

this point, directly, is that of the residuary legatee herself. She testifies in answer to interrogatory 100 that the real estate was not transferred to her; in answer to interrogatory 110, that she assumed control of the house where she lives; in answer to interrogatory 114, that this is all the real estate she has had anything to do with since the decrees; in answer to interrogatory 241, that she has received farms towards her legacy of \$20,000; and in answer to interrogatory 324, that the executor has in his hands the other real estate. Nothing has been pointed out or observed to contradict this testimony. It is not understood that the real estate pointed out to the marshal includes any of these farms, or the place mentioned as the place where she lives. This is not, however, very clear. If not, it is found to be in the hands of the executor, and should be exhausted for the purpose of satisfying the decree before taking the assets in the hands of the trustee. She joins with the others in setting up in this motion that this real estate is still in the hands of the executor. This would estop her from afterwards claiming that it was not, but was included in that surrendered to her, if she made the motion herself, or it was done by her authority. The motion is signed by her husband as solicitor. He is the executor, and in a somewhat adversary position. There might be a question about his authority, and none should be left about her renunciation of this property for this purpose. As trustee she appears to be entitled to have the levy suspended until the real estate pointed out is exhausted, when her renunciation is made clear. This can be done by filing an acknowledgment that the motion is made with her authority.

Let an order be entered that on the filing of an acknowledgment by Margaret B. Sowles, taken by a notary public, that this motion is made by her authority, if done within six days, the levy heretofore made be suspended until the estate named in the motion as being in the hands of the executor is exhausted.

SHELDON and another v. WHEELER and another.

(Circuit Court, N. D. Illinois. November 21, 1887.)

CONFLICT OF LAWS—ASSIGNMENT FOR BENEFIT OF CREDITORS—NON-RESIDENCY
—ATTACHMENT.

A voluntary assignee of a non-resident under the laws of another state cannot hold assets found in Illinois against attaching creditors resident in that state.¹

P. L. Shuman, for plaintiff.

Butz & Eschenburg, for garnishee.

¹A voluntary general assignment for the benefit of creditors, if valid where made, will be valid to transfer personal property wherever situated, except as it conflicts with the rights of resident creditors. *Schuler v. Israel*, 27 Fed. Rep. 851, and note.

BLODGETT, J., (*orally.*) This is an attachment suit, the plaintiffs being citizens of Illinois, and the defendants citizens of Connecticut. The suit was commenced against the defendant as a non-resident of this state, under the attachment laws of Illinois; an attachment writ issued and served by summoning certain persons as garnishees. One Merwin intervenes, and claims to be the owner of, and entitled to, the proceeds of the indebtedness garnished, on the ground that he is the voluntary assignee of Wheeler & Co., the attachment debtors, who reside and do business in the state of Connecticut. Wheeler & Co. made a voluntary assignment, under which Merwin is the acting assignee, for the benefit of their creditors, and Merwin sets up a superior right and claim as such assignee to the assets attached.

I am satisfied that the law in this case was properly stated by the supreme court of Illinois in *Heyer v. Alexander*, 108 Ill. 385, where it is stated, in substance, as the true rule, that a voluntary assignee under the laws of another state will not be allowed to take the property of the assignor found in this state, as against a creditor of the assignor resident in this state who has brought an attachment for the purpose of reaching the assets of such non-resident debtor. In other words, that each state, being a separate and independent sovereignty, will see to it that its own citizens are protected in the collection of their debts against non-resident debtors, so far as the assets of such debtors are within the jurisdiction of the state. There have been some later decisions by the supreme court of Illinois, but I do not think they disturb the principle upon which *Heyer v. Alexander* was decided.

The demurrer to the interpleader is sustained, and the interpleader dismissed.

In re Extradition of LUDWIG.

(Circuit Court, S. D. New York. September 19, 1887.)

EXTRADITION—ADJOURNMENT OF HEARING.

It is within the discretion of the commissioner to adjourn the hearing of extradition proceedings on motion of the sovereignty making the demand for the accused, and the prisoner is not entitled to be discharged from custody on *habeas corpus* on the ground that the adjournment is unreasonably long, unless it is made to appear that the commissioner has abused his discretion,

On Habeas Corpus.

Robert Waite, for Ludwig.

Solomon & Dulon, for the German government.

LACOMBE, J. The first question raised in this case is whether the adjournment of the hearing granted by the commissioner was unreasonable. That his power to grant adjournments at the request of either party is unquestionable was held in *Re Macdonnell*, 11 Blatchf. 100. It is said in that case that "the commissioner must exercise a just and reasonable