

Trustee. See also Control Test; Illusory Transfer; Procedure; Revocable Inter Vivos Trust.

accounting, 92.

commissions, 91–92.

powers of, 83, 96, 144.

Undue Influence. See also Confidential Relationship.

as protective device, 29.

irrevocable trust, 204.

model act, 325.

procedure, 264–265.

Unger, 41, 53.

Uniform Commercial Code, 246.

Uniform Reciprocal Enforcement of Support Act, 299.

Unreasonable Transfer. See also Equities; Maintenance Legislation; Model Act; "Reasonableness" Test.

antenuptial, 358–360.

contract to make a will, 378.

described, 176–177.

maintenance and contribution, 45.

statistics, 9, 177.

U.S. Savings Bond antenuptial, 361.

cases, 226.

contract to make a will, 378.

constructive trust, 110, 227–229.

illusory nature, 88, 94.


Pennsylvania, 144.

testamentary nature, 71.

utility, as evasive device, 4, 17, 230.

Unworthy Spouse. See Equities; Maintenance Legislation; Maintenance and Contribution; Statutory Share.

Utah. See Table E.

Valuation, of Transfer.

civil law, 287–288.

model act, 315–316.

Value. See Consideration; Purchaser for Value.

Values. See Community Values.

Vermont. See also Table E.

inchoate dower abolished, 64.


statutory share, 22.

Vested Interest. See Present Interest Test; Reality Test.

Veteran’s Benefits, 239.

Victoria, 291, 295.
Virginia. See also Table E.
“inequitable” decision, 178.
irrevocable transfers, 91, 204.
instrument under seal, 248–249.
“Voidable.” See Decease, Extent of.
Waiver
maintenance and contribution, 45.
maintenance legislation, 295.
model act, 324–325.
Wales, 11.
War Bonds. See U.S. Savings Bond.
Washington. See also Table E.
life insurance, 240.
U.S. savings bond, 225.
Wealth. See also Women.
change in nature, 15–17.
of women, 26.
West Virginia. See Table E.
Western Australia, 291.
Widow. See also Equities; Community Values; Homestead; Maintenance and Contribution; Statutory Share; Widow as Creditor.
financial need, vii, 6, 25–29, 44.
Louisiana, 283.
unworthy, 44, 168.
Widow as Creditor. Chapter 17. See also Alimony; Creditors; Separate Maintenance.
Widow, Invalid as to. See Decease, Extent of.
Widower, 4, 267. See also Model Act; Statistics; Statutory Share.
Wife. See Alimony; Antenuptial Transfers; Creditors; Separate Maintenance; Widow as Creditor.
Wills. See also Community Values; Revocation by Operation of Law; Statute of Wills; Statutory Share; Testamentary Transfer.
early English, 49.
construction of, 368.
family allowance, 31.
history, 39–41.
joint, 228, 367.
joint and mutual, 208.
manicipatory, 40.
mutable, 367.
revocation by marriage, 369.
statistics, 40.
survivorship devices, 16.
Wisconsin. See also Table E.
equities, 146–147.
U.S. savings bond, 225.
Women. See also Wife; Widow.
constitutional equality, 25.
disadvantages under feudalism, 59.
emancipation, relation to case law, 9.
statistics, 26–29.
Wyoming, 64. See also Table E.