Dear David Clarence and Timothy (and Raymond Leo), a modest gift for your audience for the Holidays, and my offer to your invitation for more researchers.

Summary Notes on Executors and Estates, directly cited from CORPUS JURIS SECUNDUM 1941, updates thru 1998.

Please note:

[My emphasis is underline and bold, and I used [brackets] to interpose my thoughts as it relates to the context/content of David Clarence’s teachings.]

Acts 28:7 (New King James Version) In that region there was an estate of the leading citizen of the island, whose name was Publius, who received us and entertained us courteously for three days.

CJS TITLES CITED: DEATH, EXECUTORS & ADMINISTRATORS, ESTATES, WILLS, ABSENTEES, ABSENCE, DOMICILE, EASEMENT, CURATOR and CONSTITUTION

[have you ever wondered the definition of "decedent"?]

DEATH
Book 25A

Sec 6, page 553: 25:10, Presumption of death as sufficient to warrant administration of estate (see Executors sec 16) Administration on estate of absentee (see Absentees sec 5). SECTION 490 Provision is sometimes made by statute for a bond, on the distribution of the estate of a person who has been absent and unheard of for so long a time as to raise a presumption of his death, conditioned for a refunding of the amount received, with interest, in case the supposed decedent shall prove to be in fact alive; but in a case where the supposed decedent had been absent and unheard from for forty years, his estate was distributed without requiring bond. [i.e., executor letter asks for bonds?]

[and you will see you must be 'dead' in order for them to access the Estate]

page 554: The presumption of death is effective for practically all legal purposes, including proceedings involving real property, and is available as a method of proof of death in cases where death is a jurisdictional fact that must be made to appear. [much more on this in ABSENTEES later].

Probate Court determination not essential (to prove death).

EXECUTORS AND ADMINISTRATORS
BOOK 33

SECTION 3b: Although the terms are frequently used synonymously, an "executor" is a personal representative appointed by a testator, while an "administrator" is one appointed to act where there is no executor. Executors and administrators are regarded as officers of the court, but are not generally considered to be public officers or agents. An executor or administrator as an official and as an individual is, legally, two separate persons.

The personal representatives of decedents are of two classes, executors and administrators; an executor is a person appointed by a testator to carry out the directions and requests in his will, and to dispose of the property according to his testamentary provisions; an administrator is a person authorized to manage and distribute the estate of an intestate [without a will] or of a testator who has no executor. However, the offices are very similar, and the terms "executor" and "administrator" are frequently used as synonymous. STATUS: Executors and administrator are not public officers. On the other hand, hey are not mere employees, but are
distinctly officers without being invested with sovereign powers. Executors and administrators are officers of the court and occupy a fiduciary relation toward all parties having an interest in the estate. They are not agents of the estate, or of the decedent, and have no principal whom they can bind; they are merely instrumentalities established for performing the acts necessary for the transfer of the effects left by the deceased to those who succeed to their ownership. An executor or administrator as an individual and as an official is, in the eye of the law, two separate and distinct persons.

"Administration" is the management of the estate of a decedent and expresses the jurisdiction assumed by the proper court over it.

The "estate" of a deceased person is not a legal entity but is merely a name indicating the sum total of the decedent's assets and liabilities….and is not an entity known to the law, and is not a natural or an artificial person, but is merely a name of the sum total of the assets. Note 43, page 881: "Estate" is generally used as meaning property belonging to a decedent, a ward, a mentally incompetent person or a bankrupt, and which is being administered in the courts.

SECTION 4, page 882 - The trust arising from an appointment as executor or administrator is highly personal. It is not commercial or contractual. It is not a property right and it involves no pecuniary interest on the part of the fiduciary.

SECTION 6A, In General, Administration is usually necessary where a person dies leaving debts…and that there may be debts has been considered sufficient to render administration proper. Where a person claiming to be a creditor of the estate applies for the appointment of an administrator, it is not necessary that he should conclusively prove the existence of the alleged debt, but if he makes a prima facie case this is sufficient to authorized and require the appointment of an administrator. In such case administration is necessary to protect the rights of creditors, for a creditor has no right to collect a debt due to the estate from another person and apply it on his own demand; and where there has been no administration, he cannot maintain an action against the estate of the debtor, nor can he ordinarily sue the heirs of decedent.

JURISDICTION, SECTION 13, the states have exclusive jurisdiction of the settlement of decedent's estates.

[*** HERE'S THE BIG BINGO!!!!!! My all caps]

SECTION 16, PAGE 892: FACT OF DEATH: Death of the person on whose estate administration is sought is a jurisdiction requisite; and while the presumption of death arising from absence may present a prima facie case sufficient to warrant a grant of administration, yet if it subsequently develops that such person was in fact alive, the administration is void. ANY ADMINISTRATION ON THE ESTATE OF A LIVING PERSON IS VOID. WHILE IT IS TRUE THAT THE PRESUMPTION OF DEATH ARISING FROM A PERSON'S ABSENCE, UNHEARD FROM, FOR A CONSIDERABLE LENGTH OF TIME, SEE "DEATH SECTION 6", MAY PRESENT A PRIMA FACIE CASE SUFFICIENT TO WARRANT A GRANT OF ADMINISTRATION ON HIS ESTATE, THE ARISING OF SUCH PRESUMPTION DOES NOT TAKE THE CASE OUT OF THE OPERATION OF THE GENERAL RULE ON THE SUBJECT, AND IF IT IS MADE TO APPEAR THAT THE PERSON WAS IN FACT ALIVE AT THE TIME SUCH ADMINISTRATION WAS GRANTED, THE ADMINISTRATION IS ABSOLUTELY VOID. ALTHOUGH, THAT PAYMENT TO AN ADMINISTRATOR OF AN ABSENTEE WHO IS NOT IN FACT DEAD IS NO DEFENSE AGAINST THE ABSENTEE OR HIS LEGAL REPRESENTATIVE, NOR ARE COSTS AND DISBURSEMENT INCURRED BY SUCH ADMINISTRATOR A LEGAL CHARGE AGAINST TH ABSENTEE OR HIS PROPERTY; BUT WEHRE THE ADMINISTRATOR HAS PAID DEBTS OF THE ABSENTEE, HE IS SUBROGATED TO THE RIGHTS OF THE CREDITORS WHOM HE HAS PAID. IT HAS BEEN CONSIDERED, HOWEVER, THAT THE INVALIDITY OF THE ADMINISTRATION DOES NOT RELATE BACK, BUT THAT IT IS INVALID ONLY THE TIME WHEN THE PRESUMPTION OF DEATH IS REBUTTED…
Note 64: Production of body is not required to prove death in a civil matter, such as the appointment of an administrator.

APPOINTMENT OF EXECUTORS, SECTION 22, page 904, Testamentary appointment of an executor may be either express or constructive, and may be by way of request or suggestion rather than mandate, Source of Authority: the Common-law doctrine is that an executor derives his authority solely from the will by which he is appointed, and not from the probate of such will, which is held to be only evidence of his right. However, the modern view is that, while an executor's authority is derived primarily from the will, it is not derived solely therefrom in the sense that mere nomination in the will standing alone is sufficient to constitute one an executor, but the full powers of an executor come from the court of probate jurisdiction, which, recognizing and confirming the testator's selection, clothes the executor therein named with plenary authority by issuing to him letters testamentary, which are usually granted in connection with the probate of the will. [does the mother sign something that is construed as these letters? Or, does the baby do something to convey a will?] The fact that an executor derives his authority primarily from the will serves to distinguish him from an administrator, since the latter, as shown in section 30 derives his source of power solely from his appointment by the court. b. Sufficiency of Designation: ...although a designation of a person who can be identified even if not specifically named may be sufficient. Further, the will must show that it was the intention of the testator that such person would act in the capacity of executor. The intent of the testator governs with respect to the appointment of an executor, and his desires in respect of the naming of an executor will be respected, although not expressed directly, if reasonably deducible from the language of the will. Slight expression in the will may suffice to determine the testator's intent. [are we reading that a newborn baby is in fact the ‘testator with the slightest expressions’?]

It is not necessary to the designation of an executor that the word "executor" should be used, but any words which substantially confer on a person, whether expressly or by implication, the rights, powers, and duties of an executor, amount to a due appointment under the will, and the person thus clothed with the essential functions of the office is said to be an executor under the will according to the tenor.

The intention of the testator must be sufficiently definite, and the court, in determining whether the will effectively appoints an executor, cannot proceed on loose conjectural interpretation, or by considering what a man might be imagined to do in the testator's circumstances, nor spell out the designation of one as executor by the tenor from the mere mention of his name in the will. [are the footprints 'definite' enough for the court? And to further suggest it's the newborn baby read the next section on just how competent you have to be in order to be an executor…..]

Competency, SECTION 28, page 909: All persons, generally speaking, who are capable of making wills are capable of becoming executors, and indeed the favor of the law extends even further in this respect…..the power to name an executor is coextensive with the power to devise or bequeath the estate…accordingly, one named as executor is not disqualified by old age, bodily infirmities, lack of business experience, or ignorance of law, and one named in the will as executrix may qualify although she was the testator's concubine…..that crime, drunkenness, or dissolute habits seldom disqualified one from serving as executor…..the court may find unfit and refuse [executor appointment] where his dissolute or criminal habits or his dishonesty or lack of integrity bring him within the condemnation of the statute….Mere poverty, or even insolvency, constitutes no legal cause for refusing the executorship to the testator's chosen appointee, and courts have thus respected the testator's choice.

One who is appointed both executor and trustee under a will does not by accepting the trust accept also the executorship. [so courts can construe you as a trustee doesn't mean you are an executor].

Page 937, SECTION 41; Status as Creditor: In order to entitle one to administration as a creditor, it is necessary that he should actually be a creditor and it has been held that he must be a creditor of decedent, and have a claim or demand which may properly be proved against
the administrator when appointed.

page 952 SECTION 46: …material intermeddling may disqualify one from becoming an administrator….appointment of persons to such positions of trust are construed to apply to real and not to artificial persons. In most jurisdictions this rule has been changed.

SECTION 49 PROCEEDINGS FOR APPOINTMENT - NECESSITY, page 957: It has been said that a proceeding for letters testamentary or for administration of the estate of a decedent is one in rem, or in the nature of a proceeding in rem, the res being the estate of the decedent, and the only identification of it being the name of the deceased as set forth in the petition; it also has been said that in certain respects such a proceeding may by the act of interested parties assume the character of a proceeding in personam, and that such a proceeding is either in rem or in personam, being in personam so far it determines the right to take letters, and in rem so far as it holds in abeyance the title to the personalty. [the all cap name on the BC is in rem? This is how they proceed in avoiding probate and equity courts because they would need in personam jurisdiction]

SECTION 62 Trial or Hearing, and Determination: [is this why they have hearings to see if the executor shows up?]

SECTION 91, REMOVAL OF EXECUTOR OR ADMINISTRATOR: page 1040, Jurisdiction for the removal of an executor or administrator usually belongs to the probate court….In general chancery has no power to remove an executor [because the executor office is not in personam for equity to perform]…a proceeding for the removal of an executor or administrator should be bought against him personally and not in his representative capacity…

SECTION 147, page 1107, The supervisory power of the courts over executors and administrators is derived from the jurisdiction of courts of equity in cases of trusts arising in the settlement of estates, and may be exercised by courts of probate only when it is expressly or by necessary implication conferred on them by statute. [when there is no adequate remedy at law?] Page 1108, Procedure: an executor, desiring to obtain the instructions of the court, should bring a bill in equity, and not a petition.

SECTION 151, page 1113: POWERS before QUALIFICATIONS: …as a general rule neither an executor nor an administrator can sue or be sued, either at law or in equity, until he has been duly qualified…

SECTION 167, page 1136 AUTHORITY and DUTY in GENERAL, An executor or administrator has the primary duty to collect the assets of the estate, and he must take into his custody all personal chattels and collect all debts or claims due the estate. [see? It's your duty to get the OID from the banks because it belongs to the estate!]

SECTION 184, DUTIES AND LIABILITIES OF REPRESENTATIVES IN GENERAL: page 1160, An executor or administrator is under a duty to take custody of the state and administer it in such a manner as to preserve and protect the property for ultimate distribution. In the discharge of such duty he is held to the highest degree of good faith and is required to exercise that degree of care and diligence which prudent persons ordinarily exercise, under like circumstances, in their own personal affairs.

SECTION 185, Since an administrator is an officer of the court, his custody of the property of the state is deemed to be the custody of the court. The rep is entitled to the custody of the books and papers of the estate. [write Treasury requesting a full accounting and list of assets and debts due the estate?]

SECTION 187 DESIGNATION OF DEPOSIT, page 1166: The representative should make the deposit with a designation of his fiduciary capacity, and if the deposit is made in his individual name, without any designation of the trust, ['special deposit'??] he is liable for any loss which
results from such disposition of the funds, regardless of any question of negligence or intention in making the deposit in such form, and it is not material that he had at the time no money of his own deposited in the bank, or that he informed the bank, at the time of the deposit, that the funds belonged to the estate. However, a mere defect in designating his fiduciary capacity will not render a representative personally liable where the deposit has at all times been recognized as belonging to the estate and where the bank is chargeable with knowledge of the trust fund nature of the deposit.

SECTION 193. ENGAGING IN BUSINESS. page 1171, An executor may not engage in business with the funds of the estate, and if he does so he is chargeable with all losses incurred and profits made….an executor is not justified in placing or leaving assets in trade, for this is a hazardous use to permit of trust moneys and trading lies outside the scope of administrative functions….page 1172 note, Mere execution of trust by executor in ordinary way of gathering and distributing assets does not constitute doing business. [do not take your OID refund and commingle it with commerce?]

SECTION 231, page 1233, Generally a personal representative is entitled to credit [in his account] for debts of the decedent which he has paid…for the amount paid out in settling a bona fide claim against the estate, whereby a saving has been effected, but he cannot be allowed for an illegal claim which he paid to avoid family disgrace.

SECTION 239, page 1243, In General, An executor or administrator may not acquire individual interests inconsistent with his duties or make a personal profit from his dealings with the property of the estate; but the rule may be relaxed as to transactions in good faith, and beneficial, or not prejudicial, to the estate.

ABSENCE

ABSENTEE

Book 1

Administration and Distribution. The state may, by appropriate legislation, provide for the administration, and even for distribution of the estate of an absentee who has been absent for an unreasonable time or for such a length of time as gives rise to a reasonable presumption of death. [30, 60, 90 days? When is your bill so past due that they send notice of default to being proceedings?]
However, such legislation must insure that due process of law if afforded by providing adequate protection to the interests of the absentee in the event that he is alive, and in the case where the absentee actually is alive, the legislation must be applicable to that situation, and must not purport to authorize or validate the administration of his estate as that of a deceased person. [Wizard of Oz, scene when the dead witch is under the house: the Munchkin comes out with a "Death Certificate" and says "she's not just merely merely dead, she's really really dead."]

page 342, Transfer of Trust Estate: The court, in statutory proceedings in rem, may order the interest of an absentee, presumed to be dead, under a testamentary trust transferred to the persons, as trustees, who would be entitled thereto if he were dead. [see my Wizard of Oz comment above once again…]

page 343, Partition. Where, in a partition proceeding, a court having jurisdiction of property within the state acts on the presumption of death of a tenant in common arising from his long continued and unexplained absence, it should make such provision as is reasonably necessary to secure, protect and safeguard his rights an interests if it should turn out that he is alive. [how many times does this chapter repeat the idea "in case he is found alive" and "presume dead"?]

page 340, Due process limitations upon governmental regulation of the estates of absentees are treated in CJS "Constitutional Law SECTION 1421. [Now how bad do you want your Constitutional rights knowing that 's it's constitutional to presume you dead and take your estate? I put that in here too later].

Sec 6b, page 344
Under Special Statutes: Regardless of whether a person is dead or alive, his estate may be administered as that of an absentee, and unknown claimants thereto may be barred on strike compliance with statutes providing therefore where he has been absent from this usual place of residence and has concealed his whereabouts from his family for a prescribed number of years. Statutes…are construed to provide for the granting of administration of the estate of an absentee, rather than the estate of a decedent, and they do not repeal or supersedes statutes relations to administration of the estates of deceased persons.

Such statutes must be strictly complied with, especially with reference to taking a bond from the distributees conditioned on refunding the amount received to the supposed decedent if he is in fact alive at the time of distribution; and the administrator is personally liable where, instead of taking the bond required by statute, he takes a bond indemnifying himself.

Administration and Distribution: The State may provide for the administration and even for distribution of the estate of an absentee who has been absent for…such a length of time as gives rise to a reasonable presumption of death.

page 356, Process must be served on either the absentee or his representative [you can serve on an absentee? I thought he was absent?]. In the case of an absentee, the law allows a fictitious form of citation [commerce guru’s should be breathless here], as well as service on a duly appointed representative; WAIVER: where a representative is authorized to waive citation and does so, as by filing an answer on behalf of the absentee, the waiver is effective to bring the absent defendant constructively before the court and, notwithstanding the subsequent resignation of the original representative and the appointment of another in his place, the absentee is still constructively before the court and neither service nor waiver of service of process on the new representative is necessary. [that's why they don't check your I.D. when you appear in court, because it doesn't matter - you still represent the 'absentee/presumed dead' person, and you waived the citation when you filed on the dead person's behalf].

The residence of the absentee need not be stated in the citation. [you could easily find out they don't want you if they put the wrong address]. If the citation is properly served on the representative it is immaterial whether it is addressed to him or to the person whom he
represents. [they don't need your name correctly to match, they just need you to admit you are that name, that's it!].

A judgement rendered against an absentee who is not personally cited, and is represented only by an appointed representative is in the nature of a judgement in rem and not in personam. page 358.

SECTION 6a - UNDER GENERAL STATUTES, The estates of an absentee may and should be administered and distributed under general laws relating to the administration of the states of deceased persons, where his death can be satisfactorily proved, but not where he is in fact alive. The estate of a person presumed to be dead, but in fact alive, cannot be administered and disposed of as an escheated estate.

SECTION 6b - UNDER SPECIAL STATUES, Regardless of whether a person is dead or alive, his estate may be administered as that of an absentee…such statutes are for the specific purpose of construing to provide for the granting of administration on the estate of a decedent, and they do not repeal or supersede statutes relating to administration of the estates of deceased persons.

SECTION 14, page 355, Representatives in Executory Process. An attorney appointed, under statutory authority, in foreclosure proceedings by executory process where in it is alleged that the mortgagor is absent, represents, for purposes of foreclosure only, the mortgagor if he is living or his heirs if he is dead. Mere informalities in the appointment and proceedings subsequent thereto are not fatal….to justify the appointment, defendant in the executory process must be in fact an absentee; and it has been held that plaintiff should be ready to prove defendant's absence [that's why they need your name in court to prove you are dead, because the executor needs to be alive?  The judge wears black because he is judging the dead, or shall we say, "absentee/presumed dead"] or other sufficient cause for the appointment. However, the absence of the mortgagor need not be shown by authentic evidence; a mere allegation of absence authorizes the court to make the appointment. Although an attorney at law must be appointed, the designation of the appointee as representative instead of attorney will not vitiate the proceedings is he is actually a member of the bar, it being nothing more than an informality and not an absolute nullity. The attorney appointed represents the absent mortgagor, if he is living, and is heirs, if he is dead. He is not required to notify or communicate with either the mortgagor or the heirs, as the case may be.

page 356, SECTION 15, JURISDICTION, Where a trustee's bill asks for distribution of the trust estate in view of the cestui que trust's long absence, the court has jurisdiction of the trust property, and may close the trust estate.

PROCESS: process must be served on either the absentee or his representative. In the case of an absentee, the law allows a fictitious...

BOOK 25, SECTION 25, page 37 CURATOR: A term of the civil law use to denote a person who is appointed to take care of anything for another. It is stated in Guardian & Ward Sec 3 that in the civil law a guardian is termed a "curator" where his guardianship relates merely to the estate. A person appointed to represent an absentee against whom an action has been instituted is sometimes called a "curator ad hoc," or a "curator ad litem," see Absentees Sec 9.

WILLS
BOOK 96

SECTION 1077, page 748, OF PARTICULAR LOCAL COURTS. Jurisdiction to construe wills may reside in any local court which possesses general equity powers…either by virtue of statues or organic law. [county/state probate?] An action for the construction of a will will not be entertained where no necessity for a judicial construction thereof appears; and the court cannot acquire jurisdiction to construe a will by allegations that a question requiring construction exists when the record shows that there is no such question….equity will not assume jurisdiction of a bill for the construction of a will where the language is clear, unambiguous and not open to doubt...[did the mother express any doubt to the hospital
attendant, probate, registrar in the period of time she had the baby as to the 'slightest intentions' of a will? If there is no doubt expressed then the law says there is an implied will.]

SECTION 1082, at common law the executor or a deceased executor succeeded as the executor of the will of the first testator. Where the rule prevails, an executor of an executor may sue for the construction of a will for which his testator was the executor. However, the doctrine has not been followed in most jurisdictions, and an executor of an executor cannot maintain a bill for the construction of a will of which his testator was executor, or executor and legatee, because he does not succeed to the fiduciary position of his testator. [does this indicate the power of the first executor exceeds the power of the second?]

CONSTITUTION
BOOK 16D

SECTION 1421. Estates of Absentees and Persons Presumed to Be Dead. Under the constitutional guaranties against the taking or deprivation of property without due process of law, a probate court has no power under its general authority to administer the property of a person who is alive. However, a status conferring power on courts to regulate and to administer the states of absentees, presumptively dead, is valid, where the procedure satisfies constitutional requirements, as where provision is made for giving proper notice of the proceeding and adequate safeguards are provided to protect the absentee’s interests in case of his reappearance, as by proving for the preservation of the estate for a reasonable period before permitting distribution to the heirs.

PRIVATE DWELLING
Book 28, page 605, "Private Dwelling" A private house, one intended for private living, a place or house in which a person or family lives in an individual or private state. [did they just say "private state"? or e-state?]

page 951, SECTION 46, Intermeddling with Estate. A technical intermeddling with the estate does not per se disqualify one from becoming administrator, but material intermeddling may do so.

EASEMENT
Book 28

Sec 8 page 644-650
The presumption of an easement arises only where the person against whom the right is claimed could have lawfully interrupted or prevented the exercise of the supported right. [What? First presumption of death, now presumption of easement - HAVE YOU NOTICED THERE’S A LOT OF ‘PRESUMING’ GOING ON IN THESE LAWS?]

page 638, an easement ordinarily may be create only by deed or by prescription….which presupposes a grant (albeit a lost grant), …and may be created by agreement express or implied.

Property Subject to Prescription: an easement may be acquired in a homestead as in other property.

An easement may be created by agreement - express or implied, operation of law.

page 686, section 30: Easements may be implied in favor of a grantor or grantee. Such implications can only be made in connection with a conveyance [baby footprints?]. In view of the rule that a convenience is to be construed against the grantor, the court will imply an easement in favor of the grantor [county/state?] more easily than it will imply an easement in favor of the grantor [new born baby?].

page 624, section 1, "Servitude" is the civil law term for "easement" in the common law, and the two terms are often used indiscriminately. "Quasi-easement" "equitable easement". There may arise where the dominant and servient estates are severed after having been unified; and the use by the owner of one part of his land for the benefit of another part, is
spoken of as a quasi easement, and the land benefited is referred to as the "quasi-dominant
tenement," and the part utilized for the benefit of the land benefited is referred to as the "quasi-
servient tenement." A charge or burden resting on one estate for the benefit or advantage of
another. It is a charge or encumbrance which follows the land, and is indivisible. Real
servitude in the civil law, is a right which one estate or piece of land owes to another estate.
[It's a legal trespass or nuisance].

Easement may be acquired by prescription [IT MEANS THEY GET IT IF YOU DON'T STOP IT] as against both the trustee and the trust.

Easements may be acquired by anyone and by anyone by prescription.

page 648, A substantial interruption during the period of adverse use is fatal to the
claim...Interruptions of the use of an easement when brought to the knowledge of claimant
rebut the presumption of a grant, unless such interruptions are promptly contested by claimant
and the easement reasserted. [monthly bank statements, or monthly bills? Do we need to
rebut presumptive estate easements found in them?] An easement cannot arise by
prescription if the owner of the servient estate has habitually broken and interrupted the uses
at will or denied the right and threatened to put an end to the use and enjoyment of it, for it
cannot be said that the owner has acquiesced in a right which has been exercised against his
protest.

An interruption or breach of continuity of the use, sufficient to stop the running of the
prescription period; ordinarily, occurs only where there is a physical interruption or some
unequivocal act of ownership on the part of the owner of the servient tenement, or of one in
privity with him. [when the executor shows up and says 'stop']

page 651, Admission of Superior Right in Landowner: An admission, by the claimant of an
easement, of a superior right in the owner of the servient tenement, is fatal to the claim. [the
bank cannot admit they take your OID or it's fatal to their easement on the estate? They CANT
ask for permission either because that would void it too. You must rebut/protest their
easement.]

page 652, Easement must be "adverse" to servient tenement [estate]. To be adverse, the use
must be under a claim of right inconsistent with, or contrary to, the interest of the owner
[executor/estate], and of such character that it is difficult or impossible to account for it except
on the presumption of a grant. [so it's lawful to take from the estate by presumption that it was
granted, no records needed?] page 660, section 16, inasmuch as the acquisition of an
easement by adverse use follows the analogy of the acquisition of the title by adverse
possession...section 17, page 662, What Easements Created? Unless there is some statutory
provision to the contrary, all easements which may be acquired by grant may also be acquired
by prescription. [they get assumed easement as bona fide as if you granted
it to them voluntarily].

IS THIS WHAT WE SHOULD BE TELLING BANKS/BAR:
["...and you are denied grant of prescriptive easement on the Estate."]
"Any presumption of presumptive grant of easement on the Estate is hereby rebutted and estopped."
"You are estopped from granting of prescriptive easement and presumption of dominant servient tenement of the
Estate."]
"This office renounces any and all claim by your office of adverse right of easement of the estate."
"You are hereby notified of your presumptive adverse right of prescriptive easement and denied any right of grant
of conveyance of easement on the Estate."
...and you are noticed of the extinguishment by release to the owner of the servient estate...and by accession all
interest be returned to the Estate.
You are hereby notified of your presumption of adverse right of prescriptive easement and retroactively denied
any right of grant of conveyance of easement and material intermeddling with the Estate."]

page 720, SECTION 57. MERGER: When an estate in fee and an easement in the estate are
acquired by the same person, the easement is extinguished by merger or confusion...all
subordinate and inferior derivative rights are necessarily merged and lost in his higher right. [is
this where the executor lawfully claims the easement with a single dollar bill as lawful money
EXECUTORS & ADMINISTRATORS
Book 34

SECTION 367, page 94 Rights of creditors in estate vest at time of decedent's death…Under some probate acts the word "claims" has reference only to such debts or demands against decedent as might have been enforced against him his lifetime by personal actions for the recovery of money, and on which only a money judgment could have been rendered.

SECTION 380 TAXES AND ASSESSMENTS. The estate of a decedent is not fully administered and there can be no valid final settlement of the administrator until all demands growing out of the assessment of taxes against the estate have been paid or provided for…

SECTION 388 EXPENSES OF ADMINISTRATION The legitimate expenses of administration are to be met out of the assets of the estate, but the proper mode of doing this is for the representative to make the necessary disbursements, for which he will be allowed credit in his accounts, rather than by allowing such expenses as a direct charge against the estate, as the expenses of administration are not usually considered debts of decedent. SECTION 390 Valid claims of an executor or administrator against the estate he is administering will be allowed.

SECTION 418 In general, unless required by statute, a claim against a decedent's estate need not, as a rule, be verified…unless the representative requests him to do so, and a want of verification may, of course, be waived….WHAT CLAIMS MUST BE VERIFIED…The requirement that claims against a decedent's estate must be verified generally applies to all claims or demands which are payable out of the assets of the estate.

SECTION 428 No claims are recognized against a dead man's estate except such as have been allowed by the probate court or established by some other court of competent jurisdiction, and duly classified by the probate court.

SECTION 457 PRIORITIES AND PAYMENT (of Debts). One the most important duties of the personal representative is the payment of debts which have been legally established against the estate in their order. SECTION 460 AT COMMON LAW …the proper expenses of the funeral and of proving the will, if one existed, had priority over all debts, and this priority has not been taken away by modern statutes….apart from these expenses the debts of decedent were, under the common-law system, divided into three main classes: 1) debts of record or by specialty due to the Crown. 2) debts by record such as final judgments rendered against decedent in his lifetime, final decrees of a court of equity being on the same footing. 3) debts due on bonds when founded on consideration. 4) debts due by simple contract. SECTION 461 The common law of England giving preference to debts due the Crown has, in some states, been declared to be in force so as to give priority over the claims of citizens….[does the executor summon Treasury to provide a final statement of account in order that the estate can settle the debts due the Crown, etc – with one lawful dollar? Hello David and Timothy 😊]

SECTION 514 JURISDICTION. Jurisdiction of proceedings for the distribution of a decedent's estate is usually vested the probate court although under certain circumstances a court of equity may take jurisdiction….but such courts (of equity) will not usually take jurisdiction unless the probate court cannot afford adequate relief. COUNTY OF DOMICILE The probate court of the county in which decedent was domiciled was the proper tribunal to determine distribution.

SECTION 515, WHO MAY INSTITUTE PROCEEDINGS (against estate) AND CONDITIONS PRECEDENT. Any person beneficially interested in the estate has the right to institute proceedings…LOSS OF RIGHT. The right to seek an order of distribution may be lost by abandonment. SECTION 528 Only an interested person may bring a suit or proceeding…to obtain relief against, … a decedent's estate may be brought by, and only by, an interested person. [is the IRS expanding it's definition of "person" to included corporations so that the BAR/Banks can legally act against estates?]

SECTION 539 EXISTENCE AND VALIDITY OF DEBTS In order to authorize a sale of
decedent's land to pay debts, the existence of valid and legally enforceable debts of the state must be shown. A sale should not be ordered where the alleged debts are fraudulent, ...contested and doubtful.

ESTATE BOOK 31

SECTION 1, Definition: the word "estate" may mean property, and may signify and species of property, real or personal. While the terms "estate" and "property" are often used synonymously, it has also been held that the word "estate" has equally as broad, if not a broader, meaning than "property." (See CJS "WILLS" SECTION 759). SECTION 2, In its primary and technical sense, "estate" refers only to an interest in land; but, in its wider import it applies to all kinds of property, personal or real. SECTION 7, Equitable estates are in equity what legal estates are in law.

...where an estate is created by deed see CJS "DEEDS" section 123, TRUSTS 186, WILLS 870.

SECTION 5, estates or interest are also classified as vested or contingent, and as legal or equitable. An "interest" in property may be vested, executory, or contingent. "Executory interest" is a general term, comprising all future estates and interests in land or personally....An estate is vested when there is an immediate right of present enjoyment or a present fixed right of future enjoyment; and estate either present or future, the title to which has become established in some person or persons and is no longer subject to any contingency, including all estates which are not contingent...

SECTION 32, A life estate may be created to be enjoyed without the intervention of a trustee. [is that because an executor has not yet appointed any trustee, nor need not?]

SECTION 33, a life estate is alienable. [is this related to "prescriptive grant of easement"? or, is it telling us that the Crown has a lawful debt against all vested life estates?]

SECTION 36, Present Value of Life Estate: In determining the present value of a life estate the English rule was to consider an estate for life as equal in value to one third of the whole, and this rule has been adopted in some of the cases in this country. The general rule, however, is to calculate the value according to the probable duration of the life estate, based on the tables of life expectancy...the life estate is to be valued according to the mortality tables as of the date the life estate is created or becomes effective, regardless of the fact that before valuation has been made, even short of the period of expectancy, the life tenant may have died. [is this the bond on the birth certificate being traded according to life expectancy tables?]

SECTION 3, Statutory Provisions: Matters relating to estates are regulated and controlled by some statutes [only some? Because they really do not have jurisdiction at all?], and where such statutory restrictions exist, only such estates may exist as are permitted by law...and where such statutes are in derogation of the common law they must be strictly construed. [sounds like state statute barely has any control if the statues must be strictly construed. what if all state statute is in derogation of common law?]

page 17, note 18, "The policy of the law is to stabilize land titles and to favor vested estates."

SECTION 31, Conventional life estates are created by the acts of the parties and are governed by the terms of their creating instruments [mother's new born: what did the Informant grant at the hospital, her signature?], except as thereby modified, the ordinary incidents of conventional and legal life estates are the same. SECTION 32 Life estates may be created by express words or by implication...but no particular words are necessary for their establishment...[they can be created] by implication or judicial construction. No particular words are required or are necessary to create a life estate. A life estate may be created not only by an express limitation to that effect but by a general grant without defining any specific interest or estate, as where a grant is made to a man, or to a man and his assigns, without any limitation in point of time....A grant of the right to possession of the property is necessary to create a life estate for the
reason that the right to possession is one of the essential elements in the creation of such an estate. [birth certificate? Is that your possession of the legal title of the estate?]

"Estate" and "equity" are not synonymous terms either in meaning or substance.

[My humble conclusion from just the above: because you have not expressed a change of domicile from when you were an infant to either Treasury/Registrar/County/State/etc you are deemed “absentee” and therefore “presumed dead” and when the executor finally does notify the appropriate entities of his new domicile he can go around and collect the bonds as payment from the various intermeddlers for when the ‘system’ presumed grant of easement on the estate and administered in the absence of the executor because he is now in fact “found alive” because he is no longer just “merely merely dead” absentee].

I humbly submit to you my findings as worded in Corpus Juris Secundum.

To all my fellow executors, may you be found alive today!

Tomas Pynchin.

Ps: if you would like more details on any particular title I’ll see what I can do.