

Index

- Action by assignee of foreign personal representative, 63-66.
- Action by foreign personal representative. See Foreign personal representative.
- Administration of Estates Act, 1925, 185.
- Administrator, 14, 28.
cum testamento annexo, 28; *de bonis non*, 28; development of, 13-14.
- Ancillary administration
delay of, 173-174; development of; 14-17, expense of, 52-53, 173; necessity of, 14-17, 33-34.
- Ancillary administrator
collection of chattels by, 150-151; liability to suit in state of appointment, 87; payment of debt to, 157-158; qualification as, after beginning action as foreign personal representative, 33-34.
- Bankruptcy power of federal government, 192.
- Beale, 31, 161, 170, 171, 184.
- Bona notabilia*, 15, 41, 64.
- Buckland, 4.
- Capacity of foreign personal representative to sue
common-law rule, 30-33, 59, 67-69; Federal courts, 75-77; in absence of local creditors, 57-58; waiver of objection to, 35-38.
- Cardozo, Judge, 115, 122.
- Chattels, collection of
foreign personal representative, by, 148-151; comity, permission by, 140, statutory permission, 150.
- Collection of assets
duty of personal representative, 21; duty of foreign personal representative, 144-148: standard of duty, 145, to institute an action, 144-145, to take out ancillary administration, 145, 148.
- Colonial Probates Act of 1892, 73-75.
- Comity
action as a matter of, 32, 50-53, 67, collection of assets by, 140.
- Commonwealth countries
capacity of foreign personal representative to sue, 31, 47; liability of foreign personal representative to suit, 79.
- Consent, jurisdiction based on, 95-104.
binding on plaintiff, 98-99; counterclaims, 99-100; statutory consent, 100-104; to revive action brought against decedent, 97-98.
- Conservation of assets, 21-23.
- Contract to convey, specific performance, 127-128.
- Corporate stock
action to rescind sale of, 88; collection of, by foreign personal representative, 149; *situs* of property, 25.
- Counterclaims
against foreign personal representative, 99-100; statutory trustee, 61.

- Debts
 collection of (see Voluntary payment); *situs* as property, 152; United States, due from, 166-168: to which personal representative payable, 167-168, where payable, 167.
- Default judgment in favor of foreign personal representative, 37-38.
- Discharge to debtor by foreign personal representative. See Voluntary payment of debts.
- Domiciliary personal representative
 delivery of chattels to, 148-151; payment of debts to, 155-157; title to movables of decedent, 142, 157, 183; unified administrator, as, 181-182.
- Due process clause, 49, 118-120.
- Ecclesiastical courts, 8-9, 12-16.
 control over executor, 12; organization, 8-9; real property outside the jurisdiction of, 9.
- Ejectment, by foreign executor with power of sale, 53-54.
- English law
 capacity of foreign personal representative to sue, 31; liability of foreign personal representative to suit, 79; personal representative as trustee, 185-186; suit as individual, 46-47.
- Estate as entity, 19-20.
- Executor
 authority of, 19, 127; *de son tort*, 14 n. 33, 112-114; development of, 7-13; with power of sale in will, 53-54, 125-129.
- Federal jurisdiction over foreign personal representative, 75-77.
- Federal Rules of Civil Procedure, 17(b), 76.
- Foreign personal representative, action by
 as individual, 38-50: certificate of deposit, 42, contract made by representative, 44, judgment, 38-41, 46-47, life insurance policy, 43-44, negotiable instrument, 41-43, note to representative as payee, 42, 44, to compel contribution by coguarantor after paying the obligation, 44, to recover over-payment of estate taxes, 44, to recover property which he has reduced to possession, 45-46; as matter of comity, 50-53; common-law rule, 30-33; statutory permission, 67-75: effect of ancillary administration, 72-73, limitations of, 70-71, requirements, 69-70; wrongful death, 58-63.
- Fourteenth Amendment. See Due process clause.
- Fraudulent removal of assets into forum, action based on, 93-95.
- French law of succession, 5-6.
- Full faith and credit clause, 39-41, 49, 66, 85, 103-104, 108, 118, 120, 154.
- Glanville, 9-11.
- Hand, Judge Learned, 116.
- Heir, English, as representative of decedent, 9-11.
- Heres*, 4-5.
- Holmes, Justice, 193.
- Immovable property. See Real property.
- In rem proceedings
 judgment against foreign per-

- sonal representative (see Jurisdiction in rem); probate administration as, 83-84.
- Insolvent estate, power of federal government over, 192.
- Judgment
 against debtor in state of appointment, 153-163; by default (see Default judgment).
- Jurisdiction
 in personam against foreign personal representative, 84-85; in rem against foreign personal representative, 84, 87-90: foreclosure of mortgage on property of estate, 88, movable property brought into forum after death, 89-90, quasi-in-rem, 90-92, stock in state of incorporation, 88.
- Legal personality, 80-82.
- Legataire universel*, 5.
- Lex Falcidia*, 4.
- Liability of foreign personal representative to suit as individual on obligations incurred after death, 109-112; for fraudulent removal of assets from state of appointment, 93-95; general common-law rule, 79-87; statutory liability, 114-122: constitutionality, under due process clause, 119-120, under full faith and credit clause, 120-121; desirability of, 121-122.
- Local creditors
 protection of, 32-33, 171-172, 175-179; discrimination against in a foreign administration, 175-176.
- Management of assets. See Conservation of assets.
- Mercantile theory, 41, 49, 159.
- Mortgage
 foreclosure of, 88, release of, 160-161.
- Movable property. See Chattels.
- Non-interference with foreign tribunal of administration, policy of, 86-87.
- Nonresidents, prohibited from serving as personal representative, 34.
- Notice, who must be notified, 89 n. 26.
- Objection to capacity of foreign personal representative to sue, waiver of, 35-38.
- Obligation to pay foreign personal representative, 159-160.
- Obligations incurred after decedent's death. See Liability of foreign personal representative to suit.
- Oil and gas
 collection of assets arising from, 132-136; "unless" lease, continuation of, 136-138.
- Ordinary, in ecclesiastical court, 9, 13.
- Payment of debt to foreign personal representative. See Voluntary payment.
- Personal action for money against foreign personal representative, 84-85.
- Personal property, title in personal representative, 20-21.
- Personal representative, 17-24.
 appointment of, 18-19; authority of, 19; development of, 7-17; duties: collection of assets, 21, conservation of property, 21-23, final account, 24, payment of claims, 23-24;

- title to personal property, 20-21.
- Power of sale, exercise of, 22, 125-129.
 by foreign executor, 125-128;
 by successor to foreign executor, 128-129.
- Quasi-in-rem proceeding, 90-92.
- Real property
 direct descent to heir or devisee, 9, 20, 124; sale by foreign executor with power of sale, 125-128; sale by foreign personal representative by statute, 130-132; subject to payment of debts, 20, 124, 131; under control of personal representative by statute, 20, 134-135.
- Receiver. See Statutory receiver.
- Rescission of stock sale, 88.
- Release of mortgage by foreign personal representative, 160-161.
 statutory permission, 163-164.
- Representative personality of personal representative, 80-82.
- Res judicata*, 49, 66, 99, 154.
- Restatement of the Law of Conflict of Laws*, 41, 42.
- Revival statute, 104-109.
- Rights acquired after death. See Foreign personal representative.
- Roman law of succession, 3-5.
- Sale of land
 by foreign executor with power of sale, 125-128; statutory permission to foreign representative, 130-132.
- Salman*, 7-8, 11, 13.
- Separate administration. See Ancillary administration.
- Sovereignty, 170.
- Specific performance. See Contract to convey.
- Statutory consent, judgment by, 100-104.
- Statutory liability to suit. See Liability to suit.
- Statutory permission to foreign personal representative to sue. See Foreign personal representative.
- Statutory permission to foreign personal representative to collect assets, 163-166.
- Statutory receiver, 183-184.
- Statutory trustee, personal representative as, 61-63.
- Stockholder's derivative action, 54.
- Story, Justice, 30, 48, 87, 167, 170, 171, 175, 177.
- Succession, split system of, 123.
- Territorial limitation on personal representative development of, 14-16, theory of, 16-17.
- Title to personal property of personal representative, 20-21.
- Trustee, 185-186.
- Unified administration
 desirability of, 170-179: ancillary administration, expense of, 173, ancillary administration, delay of, 173-174, unified policy of conservation of assets, need for, 174-175, certainty in personal representative, requirement of, 174; means of achieving, 187-192: court decision, 188, Federal enactment under bankruptcy

- power, 192, uniform legislation, 188-192.
- Uniform Ancillary Administration of Estates Act, 180, 189, 191. text, Appendix B.
- Uniform Powers of Foreign Representatives Act, 189, 190. text, Appendix A.
- United States, debts due from. See Debts.
- Universal successor, 3-7, 183. suit in common-law jurisdiction to collect assets, 54-57.
- "Unless" lease, continuation of. See Oil and gas.
- Voluntary payment of debts to foreign personal representative, 151-166.
- effect of: local administration, 156-157, local creditors, 155-156, note evidencing debt, 158-159; explanation of result, 161-162; in state of appointment, 154-155; obligation to pay, 159-160; statutes affecting, 163-166; to ancillary administrator, 157-158; to domiciliary representative, 155-157.
- Wrongful death. See Foreign personal representative.