Title II. Of Donations Inter Vivos (Between Living Persons) and Mortis Causa (In Prospect of Death) (Art. 1467 - 1755)

Louisiana

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CIVIL CODES OF LOUISIANA

ART. 1468

TITLE II—OF DONATIONS INTER VIVOS (BETWEEN LIVING PERSONS) AND MORTIS CAUSA (IN PROSPECT OF DEATH)

Chapter 1—General Dispositions

ART. 1467. Property can neither be acquired nor disposed of gratuitously, unless by donations inter vivos or mortis causa, made in the forms hereafter established.

RCC—870, 1468, 1469, 1470 et seq., 1523 et seq., 1536 et seq., 1574 et seq., 1724 et seq., 1734 et seq., 1743 et seq., 1890. Acts 1882, No. 124.

RCC 1870, Art. 1467. (Same as Art. 1467 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1453. (No reference in Projet)

Property can neither be acquired nor disposed of gratuitously, unless by donations inter vivos or mortis causa, made in the forms hereafter established for one or the other of these acts.

CC 1808, p. 208, Art. 1.

Same as above.

CN 1804, Art. 893.

Property can be disposed of gratuitously only by donation inter vivos or by testament, in the forms hereafter established.

ART. 1468. A donation inter vivos (between living persons)* is an act by which the donor divests himself, at present and irrevocably, of the thing given, in favor of the donee who accepts it. (As amended by Acts 1871, No. 87)

RCC—870, 1467, 1528, 1534, 1536 et seq., 1550, 1559 et seq., 1726, 1734 et seq., 1743, 1744 et seq., 1749, 1750.

RCC 1870, Art. 1468.

A donation inter vivos (between living persons)* is an act by which the donee [donor] divests himself at present and irrevocably of the thing given in favor of the donee who accepts it.

CC 1825, Art. 1454. (No reference in Projet)

Same as above; but comma (,) after “given.”

CC 1808, p. 208, Art. 2.

Same as RCC 1870, Art. 1468, as amended by Acts 1871, No. 87, above; but no punctuation after “himself”, after “irrevocably”, or after “given.”

CN 1804, Art. 894.

Same as above.

*"(between living persons)" has no counterpart in the French text.
ART. 1469. A donation mortis causa (in prospect of death)* is an act to take effect, when the donor shall no longer exist, by which he disposes of the whole or a part of his property, and which is revocable.

RCC—870, 1467, 1570 et seq., 1574 et seq., 1597 et seq., 1727, 1735 et seq.

RCC 1870, Art. 1469.
Same as above,

CC 1825, Art. 1455.
Same as above.

CC 1808, p. 208, Art. 3.
A donation mortis causa (in prospect of death)* is an act by which the donor disposes of the whole or a part of his property, for the time when he shall no longer exist, which donation he may revoke.

CN 1804, Art. 895.
The testament is an act by which the testator disposes, for the time when he shall no longer exist, of all or part of his property, and which he may revoke.

*(in prospect of death)* has no counterpart in French text.

Chapter 2—Of the Capacity Necessary for Disposing and Receiving by Donation Inter Vivos or Mortis Causa

ART. 1470. All persons may dispose or receive by donation inter vivos or mortis causa, except such as the law expressly declares incapable.

RCC—950 et seq., 1471 et seq., 1602, 1703, 1734, 2404.

RCC 1870, Art. 1470.
(Same as Art. 1470 of Proposed Revision of 1869)

CC 1825, Art. 1456.
(No reference in Projet)

All persons may dispose of or receive by donation inter vivos or mortis causa, except such as the law expressly declares incapable.

CC 1808, p. 208, Art. 4.
Same as above; but no punctuation after "causa."

CN 1804, Art. 902.
All persons may dispose and receive, either by donation inter vivos, or by testament, except such as the law declares incapable.

*...
Art. 1471. The incapacities are absolute or relative:
Absolute incapacities prevent the giving or receiving indefinitely with regard to all persons;
Relative incapacities prevent the giving to certain persons, or receiving from them.
RCC—950 et seq., 1470, 1475 et seq., 1602, 2404.
RCC 1870, Art. 1471.
Same as above.
CC 1825, Art. 1457. (Projet, p. 204. Addition adopted; no comment)
Les incapacités sont absolues ou relatives:
Les incapacités absolues empêchent de donner ou recevoir indéfiniment à l’égard de toutes personnes;
Les incapacités relatives empêchent de donner à certaines personnes ou de recevoir d’elles.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 1472. It is sufficient if the capacity of giving exists at the moment the donation is made.
RCC—951, 1470, 1477 et seq.
RCC 1870, Art. 1472.
Same as above.
CC 1825, Art. 1458. (Projet, p. 204. Addition adopted; no comment)
Il suffit que la capacité de donner existe au moment où se fait la donation.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 1473. With regard to the capacity of receiving, it is sufficient, if it exists at the moment of the acceptance of the donation inter vivos, or at the opening of the succession of the testator.
RCC 1870, Art. 1473.
Same as above.
CC 1825, Art. 1459. (Projet, p. 205. Addition adopted; no comment)
A l’égard de la capacité de recevoir, il suffit qu’elle existe au moment de l’acceptation de la donation entre-vifs, ou au moment de l’ouverture de la succession du testateur.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 1474. When the donation depends on the fulfillment of a condition, it is sufficient if the donee is capable of receiving at the moment the condition is accomplished.
RCC—1473, 1529, 2022 et seq.
Art. 1475

To make a donation either inter vivos or mortis causa, one must be of sound mind.

RCC-31, 33, 389 et seq., 401, 402, 403, 951, 1471, 1788 (8, 9, 10, 11, 12), 1789.

ART. 1476. The minor under sixteen years can not dispose of any property, save, however, the dispositions contained in the ninth chapter of this title.

RCC—34, 951, 1477 et seq., 1747, 1748, 2226, 2330.

ART. 1477. The minor above sixteen can dispose only mortis causa (in prospect of death.)*

But he may dispose in this manner of the same amount as a person of full age can do, even to the prejudice of the usufruct granted.
by law during their marriage to the father and mother of the minor not emancipated\(^*\); and the usufruct in that case will cease to the advantage of the person in whose favor the minor had disposed of it if the minor dies, being still under the power of his father and mother; and to make such disposition the minor has no need of the authorization or concurrence of his curator.

RCC—221, 373, 374, 951, 1476, 1478, 1479, 1747, 1748, 2226, 2330.

RCC 1870, Art. 1477.  
(Same as Art. 1477 of Proposed Revision of 1869)

CC 1825, Art. 1464.  
(No reference in Projet)

Par. 1 same as par. 1, above.

But he may dispose in this manner of the same amount as a person of full age can do, even to the prejudice of the usufruct granted by law to the father and mother of the minor not emancipated,\(^*\) during marriage; and the usufruct in that case, will cease to the advantage of the person in whose favor the minor had disposed of it if the minor dies, being still under the power of his father and mother; and to make such disposition the minor has no need of the authorization or concurrence of his curator.

CC 1808, p. 208, Art. 7.

Par. 1 same as par. 1, above; but comma (,) after “sixteen.”

But he may dispose in this manner of the same amount as a person of full age can do, even to the prejudice of the usufruct granted by law to the father and mother of the minor not emancipated,\(^*\) during marriage; and the usufruct in that case, will cease to the advantage of him in whose favor the minor has disposed of it if the said minor dies being still under the power of his father and mother; and to dispose thus the minor has no need of the authorization or concurrence of his curator.

CN 1804, Art. 904.

The minor above sixteen can dispose only by testament, and only up to one half of the property that a person of full age is permitted by law to dispose of.

\(^*\)“(in prospect of death)” has no counterpart in French text.

\(^*\)“The father and mother of the minor not emancipated” has an incomplete counterpart in French text of “ses père et mère.”

**Art. 1478.** Nevertheless, the minor, who has a right to dispose by donation mortis causa, can not make such disposition in favor of his tutor, nor of his preceptors or instructors, whilst he is under their authority.

RCC—361, 374, 1470, 1476, 1477, 1479.
Art. 1479

The minor, even when he comes of age, cannot dispose of property, either by donation *inter vivos* or *mortis causa* in favor of the person who has been his tutor, unless the final account of the tutorship has been previously rendered and settled.

The two cases above mentioned do not apply to the relations of the minor who* have been his tutors, curators or institutors.

**RCC 1870, Art. 1479.** (Same as Act 1479 of Proposed Revision of 1869; in conformity with Acts 1830, p. 48, §9 (RS §3827))

Same as above.

**CC 1825, Art. 1466.** (No reference in Projet)

Le mineur, même devenu majeur, ne pourra disposer soit par donation entre­viva, soit par donation pour cause de mort, au profit de celui qui aura été son tuteur, ou curateur aux biens, si le compte définitif de sa tutelle ou curatelle n’a été préalablement rendu et appuré (apuré).

Sont exceptés dans les deux cas ci-dessus, les parens du mineur qui seront ou* auront été ses tuteurs, curateurs ou instituteurs.

**p. 211, Art. 8, pars. 2, 3.**

Le mineur même devenu majeur, ne pourra disposer soit par donation entre­viva, soit par donation pour cause de mort, au profit de celui qui aura été son tuteur ou curateur aux biens, si le compte définitif de la tutelle ou curatelle n’a été préalablement rendu et appuré (apuré).

Par. 3 same as par. 2, above; but comma (,) after “exceptés.”
The minor, when he comes of age, cannot dispose of property either by donation *inter vivos* or by testament, in favor of the person who has been his tutor, unless the final account of the tutorship has been previously rendered and settled.

*The two cases above mentioned do not apply to the ascendants of the minors who are or have been their tutors.*

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**Art. 1480.** A married woman can not make a donation *inter vivos* without the concurrence or special consent of her husband or unless she be authorized by the judge, conformably to what is prescribed under the title: *Of Husband and Wife.*

But she needs neither the consent of her husband nor any judicial authorization to dispose by donation *mortis causa.*


**RCC 1870, Art. 1480.**

Same as above.

**CC 1825, Art. 1467.**

Same as above; but comma (,) after "husband" in par. 1; no punctuation after "title."

**CC 1808, p. 210, Art. 9.**

A married woman cannot make a donation *inter vivos* without the concurrence or special consent of her husband, or unless she be authorized by judicial process, conformably to what is prescribed by the title of *husband and wife."

Par. 2 same as par. 2, above; but comma (,) after "authorization."

**CN 1804, Art. 905.**

A married woman cannot make a donation *inter vivos* without the concurrence or special consent of her husband, or unless she be authorized by the judge, conformably to what is prescribed by articles 217 and 219, of the title of *Marriage."

She needs neither the consent of her husband, nor any judicial authorization to dispose by testament.

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*In connection with this article see Acts 1926, No. 132; 1928, No. 283.*
ART. 1481. Those who have lived together in open* concubinage are respectively incapable of making to each other, whether inter vivos or mortis causa, any donation of immovables; and if they make a donation of movables, it can not exceed one-tenth part of the whole value of their estate.

Those who afterwards marry are excepted from this rule.


RCC 1870, Art. 1481.
Same as above.

CC 1825, Art. 1468. (Projet, p. 205. Amendment adopted; no comment)
Same as above; but comma (,) after "marry."

Those who have lived together in open** concubinage, are respectively incapable of making any universal donation, or on an universal title, whether between inter vivos [whether inter vivos] or mortis causa.

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Book III, Title IX, Art. 11.
Those who have lived together in open** concubinage are respectively incapable of making donations to each other.

**"Open" has no counterpart in French text.
**Compare French and English texts.

ART. 1482. In order to be capable of receiving by donation inter vivos, it suffices to be conceived at the time of the donation.

In order to be capable of receiving by last will, it suffices to be conceived at the time of the decease.

But the donations or the last will can have effect only in case the child should be born alive.

RCC—28, 29, 30, 76, 184, 186, 187, 189, 252, 950, 953 et seq., 1470, 1473, 1705.

RCC 1870, Art. 1482.
Same as above.

CC 1825, Art. 1469. (Projet, p. 205. Amendment adopted; comment by redactors)
Same as above.

Pour être capable de recevoir entre-vifs, il suffit d’être conçu au moment de la donation.
Pour être capable de recevoir par testament, il suffit d’être conçu à l’époque du décès.
In order to be capable of receiving by donation \textit{inter vivos}, it suffices to be conceived at the time of the donation.

Par. 2 same as par. 2, above.

But the donation or the last will can have effect only in case the child should be born capable of living.

\textbf{ART. 1483.} Natural children or acknowledged illegitimate children can not receive from their natural parents, by donations \textit{inter vivos} or \textit{mortis causa} beyond what is strictly necessary to procure them sustenance, or an occupation or profession which may maintain them, whenever the father or the mother who has thus disposed in their favor, leaves legitimate children or descendants.

Those donations shall be reducible in case of excess, according to the rules laid down under the title: \textit{Of Father and Child}.

\textbf{RCC 1870, Art. 1483.} \hspace{1cm} (Same as Art. 1483 of Proposed Revision of 1869)

\textbf{CC 1808, p. 210, Art. 11.}

Natural children or acknowledged bastards cannot receive from their natural parents, by donations \textit{inter vivos} or \textit{mortis causa} beyond what is strictly necessary to procure them sustenance, or an occupation or profession which may maintain them, whenever the father or the mother who has thus disposed in their favor, leaves legitimate children or descendants.

Those donations shall be reducible in case of excess, according to the rules laid down at the title of \textit{father and child}.

\textbf{CN 1804, Art. 906.}

In order to be capable of receiving by last will, it suffices to be conceived at the time of the decease of the testator.

Par. 3 same as par. 3, above.
Art. 1484. When the natural mother has not left any legitimate children or descendants, natural children may acquire from her by donation *inter vivos* or mortis causa, to the whole amount of her succession.

RCC—918, 920, 1483, 1485, 1488, 1494, 1496.

RCC 1870, Art. 1484.
Same as above.

CC 1825, Art. 1471. (No reference in Projet)
Same as above.

Same as above.

CN 1804. No corresponding article.

Art. 1485. But if she has left them only a part, and has disposed of the rest in favor of other persons, her natural children have no action against her heirs for anything more than so much as is wanting to supply the maintenance that is secured to them by law in case what she has left them be not sufficient for their support.

RCC—230, 243, 918, 920, 1483, 1484, 1488, 1494.

RCC 1870, Art. 1485.
Same as above.

CC 1825, Art. 1472. (No reference in Projet)
Same as above; but comma (,) after "law:"

CC 1808, p. 210, Art. 13, par. 2.
But if she has left them only a part, and has disposed of the rest in favor of other persons, her natural children have no action against her or her heirs, but for a supply of the sustenance that is secured to them by law, in case what she has left them be not sufficient for that sustenance.

CN 1804. No corresponding article.
ART. 1486. When the natural father has not left legitimate children or descendants, the natural child or children acknowledged by him may receive from him, by donation inter vivos or mortis causa to the amount of the following proportions, to wit:

One-fourth of his property, if he leaves legitimate ascendants or legitimate brothers or sisters or descendants from such brothers and sisters; and one-third, if he leaves only more remote collateral relations.

RCC—919, 920, 1483 et seq., 1487, 1488, 1494, 1496.

RCC 1870, Art. 1486. (Same as Art. 1486 of Proposed Revision of 1869)

Same as above.

RCC 1825, Art. 1473. (Projet, p. 205. Amendment † adopted; comment by redactors)

Par. 1 same as par. 1, above; but comma (,) after "or children", and after "causa."

One fourth of his property, if he leaves legitimate ascendants or legitimate brothers or sisters or descendants from such brothers and sisters; and one third, if he leaves* more remote collateral relations.

CC 1808, p. 210, Art. 14. (Par. 1 same as par. 1, above; but no punctuation after "from him"; comma (,) after "by him."

Of the third part of his property, if he leaves legitimate ascendants: of the half, if he leaves legitimate brothers and sisters; and of three-fourths, if he leaves collaterals below brothers and sisters, provided always that in all these cases, if he has not left them a sufficient portion for the sustenance that is secured to them by law, they have an action of supplement similar to that which lies against the natural mother in the preceding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "only."

ART. 1487. In all cases in which the father disposes, in favor of his natural children, of the portion permitted him by law to dispose of, he is bound to dispose of the rest of his property in favor of his legitimate relations; every other disposition shall be null, except those which he may make in favor of some public institution.

RCC—1483 et seq., 1486, 1488, 1496.

RCC 1870, Art. 1487. Same as above.
Art. 1488

Natural fathers and mothers can, in no case, dispose of property in favor of their adulterine or incestuous children, unless to the mere amount of what is necessary to their sustenance, or to procure them an occupation or profession by which to support themselves.

RCC—230, 243, 245, 920, 1483 et seq., 1496.

Art. 1489.

Doctors of physic or surgeons, who have professionally attended a person during the sickness of which he dies, can not receive any benefit from donations inter vivos or mortis causa made in their favor by the sick person during that sickness. To this, however, there are the following exceptions:

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1. Remunerative dispositions made on a particular account,* regard being had to the means of the disposer and to the services rendered.

2. Universal disposition in case of consanguinity.

The same rules are observed with regard to ministers of religious worship.

RCC—1491, 1496, 1513, 1523, 1525, 1526, 1605, 1606, 1612, 3200, 3201.

RCC 1870, Art. 1489.

Same as above.

CC 1825, Art. 1476. (No reference in Projet)

Same as above; but semicolon (;) after "rendered."

CC 1806, p. 212, Art. 16.

Doctors of physic or surgeons who have professionally attended a person during the sickness of which he or she dies, cannot receive any benefit from donations inter vivos or mortis causa made in their favor by the sick person during that sickness.—To this however there are the following exceptions:

Subds. 1, 2 same as subds. 1, 2, above; but semicolon (;) after "consanguinity."

The same rules are observed with regard to the minister of religious worship.

CN 1804, Art. 909.

Doctors of medicine or surgery, health officers and pharmacists, who have professionally attended a person during the sickness of which he dies, cannot receive any benefit from donations inter vivos or by testament made in their favor by the sick person during that sickness.

To this, however, there are the following exceptions, 1. Remunerative dispositions under a particular title, regard being had to the means of the disposer and to the services rendered;

2. Universal dispositions, in case of consanguinity up to the fourth degree inclusively, provided however that the deceased has no heirs in the direct line;
Art. 1490

Donations inter vivos and mortis causa may be made in favor of a stranger, when the laws of his country do not prohibit similar dispositions from being made in favor of a citizen of this State.

RCC—10, 491.
RCC 1870, Art. 1490.
Same as above.
CC 1825, Art. 1477.
(Projet, p. 206. Addition adopted; comment by redactors)
On pourra disposer en faveur d’un étranger, lorsque les lois du pays de cet étranger ne défendent pas de disposer au profit d’un citoyen de cet État.

CC 1808. No corresponding article.
CN 1804, Art. 912.
No disposition can be made in favor of a stranger, unless the stranger could dispose in favor of a Frenchman.

On ne pourra disposer au profit d’un étranger, que dans le cas où cet étranger pourrait disposer au profit d’un Français.

Art. 1491. Every disposition in favor of a person incapable of receiving, shall be null, whether it be disguised under the form of an onerous contract, or be made under the name of persons interposed.

The father and mother, the children and descendants and the husband or wife of the incapable person, shall be reputed persons interposed.

RCC—1246, 1248, 1481 et seq., 1489, 1524, 1751, 1754, 1755, 1774, 2239, 2287, 2444.
RCC 1870, Art. 1491.
Same as above.
CC 1825, Art. 1478.
(No reference in Projet)
Toute disposition en faveur d’un incapable, sera nulle, soit qu’on le [la] déguise sous la forme d’un contrat onéreux, soit qu’on la fasse sous le nom de personnes interposées.
Seront réputées personnes interposées, les pères et mères, les enfants et descendants et l’époux de la personne incapable.

CC 1808, p. 212, Art. 17.
Same as above; but no punctuation after “disposition”, or after “contract”; comma (,) after “descendants.”

CC 1804, Art. 911.
Same as above.

-p. 213, Art. 17.
Same as above; but “le déguise” correctly spelled “la déguise”; “la fasse” misspelled “le fasse.”

Toute disposition au profit d’un incapable sera nulle, soit qu’on la dé-
ART. 1493. Donations inter vivos or mortis causa can not exceed two-thirds of the property of the disposer, if he leaves, at his decease, a legitimate child; one-half, if he leaves two children; and one-third, if he leaves three or a greater number.

Under the name of children are included descendants of whatever degree they be, it being understood that they are only counted for the child they represent.

RCC—179, 199, 214, 894 et seq., 902, 916, 1231, 1237, 1239, 1266, 1411, 1431, 1464, 1494 et seq., 1502 et seq., 1742, 1752, 3556 (8). Const. 1921, IV, 16.

RCC 1870, Art. 1493.

Same as above.

CC 1825, Art. 1480.

Same as above.

CC 1808, p. 212, Art. 19.*

Donations either between inter vivos (either inter vivos) or mortis causa, can-
Art. 1494

Donations either by act inter vivos or by testament cannot exceed the fifth part of the property of the disposer, if he leaves at his decease, one or more legitimate children or descendants born or to be born.

CN 1804, Art. 913.

Donations, either by act inter vivos or by testament, cannot exceed one-half of the property of the disposer, if he leaves at his decease one legitimate child; one-third, if he leaves two children; one-fourth, if he leaves three or a greater number.

-Art. 914.

Under the name of children, are included in the preceding article, descendants of whatever degree they be; however they are only counted for the child they represent in the succession of the disposer.

*Similar provisions repeated in CC 1808, pp. 54, 55, Art. 54, quoted in appendix.

Art. 1495. In the cases prescribed by the two last preceding articles, the heirs are called forced heirs, because the donor can not deprive them of the portion of his estate reserved for them by law, except in cases where he has a just cause to disinherit them.

RCC—1493, 1494, 1502 et seq., 1607, 1617 et seq., 2239. Const. 1921, IV, 16.

RCC 1870, Art. 1495.
Same as above.
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Art. 1496

Where there are no legitimate descendants, and in case of the previous decease of the father and mother, donations inter vivos or mortis causa, may be made to the whole amount of the property of the disposer, saving the reservation made hereafter.

RCC—903, 905, 1478 et seq., 1484 et seq., 1497, 1606, 1609.

RCC 1870, Art. 1496.
Same as above.

CC 1825, Art. 1483. (Projet, p. 207. Amendment I adopted; no comment)
Same as above.

CC 1808, p. 212, Art. 21.
Where there are no legitimate ascendants or descendants, donations inter vivos or mortis causa, may be made to the whole amount of the property of the disposer.

CN 1804, Art. 916.
Where there are no ascendants and descendants, the donations by act inter vivos or by testament may be made to the whole amount of the property.
**Art. 1497**

**COMPILED EDITION**

**Art. 1497.** The donation *inter vivos* shall in no case divest the donor of all his property; he must reserve to himself enough for subsistence; if he does not do it, the donation is null for the whole.

RCC—585, 1493 *et seq.*, 1513, 1514, 1519, 1528, 1552, 1553, 1735, 2793 *et seq.* CP—15.

**RCC 1870, Art. 1497.**

Same as above.

**CC 1825, Art. 1484.**

Same as above.

(Projet, p. 207. Addition adopted; comment by redactors)

La donation entre-vifs ne doit, en aucun cas, dépoiller entièrement le donateur; il doit se réserver de quoi subsister. S'il ne l'a pas fait, la donation sera nulle pour le tout.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

**Art. 1498.** The legitimate portion of which the testator is forbidden to dispose to the prejudice of his descendants, being once fixed by the number of children living or represented at the death of the testator, does not diminish by the renunciation of one or any of them. The part of those who renounce goes to those who accept.

RCC—894 *et seq.*, 900, 1022, 1026, 1031, 1493, 1706, 1707.

**RCC 1870, Art. 1498.**

Same as above.

**CC 1825, Art. 1485.**

Same as above.

(Projet, p. 207. Addition adopted; no comment)

La légitime, dont il est défendu au testateur de disposer au préjudice de ses descendants, étant une fois fixée par le nombre des enfants existants ou représentés à la mort du disposant, ne décroit point par la renonciation de l'un ou de quelques-uns d'entre'eux.

La part de ceux qui renoncent, profite à ceux qui acceptent.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

**Art. 1499.** If the disposition made by donation *inter vivos* or *mortis causa*, be of a usufruct, or of an annuity,* the value of which exceeds the disposable portion, the forced heirs have the option, either to execute the disposition or to abandon to the donee the ownership of such portion of the estate as the donor had a right to dispose of.

RCC—533, 540, 580, 584, 1493, 1494, 1500, 1502, 1533, 1631, 1638, 2793 *et seq.*

**RCC 1870, Art. 1499.**

(Same as Art. 1499 of Proposed Revision of 1869)

Same as above.

**CC 1825, Art. 1486.**

(No reference in Projet)

If the disposition made by donation *inter vivos* or *mortis causa*, be of an usufruct, or of an annuity,* the value Si la disposition faite par donation entre-vifs ou pour cause de mort, est d'un usufruit ou d'une rente viagère,*
of which exceeds the disposable portion, the forced heirs have the option, either to execute the disposition, or to abandon to the donee the ownership of such portion of the estate as the donor had a right to dispose of.

**CC 1808, p. 214, Art. 23.**

If the disposition made by donation **inter vivos** or **mortis causa,** be of an usufruct, or of an annuity,* the value of which exceeds the portion disposable, the heirs in favor of whom the law makes a reservation, have the option either to execute the disposition, or to relinquish their right of ownership to the disposable portion.

**CN 1804, Art. 917.**

If the disposition by act **inter vivos** or by testament be of an usufruct or of an annuity for life the value of which exceeds the disposable portion, the forced heirs have the option, either to execute the disposition or to abandon to the donee the ownership of the disposable portion.

*English translation of French text incomplete; should include "for life."

**ART. 1500.** The value in full ownership of property which has been alienated, either for an annuity for life, or with reservation of a usufruct, to one of those who succeed to the inheritance in the direct descending line, shall be imputed to the disposable portion, and the surplus, if any there be,* shall be brought into the succession; but this imputation and this collation, can not be demanded by any of the heirs in the direct descending line who have consented to those alienations.

**RCC—540, 580, 1228, 1230, 1231 et seq., 1266, 1411, 1499, 1501, 1502 et seq., 1533, 1730, 1733, 2793 et seq.**

**RCC 1870, Art. 1500.** (Same as Art. 1500 of Proposed Revision of 1869)

Same as above.

**CC 1825, Art. 1487.** (No reference in Projet)

The value in full ownership of property which has been alienated, either for an annuity for life, or with reservation of an usufruct, to one of those who succeed to the inheritance in the direct descending line, shall be imputed to the disposable portion, and the surplus, if any there be,* shall be brought into the succession; but this imputation and this collation cannot be demanded by any of the heirs in the direct descending line who have consented to those alienations.

**CC 1808, p. 214, Art. 24.**

The value in full ownership of property alienated either on the charge of an annuity** or the capital being sunk,
Art. 1501

The disposable quantum may be given in whole or in part, by an act inter vivos or mortis causa, to one or more of the disposer's children or successive descendants, to the prejudice of his other children or successive descendants, without its being liable to be brought into the succession by the donee or legatee,* provided it be expressly declared by the donor that this disposition is intended to be over and above the legitimate portion.

This declaration may be made, either by the act containing the disposition, or subsequently by an instrument executed before a notary public, in presence of two witnesses.

RCC—1228, 1230, 1231 et seq., 1351, 1411, 1493, 1500, 1502 et seq., 1512, 1730, 1733.

RCC 1870, Art. 1501. (Same as Art. 1501 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1488. (Same as above)

The disposable quantum may be given in whole or in part, by an act inter vivos or mortis causa, to one or more of the disposer's children or successive descendants, to the prejudice of his other children or successive descendants, without its being liable to be brought into the succession by the donee or legatee,* provided it be expressly declared by the donor that this act is intended to be over and above the legitimate portion.

La quotité disponible peut être donnée en tout ou en partie, par acte entre-vifs ou pour cause de mort, à un ou plusieurs enfants ou descendants successibles du disposant, au préjudice de ses autres enfants ou descendants aussi successibles, sans être sujette au rapport par le donataire,* pourvu que la disposition ait été faite expressément à titre d'avantage ou hors part.
La déclaration qui contiendra que le don ou le legs est à titre d'avantage ou hors part, pourra être faite, soit par l'acte qui contiendra la disposition, soit postérieurement par un acte passé par devant un notaire public, en présence de deux témoins.

La quantité disponible peut être donnée en tout ou en partie par acte entre-vifs ou pour cause de mort, à un ou plusieurs enfants ou descendants successibles du disposant, au préjudice de ses autres enfants ou descendants, aussi successibles, sans être sujette au rapport par le donataire ou le légataire venant à la succession, pourvu que la disposition ait été faite expressément à titre d'avantage ou hors part.

Par. 2 same as par. 2, above.

Section 2—OF THE REDUCTION OF DISPOSITIONS INTER VIVOS OR MORTIS CAUSA; OF THE MANNER IN WHICH IT IS MADE; AND OF ITS EFFECTS

Art. 1502. Any disposal of property, whether inter vivos or mortis causa, exceeding the quantum of which a person may legally dispose to the prejudice of the forced heirs, is not null, but only reducible to that quantum.

RCC—1231, 1234, 1237, 1266, 1411, 1431, 1481, 1483, 1493 et seq., 1499, 1500, 1501, 1503 et seq., 1509, 1511, 1730, 1733, 1742, 2239.

RCC 1870, Art. 1502.
Same as above.

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Art. 1503

A donation inter vivos, exceeding the disposable quantum, retains all its effect during the life of the donor.

RCC—1502, 3542.

RCC 1870, Art. 1503.
Same as above.

CC 1825, Art. 1490.
Same as above.

CC 1808, p. 214, Art. 27.
A donation inter vivos exceeding the quantum disposable retains all its effect during the life of the donor.

-p. 215, Art. 27.
Same as above; but comma (,) after "vivos."

CN 1804, Art. 920.
Quoted under RCC 1870, Art. 1502, above.

Projet du Gouvernement (1800), Book III, Title IX, Art. 21.
A donation inter vivos retains all its effect during the life of the donor.

La donation entre-vifs conserve tout son effet pendant la vie du donateur.

ART. 1504. On the death of the donor or testator, the reduction of the donation, whether inter vivos or mortis causa, can be sued for only by forced heirs, or by their heirs or assigns; neither the donees, legatees, nor creditors of the deceased can require that reduction nor avail themselves of it.


RCC 1870, Art. 1504.
Same as above.
CC 1825, Art. 1491. (No reference in Projet)

Same as above; but colon (:) after "assigns"; comma (,) after "deceased."

CC 1808, p. 214, Art. 28.

On the death of the donor or testator, the reduction of the donation whether \textit{inter vivos} or \textit{mortis causa}, can be sued for only by those in whose favor the law reserves the legitimate or legal portion, or by their heirs or assigns: neither the donees, legatees nor creditors of the deceased can require that reduction nor avail themselves of it.

CN 1804, Art. 921.

The reduction of dispositions \textit{inter vivos} can be sued for only by forced heirs, or by their heirs or assigns; neither the donees, legatees, nor creditors of the deceased can require that reduction, nor avail themselves of it.

Projet du Gouvernement (1800), Book III, Title IX, Art. 22, pars. 1, 2.

At the death of the donor, the reduction of the donation whether \textit{inter vivos} or \textit{mortis causa}, can be sued for only by those heirs coming to the succession, in whose favor the law restricts the faculty of disposing, and only proportionally to the part that they receive from the succession.

Thus, the creditors, donees and legatees of the deceased, can not require this reduction.

\textbf{ART. 1505.} To determine the reduction to which the donations, either \textit{inter vivos} or \textit{mortis causa} are liable, an aggregate is formed of all the property belonging to the donor or testator at the time of his decease; to that is fictitiously added the property disposed of by donation \textit{inter vivos}, according to its value at the time of the donor's decease, in the state in which it was at the period of the donation.

The sums due by the estate are deducted from this aggregate amount, and the disposable \textit{quantum} is calculated on the balance, taking into consideration the number of heirs and their qualities of ascendant or descendant,* so as to regulate their legitimate portion by the rules above established.

RCC—1227 \textit{et seq.}, 1269, 1355, 1356, 1357, 1360, 1493 \textit{et seq.}, 1502 \textit{et seq.}, 1506 \textit{et seq.}, 2408.

RCC 1870, Art. 1505.

Same as above.

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To determine the reduction of which the donations either inter vivos or mortis causa may be susceptible, an aggregate is formed of all the property belonging to the donor or testator at the time of his decease; to that is fictitiously added the property disposed of by donation inter vivos in the state in which it was at the period of the donation, and its value at the time of the donor’s decease. On that property is calculated, after the deduction of the debts, what is the quantum he might have disposed of, regard being had to the quantity of the heirs he has left, whether ascendants or descendants.

La réduction se détermine en formant une masse de tous les biens existants au décès du donateur ou testateur. On y réunit fictivement ceux dont il a été disposé par donations entre-vifs, d’après leur état à l’époque des donations et leur valeur au temps du décès du donateur. On calcule sur tous ces biens, après en avoir déduit les dettes, quelle est, eu égard à la qualité des héritiers qu’il laisse, la quotité dont il a pu disposer.

*Note error in English translation of French text; “the number of heirs and their qualities of ascendant or descendant” should be “the kind of heirs, whether ascendants or descendants.”

**Note error in English translation of French text; “quantity” should be “kind.”
the hands of the donee, are not included; those which have perished through his fault only are to be included.
RCC—1227, 1250, 1260, 1261, 1272, 1350, 1505.

RCC 1870, Art. 1506.
Same as above.

CC 1825, Art. 1493.
Same as above.

(RCC, p. 208. Addition adopted; no comment)
Dans le rapport fictif des biens donnés entre-vifs par le défunt, on ne doit pas faire entrer ceux qui ont pérí par cas fortuit dans les mains du donataire; mais on doit y comprendre ceux qui ont pérí par sa faute.

CC 1805. No corresponding article.
CN 1804. No corresponding article.

Art. 1507. Donations inter vivos can never be reduced, until the value of all the property, comprised in donations mortis causa be exhausted; and when that reduction is necessary, it shall be made by beginning with the last donation, and thus successively ascending from the last to the first.
RCC—1281, 1508 et seq., 1517, 1518.

RCC 1870, Art. 1507. (Same as Art. 1507 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1494. (No reference in Projet)
Donations inter vivos can never be reduced, until the value of all the property comprised in donations mortis causa be exhausted; and when that reduction is necessary, it shall be made by beginning with the last donation, and thus successively ascending from the last to the first.

CC 1805, p. 216, Art. 30.
Donations inter vivos can never be reduced until the value of all the property comprised in donations on account of death, be exhausted; and when that reduction is necessary, it shall be made by beginning with the last donation, and thus successively ascending from the last to the oldest.

CN 1804, Art. 923.
Donations inter vivos can never be reduced until the value of all the property comprised in the testamentary dispositions be exhausted; and when that reduction is necessary, it shall be made by beginning with the last donation, and thus successively ascending from the last to the first.

Art. 1508. When the last donee is insolvent, the heir can, after the previous discussion of his effects, claim from the donee, who precedes the last, his legitime, and so on to the one preceding him.
RCC—1281, 1507, 1509 et seq.
ART. 1509

If the donation *inter vivos*, subject to reduction, was made to one of those who succeed to any part of the estate, the latter is authorized to retain of the property given the value of the portion that would belong to him as heir in the property not disposable, if it be of the same nature.

RCC—1237, 1238, 1266, 1507, 1508.

ART. 1510. When the value of donations *inter vivos* exceeds or equals the disposable *quantum*, all dispositions *mortis causa* are without effect.

RCC—1493, 1494, 1507, 1512, 1513, 1514.
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Art. 1511

When the dispositions mortis causa exceed either the disposable quantum or the portion of that quantum that remains after the deduction of the value of the donations inter vivos, the reduction shall be made pro rata, without any distinction between universal dispositions and particular ones.

RCC—580, 581, 1430, 1502 et seq., 1512, 1513, 1514, 1606, 1611, 1614, 1625, 1634, 1642.

RCC 1870, Art. 1511.

Same as above.

Art. 1498.

Same as above; but comma (,) after "exceed."
ART. 1512. Nevertheless, in case the testator has expressly declared* that any particular** legacy should be paid in preference to the others, that preference shall take place, and the legacy that is the object of it, shall not be reduced, if the value of the others does not fall short of the legal reservation.

RCC—1228, 1230, 1231 et seq., 1351, 1411, 1501, 1507, 1510, 1511, 1513, 1514, 1634, 1685, 1730, 1733.

RCC 1870, Art. 1512.
Same as above.

CC 1825, Art. 1499. (No reference in Projet)
Same as above; but comma (,) after "the legacy."

CC 1808, p. 216, Art. 34.
Nevertheless in case the testator has expressly declared that he intended that any particular** legacy should be paid preferably to the others, that preference shall take place and the legacy that is the object of it, shall not be reduced, if the value of the others does not fall short of the legal reservation.

p. 217, Art. 34.
Same as above.

CN 1804, Art. 927.
Nevertheless, in every case where the testator has expressly declared that he intended that a certain legacy should be paid in preference to the others, that preference shall take place, and the legacy that is the object of it, shall not be reduced if the value of the others does not fall short of the legal reservation.

Les donations à titre rémunératoire ne sont jamais réductibles au delà de la valeur estimative des services rendus.

*English translation of French text incomplete; should include "that he intended."

**Note inaccuracy of English translation of French text; "any particular" should be "a certain."

ART. 1513. Remunerative donations can never be reduced below the estimated value of the services rendered.

RCC—1489, 1497, 1507, 1510, 1511, 1512, 1523, 1525, 1526.

RCC 1870, Art. 1513.
Same as above.

CC 1825, Art. 1500. (Projet, p. 208. Addition adopted; no comment)
Les donations à titre rémunératoire, ne sont jamais réductibles au delà de la valeur estimative des services rendus.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1514. Donations, by which charges are imposed on the donee, can never be reduced below the expenses which the donee has incurred to perform them.

RCC—1497, 1507, 1510, 1511, 1512, 1523, 1524, 1526, 1527.
RCC 1870, Art. 1514.
Same as above.

CC 1825, Art. 1501. (Projet, p. 208. Addition adopted; no comment)
Same as above; but comma (,) after "expenses."

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1515. The donee restores the fruits of what exceeds the disposable portion only from the day of the donor's decease, if the demand of the reduction was made within the year; otherwise from the day of the demand.

RCC—498, 502, 503, 545, 1563, 1569, 1608.

RCC 1870, Art. 1515. (Same as Art. 1515 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1502. (No reference in Projet)
The donee restores the proceeds of what exceeds the disposable portion, only from the day of the donor's decease, if the demand of the reduction was made within the year; otherwise from the day of the demand.

CC 1808, p. 216, Art. 35. -p. 216, Art. 35.
Same as above.

CN 1804, Art. 928.
Same as RCC 1870, Art. 1515, above.

ART. 1516. Immovable property, that is brought into the succession through the effect of reduction, is brought into it without any charge of debts or mortgages created by the donee.

RCC—971, 1264, 1265, 1280, 1281, 1338, 1383, 1517, 1518, 1535, 1562, 1568.

RCC 1870, Art. 1516. (Same as Art. 1516 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1503. (No reference in Projet)
Immoveable property, that is brought in the succession through the effect of reduction, is brought in it without any charge of debts or mortgages created by the donee.

Same as above; but no punctuation after "property."

Same as above; but comma (,) after "succession."

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Art. 1517

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CN 1804, Art. 929.
Immovable property to be recovered through the effect of reduction, shall be so recovered without charge of debts or mortgages created by the donee.

Projet du Gouvernement (1800), Book III, Title IX, Art. 28.
Les immeubles a recouvrer par l'effet de la reduction, le seront sans charge de dettes ou hypothèques créées par le donataire.

ART. 1517. The action of reduction or revendication may be brought by the heirs against third persons holding the immovable property, which has been alienated by the donee, in the same manner and order that it may be brought against the donee himself, but after discussion of the property of the donee.

RCC—1280, 1281, 1282, 1507, 1508, 1516, 1518, 1535, 1562, 1568, 3542, 3548.

RCC 1870, Art. 1517.
Same as above.

CC 1825, Art. 1504.
Same as above.

CC 1808, p. 216, Art. 37.
The action of reduction or reclaim may be brought by the heirs against third persons holding said immovable property which has been alienated by the donee, in the same manner and order that it may be brought against the donee himself, but after the execution of the property of said donee.

CN 1804, Art. 930, sentence 1.
The action of reduction or revendication can be brought by the heirs against third persons holding immovable property which forms part of donations and has been alienated by the donees, in the same manner and order as against the donees themselves, but after discussion of their property.

Projet du Gouvernement (1800), Book III, Title IX, Art. 29.
The action of reduction or revendication may be brought by the heirs against a third person holding the immovable property alienated by the donee, in the same manner and order that it may be brought against the donee himself.

*Note error in English translation of French text; “execution” should be “discussion.”
ART. 1518. If the donee has successively sold several objects of real estate, liable to the action of revendication, that action must be brought against third persons holding the property, according to the order of their purchases, beginning with the last, and ascending from the last to the first.

RCC—1281, 1282, 1507, 1516, 1517.

RCC 1870, Art. 1518.
Same as above.

CC 1825, Art. 1505.
Same as above.

CC 1808, p. 216, Art. 38.
If the donee has successively sold several objects of real estate liable to an action of reclamation, that action must be brought against third persons holding the property, according to the order of their purchases, beginning from the first (last), and ascending in succession from the last to the oldest.

CN 1804, Art. 930, sentence 2.
This action must be exercised according to the order of the dates of the alienations, commencing with the most recent of them.

Projet du Gouvernemnet (1800), Book III, Title IX, Art. 30.
If the donee has successively sold several objects of real estate, liable to the action of reduction, that action must be brought against third persons holding the property, according to the order of their purchases, beginning with the last, and ascending in succession from the last to the first.

Chapter 4—Of Dispositions Reprobad by Law in Donations

INTER VIVOS AND MORITIS CAUSA

ART. 1519. In all dispositions inter vivos and mortis causa impossible conditions, those which are contrary to the laws or to morals, are reputed not written.

RCC—11, 12, 610, 1297, 1299, 1497, 1520, 1527, 1529, 1530, 1531, 1533, 1534, 1556, 1573, 1690, 1713, 1891, 1892, 2031 et seq., 2326, 2327.

RCC 1870, Art. 1519.
Same as above.

CC 1825, Art. 1506.
Same as above; but comma (,) after "causa."
**Art. 1520**

*Substitutions and fidei commissa are and remain prohibited.*

Every disposition by which the donee, the heir, or legatee is charged to preserve for or **to return a thing to a third person** is null, even with regard to the donee, the instituted heir or the legatee.

In consequence of this article the treb ellianic portion of the civil law, that is to say, the portion of the property of the testator, which the instituted heir had a right to detain, when he was charged with a fidei commissa or fiduciary bequest is no longer a part of our law.


**RCC 1870, Art. 1520.**

Same as above.

**CC 1825, Art. 1507.******

Same as above; but comma (,) after "disposition", after "or legatee", after "persons", after "article", and after "bequest"; no punctuation after "the heir."

CC 1808, p. 216, Art. 40.

Par. 1 same as par. 1, above.

Every disposition by which the donee, the heir or legatee, is charged to preserve for or **to return a thing to a third person**, is null, even with regard to the donee, the heir instituted or the legatee.

**-p. 217, Art. 40.**

Same as above; but no punctuation after "disposition."
By means of what is contained in this article, there will be no longer occasion for the trebillionick portion in use by the civil law, that is for the portion of the property of the testator which the instituted heir had a right to retain when he was charged with a fidei commissa or fiduciary bequest.

CN 1804, Art. 896.
Substitutions are prohibited. Every disposition by which the donee, the instituted heir or legatee is charged to preserve for and to return a thing to a third person, shall be null, even with regard to the donee, the instituted heir or the legatee.

*In connection with this article see Acts 1882, No. 124; 1904, No. 158; 1918, No. 72; 1920, No. 167; 1938, No. 81; Const. 1921, IV, 16.
**Note error in English translation of French text; "or" should be "and."
***Or fiduciary bequest" has no counterpart in French text.
****Official edition reads "Art. 4507."

ART. 1521. The deposition [disposition], by which a third person is called to take the gift, the inheritance or the legacy, in case the donee, the heir or the legatee does not take it, shall not be considered a substitution and shall be valid.

RCC—1520, 1522, 1534, 1713.

RCC 1870, Art. 1521.
Same as above.

CC 1825, Art. 1508. (No reference in Projet)
Same as above; but "deposition" correctly spelled "disposition."

CC 1808, p. 218, Art. 41.
The disposition by which a stranger is called to take the gift, the inheritance or the legacy, in case the donee, the heir, or the legatee does not take it, shall not be considered a substitution, and shall be valid.

CN 1804, Art. 896.
The disposition by which a third person is called to take the gift, the inheritance or the legacy, in case the donee, the instituted heir or the legatee does not take it, shall not be considered a substitution, and shall be valid.

La disposition par laquelle un tiers serait appelé à recueillir le don, l’héritage ou le legs, dans le cas où le donataire, l’héritier ou le légataire, ne le recueillerait pas, ne sera pas regardée comme une substitution, et sera valable.

La disposition, par laquelle un tiers serait appelé à recueillir le don, l’héritage ou le legs, dans le cas où le donataire, l’héritier ou le légataire, ne le recueillerait pas, ne sera pas regardée comme une substitution, et sera valable.

ART. 1522. The same shall be observed as to the disposition inter vivos or mortis causa, by which the usufruct is given to one, and the naked ownership to another.

RCC—533, 540, 584, 607, 1520, 1521, 1533, 1713.

RCC 1870, Art. 1522.
Same as above.
Chapter 5—Of Donations Inter Vivos (between Living Persons)

Section 1—General Dispositions

*Art. 1523.* There are three kinds of donations *inter vivos*:

The donation purely gratuitous, or that which is made without condition and merely from liberality;

The onerous donation, or that which is burdened with charges imposed on the donee;

The remunerative donation, or that the object of which is to recompense for services rendered.

RCC—1489, 1513, 1514, 1524, 1525, 1526, 2404.

*RCC 1870, Art. 1523.*

Same as above.

*CC 1825, Art. 1510.*

Same as above.

*Projet,* p. 208. Addition adopted; no comment

On distingue trois sortes de donations entre-vifs:

La donation purement gratuite, ou celle qui est faite sans condition et seulement par libéralité;

La donation onéreuse, ou celle qui est faite sous des charges imposées au donataire;

La donation rémunératoire, ou celle qui a pour objet de récompenser des services rendus.

*CC 1808.* No corresponding article.

*CN 1804.* No corresponding article.

*Art. 1524.* The onerous donation is not a real donation, if the value of the object given does not manifestly exceed that of the charges imposed on the donee.

RCC—1467, 1491, 1514, 1523, 1526, 1890, 1902.

*RCC 1870, Art. 1524.* Same as above.
ART. 1525. The remunerative donation is not a real donation, if the value of the services to be recompensed thereby being appreciated in money, should be little inferior to that of the gift.

RCC-1467, 1489, 1513, 1523, 1526.

RCC 1870, Art. 1526.
Same as above.

ART. 1527. The donor may impose on the donee any charges or conditions he pleases, provided they contain nothing contrary to law or good morals.

Art. 1528

A donation *inter vivos* can comprehend only the present property of the donor. If it comprehends property to come, it shall be null with regard to that.

RCC—1468, 1497, 1532, 1726, 1735, 1737, 1745.

RCC 1870, Art. 1528.
Same as above.

Art. 1529. Every donation *inter vivos* made on conditions, the execution of which depends on the sole will of the donor, is null.

RCC—11, 12, 1474, 1519, 1530, 1532, 1566, 1736, 1749, 2024, 2034, 2035.

RCC 1870, Art. 1529.
Same as above.

Art. 1530. It is also null, if it was made on condition of paying other debts and charges than those that existed at the time of the donation, or were expressed either in the act of donation or in the act that was to be annexed to it.

RCC—1519, 1527, 1529, 1532, 1551, 1552, 1738.

RCC 1870, Art. 1530.
Same as above.
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ART. 1531.

In case the donor has reserved to himself the liberty of disposing of any object comprised in the donation, or of a stated sum on the property given, if he dies without having disposed of it, that object or sum shall belong to the heirs of the donor, any clause or stipulation to the contrary notwithstanding.

RCC—11, 1519, 1532, 1709, 1736.

CC 1825, Art. 1517.  
(No reference in Projet)

Same as above; but comma (,) after "of donation."

CC 1808, p. 218, Art. 45.  
Same as above; but comma (,) after "expressed."

CN 1804, Art. 945.  
It is also null, if it was made on condition of discharging other debts or charges than those that existed at the time of the donation, or were expressed either in the act of donation or in the schedule that was to be annexed to it.

ART. 1531.  

In case the donor has reserved to himself the liberty of disposing of any object comprised in the donation, or of a stated sum on the property given, if he dies without having disposed of it, that object or sum shall belong to the heirs of the donor, any clause or stipulation to the contrary notwithstanding.

RCC—11, 1519, 1532, 1709, 1736.

CC 1825, Art. 1518.  
(No reference in Projet)

Same as above.

CC 1808, p. 218, Art. 46.  
In case the donor has reserved to himself the liberty of disposing of any object comprised in the donation, or of a stated sum on the property given, if he dies without having disposed of it, the said object, or the said sum shall belong to the heirs of the donor, any clause or stipulation to the contrary notwithstanding.

CN 1804, Art. 946.  
Same as above.
ART. 1532. The four preceding articles are not applicable to donations of which mention is made in the eighth and ninth chapters of the present title.
RCC—1528 et seq., 1734 et seq., 1743 et seq.

RCC 1870, Art. 1532.
Same as above.

CC 1825, Art. 1519.
Same as above.

(RCC 1870, Art. 1532.
Same as above.

CC 1808, p. 218, Art. 47.
The four preceding articles are not applicable to donations of which mention is made in the chapters the 8th and 9th of the present title.

CC 1808, p. 220, Art. 50.
The donor is permitted to reserve for his own advantage, or to dispose of for the advantage of any other person, the enjoyment or usufruct of the movable property given.

CN 1804, Art. 947.
Same as above.

ART. 1533. The donor is permitted to dispose, for the advantage of any other person, of the enjoyment or usufruct of the immovable property given, but can not reserve it for himself.
RCC—533, 540, 560, 1499, 1500, 1519, 1520, 1521, 1522, 2779 et seq., 2793 et seq.

RCC 1870, Art. 1533.
Same as above.

CC 1825, Art. 1520.
Same as above.

CC 1808, p. 220, Art. 50.
The donor is permitted to reserve for his own advantage, or to dispose of for the advantage of any other person, the enjoyment or usufruct of the movable property given.

CN 1804, Art. 949.
The donor is permitted to reserve for his own advantage, or to dispose of for the advantage of any other person, of the enjoyment or usufruct of the movable or immovable property given.

Projet du Gouvernement (1800), Book III, Title IX, Art. 43.
Same as CC 1808, p. 220, Art. 50, above.

ART. 1534. The donor may stipulate the right of return of the objects given, either in case of his surviving the donee alone, or in case of his surviving the donee and his descendants.

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That right can be stipulated for the advantage of the donor alone.

RCC—908, 909, 910, 1468, 1519, 1520, 1521, 1535, 1559, 1735, 1741.

RCC 1870, Art. 1534.
Same as above.

CC 1825, Art. 1521.
Le donateur peut stipuler le droit de retour des objets donnés, soit pour le cas du prédécès du donataire seul, soit pour le cas du prédécès du donataire et de ses descendants.
Ce droit ne peut être stipulé qu'au profit du donateur seul.

RCC 1870, Art. 1535. 
The effect of the right of return is, that it cancels all alienations of the property given that may have been made by the donee or his descendants, and causes the property to return to the donor, free and clear of all incumbrances and mortgages, except, however, the mortgage for the dowry and matrimonial agreements, if the other property of the husband, being the donee, be not sufficient, and only in case the donation was made to him by the same marriage contract which gave rise to such rights and mortgages.

RCC—1264, 1284, 1468, 1516, 1517, 1534, 1559, 1562, 1568, 2045, 3301.

RCC 1870, Art. 1535.
Same as above.

CC 1825, Art. 1522. 
L'effet du droit de retour est de résoudre toutes les aliénations des biens donnés, qu'aurait pu faire le donataire et ses descendants, et de faire revenir au donateur ces biens, francs et quittes de toutes charges et hypothèques, sauf néanmoins l'hypothèque de la dot et des conventions matrimoniales, si les autres biens de l'époux donataire ne suffisent pas, et dans le cas seulement où la donation lui aurait été faite par le même contrat de mariage, duquel résultent ces droits et hypothèques.

CC 1808, p. 220, Art. 52. 
The effect of the right of return is that it cancels all alienations of the property given that may have been made by the donee or his descendants, and makes the said property return to the donor free and clear of all incum-

-p. 221, Art. 52.
L'effet du droit de retour, est de résoudre toutes les aliénations des biens donnés, qu'aurait pu faire le donataire et ses descendants, et de faire revenir au donateur lesdits biens, francs et quittes de toutes charges et hypo-
branches and mortgages, saving however the mortgage of the dowry and matrimonial agreements, if the other property of the husband being the donee, be not sufficient, and only in case that the donation was made to him by the said marriage contract from whence arise these rights and mortgages.

CN 1804, Art. 952.
The effect of the right of return is, that it cancels all alienations of the property given, and causes the property to return to the donor, free and clear of all incumbrances and mortgages, except, however, the mortgage for the dowry and matrimonial agreements, if the other property of the husband, being the donee, be not sufficient, and only in case the donation was made to him by the same marriage contract which gave rise to such rights and mortgages.

Projet du Gouvernement (1800), Book III, Title IX, Art. 45.
Same as CC 1808, p. 220, Art. 52, above.

Section 2—OF THE FORM OF DONATIONS INTER VIVOS

Art. 1536. An act shall be passed before a notary public and two witnesses of every donation inter vivos of immovable property or incorporeal things, such as rents, credits, rights or actions, under the penalty of nullity.

RCC—460, 1467, 1468, 1501, 1523, 1537 et seq., 1725, 1726, 2273.

RCC 1870, Art. 1536.  
(Same as Art. 1536 of Proposed Revision of 1869)

CC 1825, Art. 1523.
(Projet, p. 209. Substitution adopted; no comment)

An act shall be passed before a notary public and two witnesses of every donation inter vivos of immovable property, of slaves or incorporeal things, such as rents, credits, rights or actions, under the penalty of nullity.

CC 1808, p. 220, Art. 53.
All acts containing donations inter vivos, must be passed before a notary
ART. 1537. No feigned delivery of immovables given shall have effect against third persons.

RCC—1536, 1921, 2239, 2273, 2479.

RCC 1870, Art. 1537. (Same as Art. 1537 of Proposed Revision of 1869)
Same as above.

No feigned delivery of immovable or slaves given shall have effect against third persons.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1538. A donation inter vivos, even of movable effects, will not be valid, unless an act be passed of the same, as is before prescribed.

Such an act ought to contain a detailed estimate of the effects given.

RCC—1245, 1284, 1523, 1539, 1540, 1552, 2273.

RCC 1870, Art. 1538. Same as above.

La donation entre-vifs, même d'effets mobiliers corporels,* ne sera valable, qu'autant qu'il en aura été passé acte de la manière ci-dessus prescrite.
Cet acte devra contenir un état estimatif détaillé des effets donnés.

CC 1808, p. 218, Art. 48. No donation inter vivos of moveable property or slaves, shall be valid for any other effects than those of which an estimate signed by the donor or** donee or by those who accept for him, is annexed to the record of the donation. (Suppressed on recommendation of redactors; Projet, p. 209)

-p. 219, Art. 48. Toute donation entre-vifs, d'effets mobiliers ou d'esclaves, ne sera valable que pour les effets dont un état estimatif, signé du donateur et** du donataire ou de ceux qui acceptent pour lui, aura été annexé à la minute de la donation. (Suppressed on recommendation of redactors; Projet, p. 209)
Art. 1539

The manual gift, that is, the giving of corporeal movable effects, accompanied by a real delivery, is not subject to any formality.

RCC—1245, 1284, 1538, 1541, 1922, 1923.

ART. 1539. The manual gift, that is, the giving of corporeal movable effects, accompanied by a real delivery, is not subject to any formality.

RCC 1870, Art. 1539.
Same as above.

CC 1825, Art. 1526.
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Book III, Title IX, Art. 41.

Every donation of movable effects, if there is no real delivery, is null, unless there has been annexed to the record of the donation, an estimate of the effects given, signed by the donor, the donee, the notary and the witnesses.

ART. 1540. A donation inter vivos shall be binding on the donor, and shall produce effect only from the day of its being accepted in precise terms.

The acceptance may be made during the lifetime of the donor by a posterior and authentic act, but in that case the donation shall have effect, with regard to the donor, only from the day of his being notified of the act establishing that acceptance.

RCC—1523, 1541 et seq., 1550, 1554, 1726, 1739, 1800 et seq., 1805, 1810.

RCC 1870, Art. 1540.
Same as above.

CC 1825, Art. 1527.
Same as above.

(No reference in Projet)
The acceptance may be made during the lifetime of the donor, by a posterior and authentic act, of which a record shall remain; but in that case the donation shall have effect, with regard to the donor, only from the day of his being notified of the act establishing that acceptance.

ART. 1541. Yet, if the donation has been executed, that is, if the donee has been put by the donor into corporeal possession of the effects given, the donation, though not accepted in express terms, has full effect.

RCC—1245, 1284, 1539, 1540, 1550, 2274.

RCC 1870, Art. 1541.
Same as above.

Cependant, si la donation a été mise à exécution, c'est-à-dire, si le donataire a été mis par le donateur en possession corporelle des choses données, la donation, quoique non acceptée en termes exprès, aura son plein effet.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 1542. If the donee be of full age, the acceptance may be made by him, or in his name by his attorney in fact having special power to accept the donation which is made, or a general power to accept the donations that have been or may be made.

RCC—1540, 1543 et seq., 2994, 2997, 2999.

RCC 1870, Art. 1542.
Same as above.

CC 1825, Art. 1529. (No reference in Projet)
Si le donataire est majeur, l'acceptation doit être faite par lui, ou en son nom par la personne fondée de sa procuration portant pouvoir spécial d'accepter la donation qui a été faite, ou pouvoir général d'accepter les donations qui auraient été ou qui pourraient être faites.

CC 1808, p. 220, Art. 55.
If the donee be of full age, the acceptance may be made by him or in his name, by his attorney in fact, having special power to accept the said dona-

-p. 221, Art. 55.
Si le donataire est majeur, l'acceptation doit être faite par lui, ou en son nom par la personne fondée de sa procuration portant pouvoir spécial d'ac-
Art. 1543

The acceptance can only be made by the donee personally, or by his attorney in fact during his life. If he refuse or neglect to accept, his creditors can not accept it in his stead, under the pretext that the refusal has been in fraud of their rights.


RCC 1870, Art. 1543.
Same as above.

Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1544. If the donee die before having accepted, the acceptance can not be made by his heirs, and the donation remains without effect.

RCC-1540, 1541, 1543, 1810.

RCC 1870, Art. 1544.
Same as above.

Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1545.* A married woman can not accept a donation without the consent of her husband, and in case of the husband's refusal, without being authorized by the judge, conformably to what is prescribed in the title: Of Husband and Wife.


RCC 1870, Art. 1545.
Same as above.
ART. 1546. A donation made to a minor, not emancipated, must be accepted by his tutor.

Nevertheless, the parents of a minor, whether he be or be not emancipated, and the other legitimate ascendants, even in the lifetime of the parents, though they be not tutors to the minor, may accept for him.


RCC 1870, Art. 1546. (Same as Art. 1546 of Proposed Revision of 1869; in conformity with Acts 1830, p. 48, §9 [RS §2348])

CC 1825, Art. 1533. (No reference in Projet)

A donation, made to a minor under the age of puberty, must be accepted by his tutor.

A minor, arrived at the age of puberty, but not emancipated, must accept it under the authorization or with the concurrence of his curator.

Nevertheless the parents of a minor, whether he be arrived at the age of puberty or not, whether he be or be not emancipated, and the other legitimate descendants,* even in the lifetime of the parents, though they be neither tutors nor curators to the minor, may accept for him.

CC 1808, p. 220, Art. 57.

Par. 1 same as par. 1, above; but no punctuation after "donation," after "puberty," or after "emancipated."

Nevertheless the parents of a minor whether he be arrived at the age of puberty or not, whether he be or be not emancipated, do not have the same authority to accept for the minor; however, in the lifetime of the parents, they may accept for him.

-p. 221, Art. 57.

Par. 3 same as par. 3, above; but comma (,) after "impubère."
Art. 1547

emancipated, and the other legitimate ascendants even in the lifetime of the parents, though they be neither tutors nor curators to the minor, may accept for him.

CN 1804, Art. 935.

A donation made to a minor not emancipated or to a person under interdiction, must be accepted by his tutor, conformably to article 463, in the title of Minority, of Tutorship and of Emancipation.

The emancipated minor can accept with the concurrence of his curator.

Nevertheless, the parents of the minor, whether emancipated or not emancipated, or the other ascendants, even in the lifetime of the parents, though they be neither tutors nor curators to the minor, may accept for him.

La donation faite à un mineur non émancipé ou à un interdit, devra être acceptée par son tuteur, conformément à l'article 463, au titre de la Minorité, de la Tutelle et de l'Emancipation.

Le mineur émancipé pourra accepter avec l'assistance de son curateur.

Néanmoins les père et mère du mineur émancipé ou non émancipé, ou les autres ascendants, même du vivant des père et mère, quoiqu'ils ne soient ni tuteurs ni curateurs du mineur, pourront accepter pour lui.

*Note error in English translation of French text; “descendants” should be “ascendants.”

ART. 1547. If a donee, being of full age, be under interdiction, the acceptance is made for him by his curator.

RCC—31, 415, 1004, 1018, 1556, 1558.

RCC 1870, Art. 1547.

Same as above.

CC 1825, Art. 1534. (No reference in Projet)

Si le donataire majeur se trouve interdit, l'acceptation est faite pour lui par son curateur.

CC 1808, p. 220, Art. 58.

Same as above; but no punctuation after “donee”, or after “age.”

CN 1804, Art. 935, par. 1.

Quoted under RCC 1870, Art. 1546, above.

Projet du Gouvernement (1800), Book III, Title IX, Art. 51.

ART. 1548. A person deaf and dumb, knowing how to write, may accept for himself or by an attorney in fact.

If he can not* write, the acceptance shall be made by a curator appointed by the judge for that purpose.

RCC—32, 415, 422, 1556, 1558, 1591, 2985 et seq.

RCC 1870, Art. 1548.

Same as above.

CC 1825, Art. 1535. (No reference in Projet)

Le sourd-muet, qui saura écrire, pourra accepter lui-même, ou par un fondé de pouvoir.

S'il ne sait pas* écrire, l'acceptation sera faite par un curateur nommé par le juge à cet effet.
ART. 1550. A donation, duly accepted, is perfect by the mere consent of the parties; and the ownership of the objects given is transferred to the donee, without the necessity of any other delivery.


RCC 1870, Art. 1550. (Same as Art. 1550 of Proposed Revision of 1869)
Art. 1551

The property given passes to the donee with all its charges, even those which the donor has imposed between the time of the donation and that of the acceptance.

RCC—1530.

RCC 1870, Art. 1551.
Same as above.

CC 1825, Art. 1538.
Same as above.

Art. 1552. The universal donee is bound to pay the debts of the donor, which existed at the time of the donation, but he can discharge himself therefrom by abandoning the property given.

RCC—1497, 1530, 1538, 1553, 1611, 1614, 1737, 1738.

RCC 1870, Art. 1552.
Same as above.

CC 1825, Art. 1539.
Same as above.

Art. 1553. If the whole of the effects of the donor have been given to several donees, each for a certain proportion, each of them is bound for the debts for the portion of which he is the donee.

RCC—1497, 1552, 1611, 1614, 1737, 1738.

RCC 1870, Art. 1553.
Same as above.
ART. 1554. When the donation comprehends property that may legally be mortgaged, the act of donation, as well as the act of acceptance, whether the acceptance be made by the same or a separate act,* must be registered, within the time prescribed for the registry of mortgages, in a separate book kept for that purpose by the register of mortgages, which book shall be open to the inspection of all parties requiring it.

RCC—1536, 1538, 1540, 1555 et seq., 3289, 3290, 3307, 3368, 3388, 3391, 3393.

RCC 1870, Art. 1554.

Same as above.

ART. 1554. When the donation comprehends property that may legally be mortgaged, the act of donation, as well as the act of acceptance, whether the acceptance be made by the same or a separate act,* must be registered, within the time prescribed for the registry of mortgages, in a separate book kept for that purpose by the register of mortgages, which book shall be open to the inspection of all parties requiring it.

RCC—1536, 1538, 1540, 1555 et seq., 3289, 3290, 3307, 3368, 3388, 3391, 3393.

RCC 1870, Art. 1554.

Same as above.

When there is a donation of property susceptible of mortgage, a transcript of the act containing the donation and acceptance, also the notification made by a separate act, must be made within the time directed for the transcript of mortgages, in a separate folio book kept for that purpose by the register of the mortgags of the territory, which folio book shall be open to the inspection of all parties requiring it.

CN 1804, Art. 939.

When there is a donation of property susceptible of mortgage, a transcript of the acts containing the donation and acceptance, also the notification made by a separate act, must be made at the mortgage office of the district wherein the property is situated.

*Note error in English translation of French text; "the act of donation, as well as the act of acceptance, whether the acceptance be made by the same or a separate act" should be "the acts containing the donation and acceptance, as well as the notification, when it has been made by a separate act."
ART. 1555.* This registry shall be made at the instance of the husband, when the property has been given to his wife; and if the husband does not comply with this formality, the wife may cause it to be complied with, without requiring authorization for that purpose.


RCC 1870, Art. 1555.
Same as above.

CC 1825, Art. 1542. (No reference in Projet)
Same as above.

CC 1808, p. 222, Art. 63, par. 1.
This transcription shall be made at the instance of the husband, when the property has been given to his wife; and if the husband does not comply with this formality, the wife may cause it to be complied with without requiring authorization for that purpose.

CC 1808, p. 223, Art. 63, par. 1.
Cette transcription sera faite à la diligence du mari, lorsque les biens auront été donnés à sa femme; et si le mari ne remplit pas cette formalité, la femme pourra y faire procéder sans autorisation.

CN 1804, Art. 940, par. 1.
Same as above; RCC 1870 preferred. Same as above.

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

ART. 1556. When the donation is made to minors, to persons under interdiction, or to public establishments, the registry shall be made at the instance of the tutors, curators or administrators.

RCC—31, 32, 337, 415, 1546, 1547, 1548, 1549.

RCC 1870, Art. 1556.
Same as above.

CC 1825, Art. 1543. (No reference in Projet)
Lorsque la donation sera faite à des mineurs, à des interdits ou à des établissements publics, la transcription sera faite à la diligence des tuteurs, curateurs ou administrateurs.

CC 1808, p. 222, Art. 63, par. 2.
When the donation is made to minors, to persons under interdiction or to public establishments, the transcription shall be made at the instance of the tutors, curators or administrators.

CC 1808, p. 223, Art. 63, par. 2.
Lorsque la donation sera faite à des mineurs, à des interdits et à des établissements publics, la transcription sera faite à la diligence des tuteurs curateurs ou administrateurs.

CN 1804, Art. 940, par. 2.
Same as above; RCC 1870 preferred. Same as CC 1825, Art. 1543, above; but comma (,) after “interdits.”

ART. 1557. The want of registry may be pleaded by all persons concerned, except the donor, those persons whose duty it was to cause the registry to be made and their representatives.

RCC—3342, 3347, 3368.

RCC 1870, Art. 1557.
Same as above.
ART. 1558. Minors, persons under interdiction, or married women, are not entitled to relief* for the want of acceptance or registry of donations; but they have in such case their recourse against their tutors, curators or husbands; and even in case of the insolvency of such tutors, curators or husbands, they shall not be entitled to relief by way of restitution.

RCC—354, 362, 415, 1545 et seq., 1554 et seq.

CC 1825, Art. 1544. (No reference in Projet)

Same as above; but comma (,) after "made."

CC 1808, p. 222, Art. 64.

The want of transcription may be pleaded by all persons concerned, except however those who were charged to cause the transcription to be made, or their assigns, and the donor.

CN 1804, Art. 941.

Same as above.

ART. 1558. Minors, persons under interdiction, or married women, are not entitled to relief* for the want of acceptance or registry of donations; but they have in such case their recourse against their tutors, curators or husbands; and even in case of the insolvency of such tutors, curators or husbands, they shall not be entitled to relief by way of restitution.

RCC—354, 362, 415, 1545 et seq., 1554 et seq.

CC 1825, Art. 1558. (No reference in Projet)

Same as above.

CC 1808, p. 222, Art. 65.

Minors, persons under interdiction or married women, shall not be entitled to restitution against the want of the acceptance or transcription of donations; but they have their recourse against their tutors, curators or husbands, if it is the case, and without the restitution's being allowed, even in case of the insolvency of said tutors, curators or husbands.

CN 1804, Art. 942.

Minors, persons under interdiction or married women, shall not be entitled to restitution for the want of acceptance or registry of donations; but they have their recourse against their tutors or husbands, if it is the case, and without the restitution's being allowed, even in case of the insolvency of said tutors and husbands.

*Note error in English translation of French text; "relief" should be "restitution."
Section 3—OF THE EXCEPTION TO THE RULE OF THE IRREVOCABILITY OF DONATIONS INTER VIVOS

ART. 1559. Donation [Donations] *inter vivos* are liable to be revoked or dissolved on account of the following causes:

1. The ingratitude of the donee;
2. The non-fulfillment of the eventual conditions, which suspend their consummation;
3. The non-performance of the conditions imposed on the donee;
4. The legal or conventional return.

RCC—1468, 1534, 1560 et seq., 1565 et seq., 1710, 1711, 1736, 1749.

RCC 1870, Art. 1559. (Same as above.)

CC 1825, Art. 1546. (Projet, p. 211. Amendment amended and adopted; no comment)

Par. 1 and subds. 1-3 same as par. 1 and subds. 1-3, above; but "Donation" correctly spelled "Donations"; period (.) after "consummation."

4. The donor's having children after the donation;
Subd. 5 same as subd. 4, above.


A donation *inter vivos* cannot be revoked unless on account of ingratitude; on account of the non-execution of the conditions on which it was made; and on account of the subsequent birth of children.

CN 1804, Art. 953.

A donation *inter vivos* cannot be revoked unless on account of the non-execution of the conditions under which it shall have been made, on account of ingratitude, and on account of the subsequent birth of children.

Projet du Gouvernement (1800), Book III, Title IX, Art. 59.

A donation *inter vivos* cannot be revoked unless on account of ingratitude; on account of the non-execution of the conditions on which it was made.

ART. 1560. Revocation on account of ingratitude can take place only in the three following cases:

1. If the donee has attempted to take the life of the donor;
2. If he has been guilty towards him of cruel treatment, crimes or grievous injuries;
3. If he has refused him food, when in distress.

RCC—138, 966, 1559, 1561 et seq., 1621, 1623, 1710, 1711.

RCC 1870, Art. 1560.
Same as above.

CC 1825, Art. 1547. (No reference in Projet)
Same as above.

CC 1808, p. 222, Art. 67.
Same as above; but period (.) after "cases"; no punctuation after "injuries", or after "food."

CC 1808, p. 222, Art. 68.
An action of revocation for cause of ingratitude, must be brought within one year from the day of the act of ingratitude, imputed by the donor to the donee, or from the day that the act was made known to the donor.**

The revocation can not be sued for by the donor against the heirs of the donee, nor by the heirs of the donor against the donee; unless in the latter case, the suit was brought by the donor, or he died within the year in which the act of ingratitude was committed.

RCC—1560, 1711.

RCC 1870, Art. 1561.
Same as above.

CC 1825, Art. 1548. (No reference in Projet)
Par. 1 same as par. 1, above.

This revocation cannot be sued for by the donor against the heirs of the donee, nor by the heirs of the donor against the donee; unless, in the latter case, the suit was brought by the donor, or he died within the year in which the act of ingratitude was committed.

CC 1808, p. 222, Art. 68.
An action of revocation for cause of ingratitude, must be brought within one year from the day of the act of ingratitude, imputed by the donor to the donee, or from the day that the act was made known to the donor.**

The revocation can not be sued for by the donor against the heirs of the donee, nor by the heirs of the donor against the donee; unless in the latter case, the suit was brought by the donor, or he died within the year in which the act of ingratitude was committed.
year from the day of the act of ingratitude imputed by the donor to the donee, or from the day that that act was made known to the donor.**

This revocation cannot be sued for by the donor against the heirs of the donee, nor by the heirs of the donor against the donee; unless that in the latter case the suit was brought by the donor, or he died within the year in which the act of ingratitude was committed.

CN 1804, Art. 957.

The action in revocation for cause of ingratitude, must be brought within one year from the day of the offense imputed by the donor to the donee, or from the day that the offense could have been known by the donor.

This revocation cannot be sued for by the donor against the heirs of the donee, nor by the heirs of the donor against the donee, unless, in the latter case, the action was brought by the donor, or he died within the year of the offense.

**Note error in English translation of French text; “act” should be “action.”

***“To the donee, or from the day that the act was made known to the donor” has no counterpart in French text of CC 1825. Note also error in English translation of French text of CC 1808; “was made known to the donor” should be “could have been known by the donor.”

ART. 1562. Revocation for cause of ingratitude affects neither the alienation made by the donee nor the mortgages, nor the real incumbrances he may have laid on the thing given, provided such transactions were anterior to the bringing of the suit or [of] revocation.

RCC—971, 1264, 1265, 1280, 1281, 1338, 1383, 1516, 1517, 1535, 1560, 1561, 1563, 1564, 1568, 3301.

RCC 1870, Art. 1562.

(Same as above)

RCC 1825, Art. 1562.

(Same as above; but “or” correctly spelled “of.”)

CC 1808, p. 222, Art. 69.

Revocation for cause of ingratitude affects neither the alienations made by the donee, nor the mortgages, nor the real encumbrances he may have laid on the object of donation, provided the said transactions were anterior to the bringing of the suit of revocation.

CN 1804, Art. 958, par. 1.

Revocation for cause of ingratitude shall affect neither the alienations made dans l'année, à compter du jour du fait d'ingratitude imputé par le donateur au donataire, ou du jour que ce fait aura pu être connu par le donateur.**

Par. 2 same as par. 2, above; but comma (,) after “à moins que.”

La demande en révocation pour cause d'ingratitude, devra être formée dans l'année, à compter du jour du délit imputé par le donateur au donataire, ou du jour que le délit aura pu être connu par le donateur.

Cette révocation ne pourra être demandée par le donateur contre les héritiers du donataire, ni par les héritiers du donateur contre le donataire, à moins que, dans ce dernier cas, l'action n'ait été intentée par le donateur, ou qu'il ne soit décédé dans l'année du délit.

La revocation, pour cause d'ingratitude, ne prejudiciera ni aux alienations faites par le donataire, ni aux hypothèques et autres charges réelles, qu'il aura pu imposer sur l'objet de la donation, pourvu que le tout soit antérieur à la demande en revocation.

-p. 223, Art. 69.

(Same as above; but no punctuation after “réelles.”)
by the donee, nor the mortgages nor the real incumbrances he may have laid on the thing given, provided such transactions are anterior to the inscription which shall have been made of the extract of the suit of revocation, on the margin of the recordation prescribed by article 939.

Projet du Gouvernement (1800), Book III, Title IX, Art. 64, par. 1.

Same as CC 1825, Art. 1549, above.

ART. 1563. In case of revocation for cause of ingratitude, the donee shall be obliged to restore the value of the thing given, estimating such value according to its worth at the time of bringing the action, and the fruits from the day that it is brought.

RCC—969, 1515, 1535, 1560 et seq., 1569.

RCC 1870, Art. 1563. (Same as Art. 1563 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1550. (No reference in Projet)

In case of revocation for cause of ingratitude, the donee shall be obliged to restore the value of the thing given, estimating such value according to its worth at the time of bringing the action, and the proceeds from the day that it is brought.

CC 1808, p. 224, Art. 70.

In case of revocation for cause of ingratitude, the donee shall be obliged to restore the value of the object given, regard being had to the time of bringing the action, and the proceeds from the day that it is brought.

CN 1804, Art. 958, par. 2.

In case of revocation, the donee shall be sentenced to restore the value of the object alienated, estimating such value according to its worth at the time of bringing the action, and the fruits reckoning from the day that it is brought.

ART. 1564. Donations in consideration of marriage are not revocable for cause of ingratitude, when there are children of that marriage.

When there are not, the revocation takes place with regard to the donee, but without impairing the rights resulting from the marriage in favor of the other party to the marriage.

RCC—156, 158, 1560, 1734 et seq., 1739, 1743, 3556(8).

RCC 1870, Art. 1564.

Same as above.
Art. 1565

When an eventual condition, which suspends the execution of a donation, can no longer be accomplished, as if the donation was to be executed on the arrival of a certain vessel, and the vessel is lost, the donation is dissolved of right.

RCC—1519, 1559, 1566 et seq., 1698, 1891, 1892, 2030, 2031.

RCC 1870, Art. 1565.
Same as above.

CC 1825, Art. 1552.
Same as above.

(Art, p. 211. Addition adopted; no comment)
Lorsqu’une condition casuelle, qui suspendait l’exécution de la donation ne peut plus être accomplie, comme si la donation devait s’exécuter à l’arrivée d’un certain navire, et que ce navire eût péri, la résolution de la donation s’opère de plein droit.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1566. But if the conditions be potestative, that is, if the donee is obliged to perform or prevent them, their non-fulfillment does not, of right, operate a dissolution of the donation; it must be sued for and decreed judicially.

RCC—1529, 1559, 1565, 1740, 2022, 2024, 2034, 2035, 2047.

RCC 1870, Art. 1566.
Same as above.

(Same as Art. 1566 of Proposed Revision of 1869)
CIVIL CODES OF LOUISIANA  Art. 1568

CC 1825, Art. 1553. (Projet, p. 211. Addition adopted; no comment)
But if the condition (conditions) be potestative, that is, if the donee is obliged to perform or prevent them, their nonfulfilment does not, of right, operate a dissolution of the donation; it must be sued for and decreed judicially.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 1567. An action of revocation or rescission of a donation* on account of the non-execution of the conditions imposed on the donee, is subject only to the usual prescription, which runs only from the day that the donee ceased to fulfill his obligations.
RCC—1565, 1566, 1568, 1569, 2221, 3542, 3544.
RCC 1870, Art. 1567. Same as above.
CC 1825, Art. 1554. (No reference in Projet)
Same as above.
CC 1808, p. 224, Art. 72.
An action of revocation or nullity on account of the non-execution of the condition imposed on the donee, is subject only to usual prescription, it lies** only from the day that the donee ceased to fulfill his obligations.
CN 1804. No corresponding article.

Projet du Gouvernement (1800), Book III, Title IX, Art. 66.
Same as CC 1825, Art. 1554, above.

Translation:

L'action en révocation ou résiliation pour cause d'inexécution des conditions imposées au donataire, n'est sujette qu'à la prescription ordinaire; elle ne court** que du jour où le donataire a cessé de remplir ses obligations.

**Note error in English translation of French text; “lies” should be “runs.”

ART. 1568. In case of revocation or rescission on account of the non-execution of the conditions, the property shall return to the donor free from all incumbrances or mortgages created by the donee, and the donor shall have, against any other persons possessing the immovable property given, all the rights that he would have against the donee himself. (As amended by Acts 1871, No. 87)
RCC—971, 1264, 1265, 1280, 1281, 1338, 1383, 1516, 1517, 1529, 1535, 1562, 3301.
RCC 1870, Art. 1568. (Same as Art. 1568 of Proposed Revision of 1869)
In case of revocation or rescission on account of the execution of the conditions, the property shall return to the donor free from all incumbrances or mortgages created by the donee; and the donor shall have, against any other persons possessing the immovable property given, all the rights that he would have against the donee himself.

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Art. 1569

In all cases, in which the donation is revoked or dissolved, the donee is not bound to restore the fruits by him gathered previous to the demand for the revocation or rescission.

But in case of the non-fulfillment of condition [conditions], which the donee is bound to fulfill, if it be proved to have proceeded from his fault, he may be condemned to restore the fruits by him received since his neglect to fulfill the conditions.

RCC—969, 1515, 1563.

RCC 1870, Art. 1569.
Same as above.

CC 1825, Art. 1562.
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
Chapter 6—Of Dispositions Mortis Causa (in Prospect of Death)*

*See general comment by redactors, Projet, p. 211; see appendix for omitted articles of CC 1808 relating to codicils.

Section 1—Of the Testament

Art. 1570. No disposition mortis causa shall henceforth be made otherwise than by last will or testament. Every other form is abrogated.

But the name given to the act of last will is of no importance, and dispositions may be made by testament under this title or under that of institution of heir, of legacy, codicil, donation mortis causa, or under any other name indicating the last will, provided that the act be clothed with the forms required for the validity of a testament, and the clauses it contains, or the manner in which it is made, clearly establish that it is a disposition of last will.

Thus an act of last will, by which an individual disposes of his property or of part thereof, in any manner whatsoever,* whether he has or has not charged any one with the execution of his last will, is considered as a testament, if it be, in other respects, clothed with the formalities required by law.


RCC 1870, Art. 1570. (Same as Art. 1570 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1563. (Projet, p. 211. Amendment † adopted; comment by redactors)

No disposition mortis causa shall henceforth be made otherwise than by last will or testament. All other form is abrogated.

Pars. 2, 3 same as pars. 2, 3, above; but comma (,) after "title"; no punctuation after "it is made."

Mais la dénomination qu'on donne à cet acte de dernière volonté est indifférente; et l'on peut disposer par testament, soit sous celui d'institution d'héritier, de legs, de codicile, de donation pour cause de mort, ou sous toute autre dénomination propre à manifester sa volonté, pourvu que l'acte soit revêtu des formes prescrites pour la validité du testament, et que les clauses qu'il renferme, ou la manière dont il est rédigé, annoncent clairement qu'il s'agit d'une disposition de dernière volonté.

Ainsi, l'acte de dernière volonté, par lequel un individu dispose de ses biens, ou d'une partie de ses biens, d'une
Art. 1571. A testament is the act of last will clothed with certain solemnities, by which the testator disposes of his property, either universally or by universal title, or by particular title.


RCC 1870, Art. 1571.
Same as above.

CC 1825, Art. 1564. (No reference in Projet)
Same as above.

CC 1808, p. 226, Art. 82.
Same as above; but no punctuation after “property”; comma (,) after “universally.”

CN 1804. No corresponding article.

Art. 1572. A testament can not be made by the same act, by two or more persons, either for the benefit of a third person, or under the title of a reciprocal or mutual disposition.

RCC—1519, 1570, 1571, 1573, 1751, 1890, 1902.

RCC 1870, Art. 1572.
Same as above.

CC 1825, Art. 1565. (Projet, p. 211. Amendment adopted; general comment by redactors)
Same as above.
ART. 1573. The custom of willing by testament, by the intervention of a commissary or attorney in fact is abolished.

Thus the institution of heir and all other testamentary dispositions committed to the choice of a third person are null, even should that choice have been limited to a certain number of persons designated by the testator.

RCC—1519, 1520, 1570 et seq., 1713, 3027.

RCC 1870, Art. 1573.
Same as above.

CC 1825, Art. 1566. (Projet, p. 211. Amendment adopted; general comment by redactors)

Same as above; but comma (,) after "person."

CC 1808, p. 226, Art. 88.

The custom of willing either by testament or by codicil, by the intervention of a commissary or attorney in fact, is abolished.

Par. 2 same as par. 2, above; but comma (,) after "heir."

CN 1804. No corresponding article.

Section 2—GENERAL RULES ON THE FORM OF TESTAMENTS

ART. 1574. All testaments are divided into three principal classes, to wit:

1. Nuncupative or open testaments;
2. Mystic or sealed testaments;
3. Olographic testaments.

RCC—1467, 1469, 1575, 1576, 1577 et seq., 1584 et seq., 1588 et seq., 1597 et seq., 1601 et seq., 1618, 1692, 1727.
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RCC 1870, Art. 1574.

Same as above.

CC 1825, Art. 1567.

Same as above.

CC 1808, p. 226, Art. 89.

All testaments and codicils are divided into three principal classes, to wit:
1st, Testaments and codicils nuncupative, or open.
2d, Testaments and codicils mystic or shut.
3rd, Olographic testaments and codicils.

CN 1804, Art. 969.

A testament may be olographic, or made by public act, or in the mystic form.

**Art. 1575.** Testaments, whether nuncupative or mystic, must be drawn up in writing, either by the testator himself, or by some other person under his dictation.

RCC—1574, 1576, 1578 et seq., 1581 et seq., 1584 et seq., 1597 et seq., 1601 et seq.

RCC 1870, Art. 1575.

Same as above.

CC 1825, Art. 1568.

Same as above; but comma (,) after "person"; no punctuation after "himself."

CC 1808, p. 228, Art. 90, par. 1.

Testaments and codicils, whether nuncupative or mystic, must be drawn up in writing, either by the testator himself, or by any other person, under his dictation.

CN 1804. No corresponding article.

**Art. 1576.** The custom of making verbal testaments, that is to say, resulting from the mere deposition of witnesses, who were present when the testator made known to them his will, without his having committed it or caused it to be committed to writing, is abrogated.

RCC—1467, 1574, 1575, 2278.

RCC 1870, Art. 1576.

Same as above.
CIVIL CODES OF LOUISIANA

Art. 1578

CC 1825, Art. 1569.
Same as above.

CC 1808, p. 228, Art. 90, par. 2.
The usage of the testaments or codicils merely verbal, that is to say resulting from the mere disposition (deposition) of witnesses who were present when the testator made known to them his will, without his having committed it or caused it to be committed to writing, is abrogated.

CN 1804. No corresponding article.

Art. 1577. Nuncupative testaments may be made by public act, or by act under private signature.

RCC—1574, 1578 et seq., 1581 et seq.

RCC 1870, Art. 1577.
Same as above.

CC 1825, Art. 1570.
Same as above.

CC 1808, p. 228, Art. 91.
Nuncupative testaments and codicils may be made by public act, or by an act under private signature.

CN 1804. No corresponding article.

Art. 1578. The nuncupative testaments by public act must be received by a notary public, in presence of three witnesses residing in the place where the will is executed, or of five witnesses not residing in the place.

This testament must be dictated by the testator, and written by the notary as it is dictated.

It must then be read to the testator in presence of the witnesses.

Express mention is made of the whole, observing that all those formalities must be fulfilled at one time, without interruption, and without turning aside to other acts.

RCC—1575, 1577, 1579, 1580, 1582, 1583, 1591, 1592, 1594, 1595, 1618, 1647, 1692, 1727.

RCC 1870, Art. 1578.
Same as above.

CC 1825, Art. 1571.
Same as above; but no punctuation after "interruption."
Art. 1579

This testament must be signed by the testator; if he declares that he knows not how, or is not able to sign, express mention of his declaration, as also of the cause that hinders him from signing, must be made in the act.

RCC—1578, 1582, 1585, 1586, 1588, 1599, 1603, 1647.

RCC 1870, Art. 1579.
Same as above.

CC 1825, Art. 1572.
Same as above.

*Note error in English translation of French text; “signed” should be “dictated.”
ART. 1580. This testament must be signed by the witnesses, or at least by one of them for all, if the others can not write.*

RCC—1578, 1582, 1584, 1586, 1587, 1591, 1592, 1595, 1599, 1603, 1647.

RCC 1870, Art. 1580.
Same as above.

CC 1825, Art. 1573.
Same as above.

(No reference in Projet)

CC 1808, p. 228, Art. 94.
Same as above.

-p. 229, Art. 94.
Ce testament devra être signé par les témolns ou au moins par l'un d'eux pour tous, si les autres ne savent pas signer.*

CC 1804, Art. 974.
The testament must be signed by the witnesses; nevertheless, in the country, the signature of one of the two witnesses shall suffice, if the testament is received by two notaries, and the signature of two of the four, if it is received by one notary.

Le testament devra être signé par les témoins ou au moins par l'un d'eux pour tous, si les autres ne savent pas signer.*

-Note error in English translation of French text; "can not write" should be "do not know how to sign."

ART. 1581. A nuncupative testament, under private signature, must be written by the testator himself, or by any other person from his dictation, or even by one of the witnesses, in presence of five witnesses residing in the place where the will is received, or of seven witnesses residing out of that place.

Or it will suffice, if, in the presence of the same number of witnesses, the testator presents the paper on which he has written his testament or caused it to be written out of their presence, declaring to them that that paper contains his last will. (As amended by Acts 1871, No. 87)

RCC—1575, 1582, 1583, 1591, 1592, 1593, 1594, 1595, 1618, 1648, 1649, 1653, 1692, 1727.

RCC 1870, Art. 1581. (Same as Art. 1581 of Proposed Revision of 1869)
A nuncupative testament, under private signature, must be written by the testator himself or by any other person, from his dictation; or even by one of the witnesses, in presence of five witnesses residing* out of that place.

Or it will suffice if, in the presence of the same number of witnesses, the testator presents the paper, on which he has written his testament, or caused it to be written out of their presence, declaring to them that that paper contains his last will.

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Art. 1582

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CC 1825, Art. 1574.  (No reference in Projet)

Same as RCC 1870, Art. 1581, as amended by Acts 1871, No. 87, above; but semicolon (;) after "dictation", and after "that place"; no punctuation after "suffice"; comma (,) after "the paper", and after "his testament."

Le testament nuncupatif sous signature privée, doit être écrit par le testateur lui-même, ou par toute autre personne sous sa dictée, ou même par l'un des témoins en présence de cinq témoins résidant au lieu où est reçu le testament, ou de sept témoins résidant hors de ce lieu.

Ou bien il suffit qu'en présence du même nombre de témoins, le testateur leur présente le papier, sur lequel il aura écrit ou fait écrire ses volontés hors de leur présence, et leur déclare que ce papier contient ses dernières volontés.

CC 1808, p. 228, Art. 96, pars. 1, 2.

Same as above; but no punctuation after "nuncupative testament", after "person", after "if", or after "paper"; comma (,) after "himself", after "dictation", and after "to be written"; period (.) after "that place."

Le testament nuncupatif sous signature privée doit être écrit par le testateur lui-même, ou par toute autre personne sous sa dictée, ou même par l'un des témoins, en présence de cinq témoins résidant au lieu où est reçu le testament, ou de sept témoins résidant hors dudit lieu.

Par. 2, same as par. 2, above; but no punctuation after "papier"; comma (,) after "ses volontés."

CN 1804.  No corresponding article.

*English translation of French text incomplete; should include "in the place where the will is received, or of seven witnesses residing."

Art. 1582.  In either case, the testament must be read by the testator to the witnesses, or by one of the witnesses to the rest, in presence of the testator; it must be signed by the testator, if he knows how or is able to sign, and by the witnesses or at least by two of them, in case the others know not how to sign, and those of the witnesses who do not know how to sign, must affix their mark.

This testament is subject to no other formality than those prescribed by this and the preceding article.

RCC—1578 et seq., 1584, 1585, 1587, 1588, 1591, 1592, 1595, 1599, 1603.

RCC 1870, Art. 1582.

Same as above.

CC 1825, Art. 1575.

Same as above.

(Projet, p. 212. Amendment I adopted; no comment)
In either case the testament must be signed by the testator, if he knows how, or is able to sign, and by the witnesses, or at least by one of them for all, in case the others know not how to sign.

This testament is subject to no other formality than those prescribed by the present article.

CN 1804. No corresponding article.

ART. 1583. In the country it suffices for the validity of nuncupative testaments under private signature, if the testament be passed in the presence of three witnesses residing in the place where the testament is received, or of five witnesses residing out of that place, provided that in this case a greater number of witnesses can not be had.

RCC—1578, 1581, 1594.

RCC 1870. Art. 1583.
Same as above.

CC 1825, Art. 1576.
Same as above.

ART. 1584. The mystic or secret testament, otherwise called the closed testament, is made in the following manner: The testator must sign his dispositions, whether he has written them himself or has caused them to be written by another person. The paper containing those dispositions, or the paper serving as their envelope must be closed and sealed. The testator shall present it thus closed and sealed to the notary and to three witnesses, or he shall cause it to be closed and sealed in their presence. Then he shall declare to the notary, in presence of the witnesses that the paper contains his testament written by himself or by another by his direction, and signed by him, the
testator. The notary shall then draw up the act of superscription, which shall be written on that paper or on the sheet that serves as its envelope, and that act shall be signed by the testator, by the notary and by the witnesses. (As amended by Acts 1898, No. 88)

RCC—1574, 1575, 1580, 1582, 1585 et seq., 1591 et seq., 1599, 1603, 1618, 1650 et seq., 1692, 1727.

RCC 1870, Art. 1584.
The mystic or secret testament, otherwise called the closed testament, is made in the following manner:
The testator must sign his dispositions, whether he has written them himself, or has caused them to be written by another person.
The paper containing those dispositions, or the paper serving as their envelope, must be closed and sealed.
The testator shall present it thus closed and sealed to the notary and to seven witnesses, or he shall cause it to be closed and sealed in their presence. Then he shall declare to the notary, in presence of the witnesses, that that paper contains his testament written by himself, or by another by his direction, and signed by him, the testator. The notary shall then draw up the act of superscription, which shall be written on that paper or on the sheet that serves as its envelope, and that act shall be signed by the testator, by the notary and by the witnesses.

CC 1825, Art. 1577. (Projet, p. 212. Amendment : adopted; comment by redactors)
Same as above; but no punctuation after "him."

Le testament mystique ou secret, autrement appelé testament fermé, se fait dans la forme suivante :
Le testateur doit signer ses dispositions, soit qu'il les ait écrites lui-même, soit qu'il les ait fait écrire par un autre.
Le papier qui contiendra ses dispositions, ou le papier qui leur servira d'enveloppe, devra être clos et scellé ; le testateur le présentera ainsi clos et scellé, au notaire et à sept témoins, ou il le fera clore et sceller en leur présence ; ensuite il déclarera au notaire en présence des témoins, que le contenu en ce papier est son testament, écrit par lui, ou par un autre par ses ordres, et signé de lui testateur ; le notaire dressera aussitôt l'acte de suscription, qui sera écrit sur ce papier ou sur la feuille qui lui sert d'enveloppe, et cet acte sera signé tant par le testateur que par le notaire et les témoins.

The mystic or secret testament, otherwise called the closed will, is made in the following manner.
The testator must sign his dispositions if he knows how, or is able to do it, whether he have written them himself or have caused them to be written by another person; the paper containing these dispositions or the paper serving as their envelope, must be closed and sealed. The testator shall present it thus closed and sealed to the notary and to seven witnesses, or he shall cause it to be closed and sealed in their presence.

Le testateur doit signer ses dispositions, s'il le sait ou s'il le peut, soit qu'il les ait écrites lui-même ou qu'il les ait fait écrire par un autre.
Le papier qui contiendra ses dispositions, ou le papier qui leur servira d'enveloppe, devra être clos et scellé ; le testateur le présentera ainsi clos et scellé au notaire et à sept témoins, ou il le fera clore et sceller en leur présence ; ensuite il déclarera audit notaire, en présence desdits témoins,
Then he shall declare to the said notary in presence of said witnesses, that that paper contains his testament written by himself, or by another by his direction, and signed, or not signed by him the testator, as the case may be.

The notary shall then draw up the act of superscription which shall be written on that paper or on the sheet that serves as its envelope, and that act shall be signed by the testator if he can sign, and by the notary and the witnesses.

Art. 1585. All that is above prescribed shall be done without interruption or turning aside to other acts; and in case the testator, by reason of any hindrance that has happened since the signing of the testament, can not sign the act of superscription, mention shall be made of the declaration made by him thereof, without its being necessary, in that case to increase the number of witnesses.

RCC—1574, 1578, 1579, 1582, 1584, 1586 et seq., 1595, 1599, 1603.

RCC 1870, Art. 1585.

Same as above.

CC 1825, Art. 1578. (No reference in Projet)

Same as above; but comma (,) after "that case."

CC 1808, p. 228, Art. 99, par. 5.

All that is above prescribed shall be done without interruption or turning away to other acts, and in case the testator, by reason of any hindrance that que le contenu en ce papier est son testament, écrit par lui ou par un autre par ses ordres, et signé ou non signé de lui le testateur, suivant le cas; le notaire dressera aussitôt l'acte de suscription, qui sera écrit sur ce papier ou sur la feuille qui lui sert d'enveloppe, et cet acte sera signé, tant par le testateur, s'il sait signer, que par le notaire et les témoins.

Lorsque le testateur voudra faire un testament mystique ou secret, il sera tenu de signer ses dispositions, soit qu'il les ait écrites lui-même, ou qu'il les ait fait écrire par un autre. Sera le papier qui contiendra ses dispositions, ou le papier qui servira d'enveloppe s'il y en a une, clos et scellé. Le testateur le présentera ainsi clos et scellé au notaire, et à six témoins au moins, ou il le fera clore et sceller en leur présence; et il déclarera que le contenu en ce papier est son testament écrit et signé de lui, ou écrit par un autre et signé de lui: le notaire en dressera l'acte de suscription, qui sera écrit sur ce papier ou sur la feuille qui servira d'enveloppe; cet acte sera signé tant par le testateur que par le notaire, ensemble par les témoins.

Art. 1585. All that is above prescribed shall be done without interruption or turning aside to other acts; and in case the testator, by reason of any hindrance that has happened since the signing of the testament, can not sign the act of superscription, mention shall be made of the declaration made by him thereof, without its being necessary, in that case to increase the number of witnesses.

RCC—1574, 1578, 1579, 1582, 1584, 1586 et seq., 1595, 1599, 1603.

RCC 1870, Art. 1585.

Same as above.

CC 1825, Art. 1578. (No reference in Projet)

Same as above; but comma (,) after "that case."

CC 1808, p. 228, Art. 99, par. 5.

All that is above prescribed shall be done without interruption or turning away to other acts, and in case the testator, by reason of any hindrance that
Art. 1586

has happened since the signing of the testament, cannot sign the act of superscription, mention shall be made of the declaration made by him thereof without its being necessary in that case to increase the number of witnesses.

CN 1804, Art. 976, sentence 4.
Same as above.

Art. 1586. Those who know not how or are not able to write,* and those who know not how or are not able to sign their names, cannot make dispositions in the form of the mystic will.

RCC—1582, 1584, 1585, 1587.

RCC 1870, Art. 1586.
Same as above.

CC 1825, Art. 1579.
(Projet, p. 213. Substitution adopted; comment by redactors)

Ceux qui ne savent ou ne peuvent lire,* et ceux qui ne savent ou ne peuvent signer, ne peuvent faire de dispositions dans la forme du testament mystique.

CC 1808, p. 230, Art. 100.
If the testator does not know how to sign, or was disabled from doing it, when he caused his disposition to be written, another witness shall be called to the act of superscription, besides the number required by the preceding article, who shall sign the act with the other witnesses, and mention shall be made of the cause for which the other witness is called in. (Suppressed on recommendation of redactors; see comment, Projet, p. 213)

CN 1804, Art. 977.
Same as above.

-Art. 978.

Those who know not how or are not able to read, cannot make dispositions in the form of the mystic will.

*Note error in English translation of French text; "write" should be "read."
ART. 1587. If any one of the witnesses to the act of superscription know not how to sign, express mention shall be made thereof. In all cases, the act must be signed at least by two witnesses.

RCC—1580, 1582, 1584, 1586, 1595, 1599, 1603, 1650.

RCC 1870, Art. 1587.
Same as above.

CC 1825, Art. 1580.
Same as above.

In case the witnesses cannot all write, one of them at least must sign the act of superscription for all the others, when the testament has been signed by the testator, but if the testament has not been signed by the testator, two of the witnesses at least must sign the act of superscription for the other witnesses who do not know how to sign.

CN 1804. No corresponding article.

ART. 1588. The olographic testament is that which is written by the testator himself.
In order to be valid, it must be entirely written, dated and signed by the hand of the testator. It is subject to no other form, and may be made anywhere, even out of the State.

RCC—1574; 1579, 1582, 1585, 1589, 1595, 1596, 1603, 1618, 1655, 1692, 1727, 1788.

RCC 1870, Art. 1588.
Same as above.

CC 1825, Art. 1581.
Same as above.

CC 1808, p. 230, Art. 103.
The olographic testament, or codicil is that which is made and written by the testator himself, without the presence of any witness. It may be either open or sealed; but when it is sealed it needs no other superscription than this or words equivalent "this is my olographic will or codicil,"* which superscription must be signed by the testator.

 CN 1808, p. 230, Art. 103.
Le testament olographe est celui qui est écrit par le tuteur lui-même.
Il faut pour qu'il soit valable, qu'il soit écrit en entier, daté et signé de la main du tuteur lui-même.
Il n'est assujetti à aucune autre forme, et peut être fait en tous lieux, même hors de l'État.

 Art. 1588.
Le testament ou codicile olographe, est celui qui est fait et écrit par le testateur lui-même, hors la présence d'aucuns témoins.
Il peut être ouvert ou cacheté, mais lorsqu'il est cacheté, il n'y a pas besoin d'autre suscription que celle-ci ou autre équivalente; "ceci est mon testament olographe,"* laquelle suscription doit être signée par le testateur.
Art. 1589. Erasures not approved by the testator are considered as not made, and words added by the hand of another as not written.

If the erasures are so made as to render it impossible to distinguish the words covered by them, it shall be left to the discretion of the judge to declare, if he considers them important, and in this case only to decree the nullity of the testament. (As amended by Acts 1871, No. 87)

RCC—1588.

RCC 1870, Art. 1589.

Erasures not approved by the testator are considered as not made; and words added by the hand of another, as not written.

If the erasures are not so made* as to render it impossible to distinguish the words covered by them, it shall be left to the discretion of the judge to declare if he considers them important, and in this case only to decree the nullity of the testament.

CC 1825, Art. 1582. (Projet, p. 214. Addition † adopted; comment by redactors)

Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

"Note error in English translation of French text; "are not so made" should be "are so made."

Art. 1590. It suffices, for the validity of a testament, that it be valid under any one of the forms prescribed by law, however defective it may be in the form under which the testator may have intended to make it.

RCC—1570, 1571, 1574, 1595.
The following persons are absolutely incapable of being witnesses to testaments:

1. Children who have not obtained the age of sixteen years complete.
2. Persons insane, deaf, dumb or blind.
3. Persons whom the criminal laws declare incapable of exercising civil functions.
4. Married women to the wills of their husbands. (As amended by Acts 1908, No. 30)

The following persons are absolutely incapable of being witnesses to testaments:

2. Male children who have not attained the age of sixteen years, complete.
3. Persons insane, deaf, dumb or blind.
4. Persons whom the criminal laws declare incapable of exercising civil functions.
5. Slaves.
Art. 1592

Neither can testaments be witnessed by those who are constituted heirs or named legatees, under whatsoever title it may be.

RCC—1578, 1581, 1583, 1584, 1591, 1593, 1595, 1599, 1603.

RCC 1870, Art. 1592.
Same as above.

CC 1825, Art. 1585.
Same as above.

CC 1808, p. 232, Art. 106.
Neither can testaments be witnessed by those who are instituted heirs, or named legatees either universal or on a universal title.

CN 1804, Art. 975.
A testament by public act cannot be witnessed by the legatees, under whatsoever title they may be, or by their relatives by blood or affinity up to the fourth degree, inclusively, or by the clerks of the notaries by whom the acts have been passed.

ART. 1593. Mystic testaments are excepted from the preceding article.

RCC—1584 et seq., 1592.

RCC 1870, Art. 1593.
Same as above.

CC 1825, Art 1586.
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1594. By the residence of the witnesses in the place where the testament is executed, is understood their residence in the parish where that testament is made; that residence is necessary only when it is expressly required by law.

RCC—1082, 1086, 1091, 1110, 1578, 1581, 1583.

RCC 1870, Art. 1594.
Same as above.
La résidence des témoins au lieu où se passe le testament, s'entend de leur résidence dans la paroisse où le testament est reçu; cette résidence ne s'exige que lorsqu'elle est expressément requise par la loi.

La résidence des témoins au lieu où se passe le testament, s'entend de leur résidence dans la paroisse où ce testament est reçu; cette résidence ne s'exige que lorsqu'elle est expressément requise par la loi.

Les formalités auxquelles les testaments sont assujettis par les dispositions de la présente section, doivent être observées à peine de nullité.

Les formalités auxquelles les divers testaments sont assujettis par les dispositions de la présente section, doivent être observées à peine de nullité.

Les formalités auxquelles les divers testamentary donations are subject by the provisions of the present section, must be observed; otherwise the testamentary donations are null and void.

Les formalités auxquelles les diverses donations testamentaires sont assujetties par les dispositions de la présente section, doivent être observées à peine de nullité.

* But testaments made in foreign countries, or the States and other Territories of the Union, shall take effect in this State, if they be clothed with all the formalities prescribed for the validity of wills in the place where they have been respectively made.

(Same as Art. 1596 of Proposed Revision of 1869)
Art. 1597

The wills of persons employed in armies in the field, or in a military expedition, may be received by a commissioned officer, in presence of two witnesses.

RCC—1570, 1574, 1575, 1591, 1598 et seq., 1618, 1692, 1727.

RCC 1870, Art. 1597.

Same as above.

CC 1825, Art. 1590.

Same as above.

CC 1808. No corresponding article.

CN 1804, Art. 981.

The wills of soldiers and of persons employed in armies, may, in whatever country it be, be received by a chief of battalion or squadron, or by any other officer of superior rank, in the presence of two witnesses, or by two war commissaries, or by one of them in presence of two witnesses.
ART. 1598. If the testator is sick or wounded, they may be received by the physician or surgeon attending him, assisted by two witnesses.

RCC—1591, 1597, 1599, 1600, 1603.

ART. 1599. These testaments are subject to no other formalities than that of being reduced to writing, and being signed by the testator, if he can write,* by the persons receiving them, and by the witnesses.

RCC—1579, 1580, 1582, 1584, 1586 et seq., 1591, 1592, 1597 et seq., 1603.

ART. 1600. The testament, made in the form above prescribed, shall be null, six months after the return of the testator to a place where he has an opportunity to employ the ordinary forms.

RCC—1604, 1691.

*Note error in English translation of French text; "if he can write" should be "if he can do so."
ART. 1601. Testaments, made during a voyage at sea, may be received by the captain or master, in presence of three witnesses taken by preference from among the passengers; in default of passengers from among the crew.

RCC—1570, 1574, 1575, 1591, 1602 et seq., 1692, 1727.

RCC 1870, Art. 1601.
Same as above.

CC 1825, Art. 1594. (Projet, p. 216. Addition adopted; no comment)
Les testaments faits sur mer, dans le cours d'un voyage, peuvent être reçus par le capitaine ou maître, en présence de trois témoins pris de préférence parmi les passagers, et à défaut de passagers, parmi les gens de l'équipage.

CC 1808. No corresponding article.

CN 1804, Art. 988. Testaments made during a voyage at sea may be received as follows:

On board ships and other vessels belonging to the State, either by the officer in command of the ship, or, in his absence, by him who succeeds him in order of service, together with the administrative officer or with him who acts as such;

And, on board merchant ships, either by the captain's clerk or the one acting as such, together with the captain, master or owner, or in their absence, with those who succeed them.

In all cases these testaments must be received in the presence of two witnesses.

ART. 1602. The testament made at sea can contain no disposition in favor of any of the persons employed on board the vessel, unless they be relations of the testator.

RCC—1470, 1471, 1601, 1603, 1604.

RCC 1870, Art. 1602.
Same as above.
ART. 1604. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1604.  
Same as above.

ART. 1603. This testament, like the preceding one, is subject to no other formality than that of being reduced to writing, and being signed by the testator, if he can write,* by him who receives it, and by those in whose presence it is received.

RCC—1579, 1580, 1582, 1584, 1586 et seq., 1591, 1592, 1597 et seq., 1601, 1602, 1604.

RCC 1870, Art. 1603.  
Same as above.

ART. 1602. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Same as above; but comma (,) after "sea."

ART. 1601. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1601.  
Same as above.

ART. 1600. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Same as above; but comma (,) after "sea."

ART. 1599. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1599.  
Same as above.

ART. 1598. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Seulement les parents du testateur.

ART. 1597. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1597.  
Same as above; but comma (,) after "place."

ART. 1596. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Same as above; but comma (,) after "sea."

ART. 1595. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1595.  
Same as above; but comma (,) after "place."

ART. 1594. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Same as above; but comma (,) after "sea."

ART. 1593. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1593.  
Same as above; but comma (,) after "place."

ART. 1592. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Same as above; but comma (,) after "sea."

ART. 1591. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1591.  
Same as above; but comma (,) after "place."

ART. 1590. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Same as above; but comma (,) after "sea."

ART. 1589. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1589.  
Same as above; but comma (,) after "place."

ART. 1588. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Same as above; but comma (,) after "sea."

ART. 1587. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1587.  
Same as above; but comma (,) after "place."

ART. 1586. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Same as above; but comma (,) after "sea."

ART. 1585. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1585.  
Same as above; but comma (,) after "place."

ART. 1584. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Same as above; but comma (,) after "sea."

ART. 1583. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1583.  
Same as above; but comma (,) after "place."

ART. 1582. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Same as above; but comma (,) after "sea."

ART. 1581. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1581.  
Same as above; but comma (,) after "place."

ART. 1580. The testament made at sea can contain no disposition in favor of the officers of the ship, if they are not relations of the testator.

Same as above; but comma (,) after "sea."

ART. 1579. The testament made at sea shall not be valid unless the testator dies at sea, or within three months after he has landed in a place where he is able to make it in the ordinary forms.

RCC—1596, 1600, 1691.

RCC 1870, Art. 1579.  
Same as above; but comma (,) after "place."

*Note error in English translation of French text; "if he can write" should be "if he can do so."

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Art. 1605  

Section 4—OF TESTAMENTARY DISPOSITIONS*

*See general comment by redactors, Projet, p. 216.

**ART. 1605.** Testamentary dispositions are either universal, under a universal title, or under a particular title.

Each of these dispositions, whether it be made under the name of institution of heir, or under the name of legacy, shall have its effect, according to the rules hereafter established for universal legacies, for legacies under a universal title, and for particular legacies.

RCC—884, 1467, 1570, 1571, 1606 et seq., 1612 et seq., 1625 et seq.

RCC 1870, Art. 1605.
Same as above.

CC 1825, Art. 1598.
Same as above.

(CC 1808, p. 232, Art. 110.
Testamentary dispositions are generally made in form of institution of heir, or in form of legacy.

-p. 232, Art. 111.
The institution of heirs is a disposition by which the testator names one or more persons to succeed him, either in the whole of his estate or only in a certain quantum of the estate, or in some particular thing.

-p. 232, Art. 112.
A legacy is a direct disposition which the testator makes for the benefit of one or more persons, either of the whole or a portion of his estate, or of some particular thing.

Testamentary dispositions, whether they be made in form of institution of heir, or in form of legacy, are either universal or on a universal title, or on a particular title.

CN 1804, Art. 1002.
Same as CC 1825, Art. 1598, above.

Les dispositions testamentaires sont universelles ou à titre universel ou à titre particulier.

Chacune de ces dispositions, soit qu'elle ait été faite sous la dénomination d'institution d'héritier, soit qu'elle ait été faite sous la dénomination de legs, produira son effet, suivant les règles ci-après établies pour les legs universels, pour les legs à titre universel et pour les legs particuliers.

-p. 233, Art. 110.
Les dispositions testamentaires se font en général par forme d'institution d'héritier, ou par forme de legs.

-p. 233, Art. 111.
L'institution d'héritier est une disposition par laquelle le testateur nomme une ou plusieurs personnes pour lui succéder, soit dans l'universalité de ses biens, soit seulement dans une quotité de ces mêmes biens, soit dans quelque chose particulière.

-p. 233, Art. 112.
Le legs est une disposition directe que le testateur fait au profit d'une ou plusieurs personnes, soit de l'universalité, soit d'une quotité de ses biens, soit de quelque chose particulière.

Les dispositions testamentaires, soit qu'elles se fassent par forme d'institution d'héritier, soit par forme de legs, sont, ou universelles, ou à titre universel, ou à titre particulier.

Les dispositions testamentaires sont ou universelles, ou à titre universel, ou à titre particulier.

Par. 2 same as CC 1825, Art. 1598, par. 2, above; but comma (,) after "titre universel."
§1—Of Universal Legacies

Art. 1606. A universal legacy is a testamentary disposition, by which the testator gives to one or several persons the whole of the property which he leaves at his decease.

RCC—580, 884, 1307, 1489, 1496, 1497, 1502, 1605, 1607 et seq., 1625.
CP—23.

RCC 1870, Art. 1606.
Same as above.

CC 1825, Art. 1599.
(Sujet, p. 1454. Substitution adopted; no comment)

Same as above.

Testamentary dispositions universal are those by which the testator gives to one or more persons the whole of the property he leaves at his death, or of which the law permits him to dispose.

RCC 1870, Art. 1607.
Same as above.

CC 1825, Art. 1600.
(Sujet, p. 1454. Substitution adopted; no comment)

Same as above.

CC 1808, p. 234, Art. 122.
Whether the forced heirs have or have not been instituted by the testator, they are by his death, of full right, seized of all the property of the succession, and the heir instituted universally is bound to demand of them the delivery of the property contained in the testament, saving the reduction in case of their exceeding the disposable portion.

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ART. 1608. Nevertheless in the same case, the universal legatee will have the enjoyment of the effects included in the testament, from the day of the decease, if the demand for the delivery has been made within a year from that period; if not, enjoyment will only commence from the day of the judicial demand, or from the day on which the delivery has been agreed upon.

RCC—1515, 1607, 1609, 1610, 1626.

RCC 1870, Art. 1608. (Same as Art. 1608 of Proposed Revision of 1863)

Same as above.

CC 1825, Art. 1601. (Projet, p. 217. Amendment adopted; no comment)

Néanmoins, dans le même cas, le légataire universel aura la jouissance des biens compris dans le testament, à compter du jour du décès, si la demande en délivrance a été faite dans l'année depuis cette époque, sinon cette jouissance ne commencera que du jour de la demande formée en justice, ou du jour que la délivrance aura été volontairement consentie.

CC 1808, p. 234, Art. 123.

Néanmoins, dans les mêmes cas, l'héritier institué universellement aura la jouissance des biens compris dans le testament, à compter du jour du décès, si la demande en délivrance a été faite dans l'année depuis cette époque; si non (sinon), cette jouissance ne commencera que du jour de la demande formée en justice, ou du jour que la demande aurait été volontairement consentie.

ART. 1609. When, at the decease of the testator, there are no heirs, to whom a proportion of his property is reserved by law, the universal legatee, by the death of the testator, is seized of right of the effects of the succession, without being bound to demand the delivery thereof.

RCC—874, 940 et seq., 1496, 1606 et seq., 1610, 1613, 1626, 1630, 1659, 1660, 1671.

RCC 1870, Art. 1609.

Same as above.
ART. 1610. When all the forced heirs have been legally disinherit, the heir instituted universally is seized in full right of the succession, without being bound to demand the delivery of it, in the same manner as if there were no forced heirs, conformably to what is prescribed above.

RCC—940 et seq., 1495, 1496, 1607, 1608, 1609, 1613, 1617 et seq., 1626, 1630, 1659, 1660, 1671.

RCC 1870, Art. 1610.

Same as above.

ART. 1617. The universal legatee, who concurs with an heir to whom the law has reserved a certain proportion of the effects of the succession, is bound for the debts and charges of the succession personally for his part and proportion, and in case of mortgage on his part,* for the whole; and he is bound to discharge all the legacies, saving the case of reduction.

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§2—Of Legacies under a Universal Title

ART. 1612. The legacy, under a universal title, is that by which a testator bequeaths a certain proportion of the effects of which the law permits him to dispose, as a half, a third, or all his immovables, or all his movables, or a fixed proportion of all his immovables or of all his movables.

RCC—580, 582, 1307, 1489, 1605, 1606, 1625, 1704. CP—23.

RCC 1870, Art. 1612. (Same as Art. 1612 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1604. (Projet, p. 217. Amendment adopted; no comment)

Le legs à titre universel est celui par lequel le testateur lègue une quote-part des biens dont la loi lui permet de disposer, telle qu’une moitié, un tiers, ou tous ses immuables, ou une quote-part de tous ses immeubles ou de tout son mobilier.
Testamentary dispositions on a universal title, are those by which the testator gives to one or more persons a quantum of the property of which the law permits him to dispose, as the half, the third part, the twentieth part, or the whole of a certain kind of property, as all his real estate, all his moveable property; or a quantum of the whole, as the third part of his real estate or three fourths of his moveable property.

Les dispositions testamentaires, à titre universel, sont celles par lesquelles le testateur donne à une ou plusieurs personnes une quote-part des biens dont la loi lui permet de disposer, comme la moitié, le tiers, le vingtième; ou l'universalité d'une certaine espèce de biens, comme tous ses immeubles, tout son mobilier; ou une quotité de ces universalités, comme le tiers de ses immeubles, ou les trois quarts de ses meubles.

Legatees under a universal title are bound to demand the delivery of the tenus de demander la delivrance aux heritiers, to whom a proportion of the effects is reserved by law; in default of heirs, of the universal legatees; and in default of those, of the next heirs in the order established in the title:

Of Successions.

Les légataires à titre universel sont tenus de demander la délivrance aux héritiers, auxquels une quotité des biens est réservée par la loi, à leur défaut, aux légataires universels, et à défaut de ceux-ci, aux héritiers appelés dans l'ordre établi au titre des successions.

An heir who is instituted only on a universal title, shall be bound to demand delivery from the forced heirs not disinherited for just cause; and if there be no forced heirs, from the heir instituted universally; and if there be no such heir, from the legitimate heirs and other persons succeeding, called in the order established in the title of successions.

L'héritier qui n'est institué qu'à titre universel, sera tenu de demander la délivrance aux héritiers, auxquels une quotité des biens est réservée par la loi; à leur défaut, aux légataires universels; et à défaut de celui-ci, aux héritiers légitimes et autres personnes successibles, appelés dans l'ordre établi au titre des successions.

The legatee under a universal title is bound, like the universal legatee, for the debts and charges of the succession, personally for his part,* and in case of mortgage on his portion,** for the whole.

Les légataires à titre universel seront tenus de demander la délivrance aux héritiers auxquels une quotité des biens est réservée par la loi; à leur défaut, aux légataires universels; et à défaut de ceux-ci, aux héritiers appelés dans l'ordre établi au titre des Successions.
**Art. 1615**

When the testator has disposed only of a proportion of the disposable portion, and has done it under a universal title, the legatee under this title is bound to contribute with his natural heirs to the payment of particular legacies.

**RCC-940, 1420, 1430, 1511, 1614, 1626, 1627, 1630, 1633, 1634 et seq.**

**RCC 1870, Art. 1615.** (Same as Art. 1615 of Proposed Revision of 1869)

Same as above.

**CC 1825, Art. 1607.** (Projet, p. 217. Amendment adopted; no comment)

When the testator has disposed only of a proportion of the disposable portion, and has done it under an universal title, the legatee under this title is bound to contribute with his natural heirs to the payment of particular legacies.

**C.C. 1808, p. 238, Art. 137.**

When the testator has disposed of only a quantum of the disposable portion, and that by a universal title, the heir thus instituted shall be bound to pay off the particular legacies by contribution with the legitimate heirs and other persons succeeding to the testator.

**C.N. 1804, Art. 1013.**

Same as CC 1825, Art. 1607, above.

**Art. 1616.** In no case can the instituted heir, under whatever title he may be, claim the falcidian portion, that is the fourth which...
the law authorized the testamentary heir to retain from the succession, in case more than three-fourths of it were absorbed by the legacies; this right being abolished.

RCC 1870, Art. 1616.
Same as above.

CC 1825, Art. 1608. (Projet, p. 217. Amendment adopted; no comment)
Same as above; but comma (,) after "that is."

CC 1808, p. 238, Art. 138. (No reference in Projet)
In no case can the heir instituted on any title whatever, pretend to the falcidian portion, that is to say the fourth part which the civil law empowers the testamentary heir to retain of the succession, in case it be absorbed above three fourths by the legacies, that right being and remaining abolished.

CN 1804. No corresponding article.

§3—Of Disinherison*

*See general comment by redactors, Projet, p. 218.

Art. 1617. Forced heirs may be deprived of their legitime, or legal portion, and of the seizin granted them by law, by the effect of disinherison by the testator, for just cause, and in the manner hereafter prescribed.

RCC—112, 901, 975, 1495, 1610, 1618 et seq., 1710.

RCC 1870, Art. 1617.
Same as above.

CC 1825, Art. 1609. (No reference in Projet)
Same as above.

CC 1808, p. 234, Art. 126.
Same as above; but no punctuation after "legitime", or after "cause."

CN 1804. No corresponding article.

Art. 1618. A disinherison, to be valid, must be made in one of the forms prescribed for testaments.

RCC—1574 et seq., 1578, 1581, 1584, 1588, 1597 et seq., 1607, 1617, 1619 et seq.
ART. 1619. The disinherison must be made by name and expressly, and for a just cause, otherwise it is null.

RCC—1617, 1618, 1620 et seq.

ART. 1620. There are no just causes for disinherison but those expressly recognized by law, in the following articles.

RCC—1617 et seq., 1621 et seq.

ART. 1621. The just causes for which parents may disinherit their children are ten in number, to wit:

1. If the child has raised his or her hand to strike the parent, or if he or she has actually struck the parent; but a mere threat is not sufficient.

2. If the child has been guilty, towards a parent, of cruelty, of a crime or grievous injury.

3. If the child has attempted to take the life of either parent.

4. If the child has accused a parent of any capital crime, except, however, that of high treason.
5. If the child has refused sustenance to a parent, having means to afford it.

6. If the child has neglected to take care of a parent become insane.

7. If the child refused to ransom them, when detained in captivity.

8. If the child used any act of violence or coercion to hinder a parent from making a will.

9. If the child* has refused to become security for a parent, having the means, in order to take him out of prison.

10. If the son or daughter, being a minor, marries without the consent of his or her parents.

RCC—112, 901, 966, 1560, 1617 et seq., 1622 et seq., 1710.

RCC 1870, Art. 1621.

Same as above.

CC 1825, Art. 1613.

(No reference in Projet)

Les justes causes, pour lesquelles les père et mère peuvent déshériter leurs enfants, sont au nombre de dix, savoir:

1. Si l'enfant a porté la main sur son père ou sa mère pour les frapper, ou s'il les a réellement frappés; mais une simple menace, ne suffirait pas;

2. S'il s'est rendu coupable envers eux de sévices, délits ou injures graves;

3. S'il a atténté à la vie de son père ou de sa mère;

4. S'il les a accusés de quelque crime capital, autre toutefois que celui de haute trahison;

5. S'il leur a refusé des alimens, lorsqu'il avait les moyens de leur en fournir;

6. S'il a négligé d'en prendre soin, dans le cas où ils seraient tombés en démence;

7. S'il a négligé de les racheter, lorsqu'ils étoient détenu en captevité;

8. S'il a employé quelque voie de fait ou quelque violence pour les empêcher de tester;

9. Si l'enfant majeur* a refusé de se porter caution de ses père ou mère, lorsqu'il en avait les moyens, pour les tirer de prison;

10. Si l'enfant mineur, de l'un ou l'autre sexe, se marie sans le consentement de ses père et mère.

CC 1808, p. 236, Art. 130.**

The just causes for which parents may disinherit their children, are twelve in number, to wit:

Subd. 1 same as subd. 1, above; but period (.) after "sufficient."

edly. If the child has been guilty towards a parent, of cruelty, a crime or grievous injury.

-p. 237, Art. 130.**

Les justes causes pour lesquelles les père et mère peuvent déshériter leurs enfants légitimes, sont au nombre de douze; savoir:

Subds. 1-4 same as subds. 1-4, above; but semicolon (;) after "frapper"; comma (,) after "frappés"; no punctuation after "menace."

5. S'il leur a refusé des alimens, lors-
Art. 1622

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Subds. 3-8 same as subds. 3-8, above; but period (.) after “either parent”, after “treason”, after “afford it”, after “insane”, after “captivity”, and after “will”; no punctuation after “except”, after “however”, after “of a parent”, or after “them.”

9. If the son has had an incestuous commerce with his father’s wife.

10. If the child* has refused to go bail for a parent, having the means, to take him out of prison.

11. If the son or daughter being a minor marries without the consent of their parents.

12. If the daughter being a minor whom her parents have promised to marry with a portion according to their means, has rejected their proposal in order to lead a debauched life; but if the father or mother has neglected to marry a daughter until the age of majority, she cannot be disinherited though after that age she leads not a regular life or fall into a fault contrary to her honor.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include “being a major.”
**Similar provisions repeated in CC 1808, pp. 54, 55, Art. 58, quoted in appendix.

ART. 1622. The ascendants may disinherit their legitimate descendants, coming to their succession, for the first nine causes expressed in the preceding article, when the acts of ingratitude there mentioned have been committed towards them, instead of towards their parents; but they cannot disinherit their descendants for the last cause.

RCC—1617 et seq.

RCC 1870, Art. 1622. (Same as Art. 1622 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1614. (No reference in Projet)

The ascendants may disinherit their legitimate descendants, coming to their succession, for the first nine causes expressed in the preceding article, when the acts of ingratitude there mentioned have been committed towards them, instead of towards their parents; but they cannot disinherit their descendants for the latter cause.

CC 1808, p. 236, Art. 131.

The ascendants may disinherit their legitimate descendants, coming to their succession, for the ten former causes expressed in the preceding article, when the acts of ingratitude there mentioned have been committed towards them, instead of towards the parents; but they cannot disinherit their descendants for the two latter causes.

CN 1804. No corresponding article.
ART. 1623. Legitimate children, dying without issue, and leaving a parent, can not disinherit him or her, unless for the seven following causes, to wit:

1. If the parent has accused the child of a capital crime, except, however, the crime of high treason;
2. If the parent has attempted to take the child's life;
3. If the parent has, by any violence or force, hindered the child from making a will;
4. If the parent has refused sustenance to the child in necessity, having the means of affording it;
5. If the parent has neglected to take care of the child while in a state of insanity;
6. If the parent has neglected to ransom the child when in captivity;
7. If the parent has neglected to ransom the child when in captivity;
8. If the father or mother have attempted the life, the one of the other, in which case the child or descendant making a will may disinherit the one who has attempted the life of the other.

RCC—966, 1560.

RCC 1870, Art. 1623.
Same as above.

CC 1825, Art. 1615. (No reference in Projet)

Les enfants légitimes, qui décèdent sans postérité et qui laissent un père ou une mère, ne peuvent les désériter que pour les sept causes suivantes:

1. Si le père ou la mère les a accusés d'un crime capital, autre toutefois que celui de haute trahison;
2. Si le père ou la mère a attenté à la vie de l'enfant;
3. Si par quelque violence ou voie de fait, ils les ont empêché de tester;
4. S'ils leur ont refusé des alimens, dans leurs besoins, lorsqu'ils avaient les moyens de leur en fournir;
5. S'ils ont négligé de prendre soin d'eux, lorsqu'ils étaient en démence;
6. S'ils ont négligé de les racheter, lorsqu'ils étaient en captivité;
7. Si le père ou la mère ont attenté à la vie l'un de l'autre, dans lequel cas l'enfant ou descendant testateur peut désériter celui des deux qui aura attenté à la vie de l'autre.

CC 1808, p. 236, Art. 132.
Legitimate children dying without issue and leaving a parent or other ascendants, in the direct line, cannot disinherit them unless for the eight following causes, to wit:

Subds. 1-6 same as subds. 1-6, above; but no punctuation after "except", after "however", after "has" in subd. 3, after "force", or after "of the child"; period (.) after "treason", and after "it."
7th. If the father or mother or other ascendants have attempted the life the

-p. 237, Art. 132.
Les enfants légitimes, qui décèdent sans postérité et qui laissent un père ou une mère, ou à leur défaut, d'autres ascendants en ligne directe, ne peuvent les désériter que pour les huit causes suivantes:

Subds. 1-6 same as subds. 1-6, above; but comma (,) after "Si" in subd. 3.

7. Si le père ou la mère, ou autres ascendants, ont attenté à la vie l'un de
Art. 1624

The testator must express in the will for what reasons he disinherited his forced heirs or any of them, and the other heirs of the testator are moreover obliged to prove the facts on which the disinherison is founded; otherwise it is null.

RCC—1617 et seq.

RCC 1870, Art. 1624.

Same as above.

CC 1825, Art. 1616. (No reference in Projet)

Same as above; but comma (,) after "is founded."

CC 1808, p. 238, Art. 133. —p. 239, Art. 133.

Same as above; but comma (,) after "exprimer", after "forcés", after "tenus", and after "en outre"; semi-colon (; ) after "eux."

CN 1804. No corresponding article.

§4—Of Particular Legacies

Art. 1625. Every legacy, not included in the definition before given of universal legacies and legacies under a universal title, is a legacy under a particular title.

RCC—581, 1307, 1605, 1606, 1612.

RCC 1870, Art. 1625. (Same as Art. 1625 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1618. (Projet, p. 218. Addition adopted; no comment)

Every legacy, not included in the definition before given of universal legacies and legacies under an universal title, is a legacy under a particular title.


Testamentary dispositions on a particular title, are those by which the testator gives to one or several persons certain substances, as such a house, such a horse, his library, his wardrobe; or indeterminate things as a horse, a silver basin weighing so much; or a
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Art. 1626

Every legacy under a particular title gives to the legatee, from the day of the testator’s death, a right to the thing bequeathed, which right may be transmitted to his heirs or assigns; and this takes place as well in testamentary dispositions, universal or under a universal title, as in those made under a particular title.

Nevertheless, the particular legatee can take possession of the thing bequeathed, or claim the proceeds or interest thereof, only from the day the demand of delivery was formed, according to the order here in before established,* or from the day on which that delivery was voluntarily granted to him.


RCC 1870, Art. 1626.
Same as above.

CC 1825, Art. 1619.
Same as above.

(p. 218. Amendment amended and adopted; no comment)

Tout legs à titre particulier donnera au légataire, du jour du décès du testateur, un droit à la chose léguee, droit transmissible à ses héritiers ou ayant cause; ce qui a lieu, tant pour les dispositions testamentaires universelles que à titre universel, que pour celles faites à titre particulier.

Néanmoins le légataire particulier ne pourra se mettre en possession de la chose léguee, ni en prétendre les fruits ou intérêts, qu’à compter du jour de sa demande en délivrance,* ou du jour auquel cette délivrance lui aurait été volontairement consentie.

CC 1808, p. 238, Art. 140.

Every pure and simple institution or legacy, shall give to the heir instituted or the legatee, from the day of the testator’s death, a right to the thing bequeathed, which right may be transmitted to his heirs or assigns; and this takes place as well in testamentary dispositions universal or on a universal title, as for those made on a particular title.

Nevertheless the particular legatee can take possession of the thing bequeathed, or claim the proceeds or interest thereof, only from the day ifl the demand of delivery formed according to the order established by article 135 above, or from the day on which that delivery has been voluntarily granted to him.

-p. 239, Art. 140.

Toute institution ou legs pur et simple, donnera à l’héritier institué ou au légataire, du jour du décès du testateur, un droit à la chose léguee, droit transmissible à ses héritiers ou ayant cause; ce qui a lieu, tant pour les dispositions testamentaires universelles que à titre universel, que pour celles faites à titre particulier.

Néanmoins le légataire particulier ne pourra se mettre en possession de la chose léguee, ni en prétendre les fruits ou intérêts, qu’à compter du jour de sa demande en délivrance, formée suivant l’ordre établi par l’article 135 ci-dessus, ou du jour auquel cette délivrance lui aurait été volontairement consentie.

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Art. 1627.  The legatee is not bound to demand the delivery of the legacy, if the thing bequeathed to him is in his possession at the time of the opening of the succession, but he is bound to give it up for the purpose of contributing to the payment of debts, in case it be liable for any.

RCC—1415 et seq., 1420, 1430, 1611, 1615, 1626, 1628 et seq., 1633, 1634.

RCC 1870, Art. 1627.
Same as above.

CC 1825, Art. 1620.  (Projet, p. 218. Addition adopted; no comment)
Le légataire n'est pas tenu de demander la délivrance du legs, si l'objet légueé se trouve en sa possession au moment de l'ouverture de la succession du testateur; mais il doit le rendre pour contribuer au payement des dettes, dans le cas où il y est assujetti.

CC 1808.  No corresponding article.
CN 1804.  No corresponding article.

Art. 1628.  Neither is the testamentary executor, who has the seizin of the effects of the succession, and who is at the same time a legatee, bound to demand the delivery of his legacy; he can retain it in his possession subject to the same restitution.

RCC—1626, 1627, 1629 et seq., 1633, 1634, 1659, 1660.

RCC 1870, Art. 1628.
Same as above.

CC 1825, Art. 1621.  (Projet, p. 218. Addition adopted; no comment)
L'exécuteur testamentaire, qui a la saisine des biens de la succession, et qui est en même temps légataire, n'est pas non plus obligé de demander la délivrance de son legs; il peut le retenir par ses mains sujet à la même restitution.

CC 1808.  No corresponding article.
CN 1804.  No corresponding article.
ART. 1629. The legatee who, of his own authority, takes possession of his legacy, is bound to restore the fruits and pay the interest of all moneys of which he may have possessed himself.

RCC—499, 502, 1626 et seq., 1630 et seq., 1935, 2924.

RCC 1870, Art. 1629.
Same as above.

CC 1825, Art. 1622.
Same as above. (Projet, p. 218. Addition † adopted; no comment)

Le légataire, qui se met de son autorité privée, en possession de son legs, est tenu de rapporter les fruits, et de payer les intérêts des sommes dont il s'est ainsi emparé.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1630. The delivery of legacies under a particular title must be demanded of the testamentary executor, who has the seizin of the succession. If the testamentary executor has not the seizin, or if his functions have expired, the legatees must apply to the heirs.

RCC—940 et seq., 1607, 1609, 1610, 1613, 1626 et seq., 1631 et seq., 1659, 1660, 1671.

RCC 1870, Art. 1630.
Same as above.

CC 1825, Art. 1623.
Same as above. (Projet, p. 219. Addition † adopted; no comment)

La délivrance des legs à titre particulier, doit être demandée à l'exécuteur testamentaire, qui a la saisine. Si l'exécuteur testamentaire n'a pas la saisine, ou si ses fonctions sont expirées, c'est alors aux héritiers que le légataire doit s'adresser.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1631. The interest or proceeds of the thing bequeathed shall accrue to the benefit of the legatee, from the day of the decease, without his having brought suit for the same:

1. When the testator has expressly declared in his will to that effect;

2. When an annuity or pension has been bequeathed by way of maintenance.

RCC—545, 580, 607, 1483, 1488, 1499, 1500, 1626 et seq., 1935, 1944, 2793 et seq., 2924.

RCC 1870, Art. 1631.
Same as above.

CC 1825, Art. 1624.
Same as above. (No reference in Projet)

Les intérêts ou fruits de la chose léguee courront au profit du légataire, dès le jour du décès, et sans qu'il ait formé sa demande en justice:
Art. 1632. The costs of suing for delivery shall be at the charge of the succession, unless the testator has directed otherwise, and provided also that those costs shall cause no deduction of the legitime reserved to the forced heirs.

RCC—1063, 1070, 1125, 1493 et seq., 1607, 1613, 1626 et seq., 1682, 2158.

RCC 1870, Art. 1632. Same as above.

CC 1825, Art. 1625. (No reference in Projet)

Les frais de la demande en délivrance seront à la charge de la succession, à moins qu’il n’en ait été autrement ordonné par le testateur, et pourvu aussi qu’il ne puisse résulter de ces frais aucune réduction de la légitime réservée aux héritiers forcés.

ART. 1633. The heirs of the testator, or other debtors of a legacy, shall be personally bound to discharge it, each in proportion to the part that falls to him in the succession.

They shall be bound by mortgage for the whole, to the amount of the value of the immovable property of the succession withheld by them.

RCC—580, 581 et seq., 929, 940 et seq., 1054, 1067, 1420, 1422 et seq., 1431, 1465, 1500, 1611, 1614, 1615, 1627, 1628, 1634 et seq., 1638, 1642, 3275, 3342.

RCC 1870, Art. 1633. (Same as Art. 1633 of Proposed Revision of 1869)
ART. 1635. If the effects do not suffice to discharge the particular legacies, the legacies of a certain object must be first taken out. The surplus of the effects must then be proportionally divided among the legatees of sums of money, unless the testator has expressly declared that such a legacy shall be paid in preference to the rest, or that the legacy is given as a recompense for services.

(RCC—1512, 1634.)

RCC 1870, Art. 1635.  
Same as above.

CC 1825, Art. 1628.  
Same as above.  

(Projet, p. 219. Addition adopted; no comment)  
Si les biens ne suffisaient pas pour acquitter les legs particuliers, les legs d'un corps certain doivent d'abord être prélevés. Le surplus des biens doit ensuite être partii au prorata entre les légataires de sommes d'argent, à moins...
Art. 1636

The legacy bequeathed shall be delivered with everything that appertains to it, in the condition in which it was on the day of the donor’s decease.

RCC—498, 504, 616, 1626, 1637, 1638, 1695, 1700, 2155, 2461, 2490, 2645.

RCC 1870, Art. 1636.
Same as above.

CC 1825, Art. 1629.
Same as above.

CC 1808, p. 240, Art. 144.
The legacy bequeathed shall be delivered with the necessary accessories, in the condition in which it was on the day of the donor’s decease.

CN 1804, Art. 1018.
Same as above.

Art. 1637. When the person who has bequeathed the property of an immovable, has afterwards augmented it by new purchases, the property so purchased, though it be contiguous, shall not, without a new disposition, be considered as making part of the legacy.

It is otherwise as to improvements or new buildings raised on the ground bequeathed or an inclosure of which the testator has enlarged the area.

RCC—1636, 1638.

RCC 1870, Art. 1637.
(Same as Art. 1637 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1630.
(No reference in Projet)
When a person, who has bequeathed the property of an immovable, has afterwards augmented it by new purchases, the property so purchased, though it be contiguous, shall not, without a new disposition, be considered as making part of the legacy.

Par. 2 same as par. 2, above; but comma (,) after “bequeathed.”

CC 1808, p. 240, Art. 145.
When a person who has bequeathed the property of an immovable posses-

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sion* has afterwards augmented it by his purchases, those purchases though they be even contiguous, shall not, without a new disposition, be considered as making part of the legacy.

It shall be otherwise as to the establishments or new buildings raised on the ground bequeathed or an inclosure of which the testator has enlarged the area.

**ART. 1638.** If prior to the testament or subsequently, the thing has been mortgaged by the testator for his own debt or for that of another, or if it be burdened with an usufruct, he who is to pay the legacy is not bound to discharge the thing bequeathed of the incumbrance, unless he be required to do it by an express disposition of the testator.

**RCC—540, 580, 581, 616, 617, 1424, 1434, 1441 et seq., 1499, 1611, 1614, 1636, 1637, 1642, 1695, 3282, 3400.**

**ART. 1638.** If prior to the testament or codicil or subsequently the thing has been mortgaged for a debt of the succession, or even for the debt of a stranger, or if it be burdened with an usufruct, he who is to pay off the legacy, is not bound to discharge it, unless he be required to do it by an express disposition of the testator.

**CN 1804, Art. 1020.**

If, prior to the testament or subsequently, the thing bequeathed has been mortgaged for a debt of the succession, or even for the debt of another or if it be burdened with a usufruct, he who is to pay the legacy is not bound to discharge the thing bequeathed of the incumbrance, unless he be required to do it by an express disposition of the testator.

**CC 1825, Art. 1631.**

Same as above.

**CC 1808, p. 240, Art. 146.**

If prior to the testament or codicil or subsequently the thing has been mortgaged for a debt of the succession, or even for the debt of a stranger, or if it be burdened with an usufruct, he who is to pay off the legacy, is not bound to discharge it, unless he be required to do it by an express disposition of the testator.

**RCC 1870, Art. 1638.**

Same as above.

**Projet, p. 219. Amendment adopted; no comment**

Si, avant le testament ou depuis, la chose a été hypothéquée par le testateur, soit pour sa propre dette, soit pour celle d’un tiers, ou si elle est grevée d’un usufruit, celui qui doit acquitter le legs, n’est pas tenu de la dégager, à moins qu’il n’ait été chargé de le faire par une disposition expresse du testateur.

**-p. 241, Art. 146.**

Si avant le testament ou le codicile, ou depuis, la chose a été hypothéquée pour une dette de la succession, ou même pour la dette d’un tiers, ou si elle est grevée d’un usufruit, celui qui doit acquitter le legs n'est pas tenu de la dégager, à moins qu’il n'ait été chargé de le faire par une disposition expresse du testateur.

**CN 1804, Art. 1019.**

Same as CC 1825, Art. 1630, above. Same as above; but comma (,) after "embellisemens."

*"Possession" has no counterpart in French text.
ART. 1639. When the testator has bequeathed a thing belonging to another person, the legacy shall be null, whether the testator knew or know [knew] not that the thing did not belong to him.

RCC—2452.

RCC 1870, Art. 1639.
Same as above.

CC 1825, Art. 1632.
Same as above; but “know” correctly spelled “knew.”

CC 1808, p. 240, Art. 147.
Same as above.

CN 1804, Art. 1021.
Same as above.

ART. 1640. When the legacy is of an indeterminate thing, the heir is not obliged to give it of the best quality, nor can he offer it of the worst.

RCC—1886, 2156.

RCC 1870, Art. 1640.
Same as above.

CC 1825, Art. 1633.
Same as above.

When the legacy is of a thing indeterminate, the heir shall not be obliged to give it of the best quality, nor can he offer it of the worst.

CN 1804, Art. 1022.
Same as above.

ART. 1641. A legacy made to a creditor shall not be deemed to be in compensation of the debt, nor a legacy made to a servant in compensation of his wages.

RCC—2130, 2207, 2285, 2287, 2746.

RCC 1870, Art. 1641.
Same as above.

CC 1825, Art. 1634.
Same as above.

CC 1808, p. 240, Art. 149.
Same as above.

CN 1804, Art. 1023.
Same as above.
ART. 1642. The legatee by a particular title shall not be liable to the debts of the succession, except the reduction of the legacies as is before provided, and except the action of mortgage of the creditors.

RCC—581, 582 et seq., 1067, 1415 et seq., 1420, 1424, 1430, 1431, 1434, 1441, 1443, 1502 et seq., 1511, 1512, 1611, 1614, 1615, 1633, 1638, 2112, 2161, 3282, 3399 et seq. CP—61, 74.

RCC 1870, Art. 1642.
Same as above.

CC 1825, Art. 1635.
(No reference in Projet)
Same as above.

CC 1808, p. 240, Art. 150.
The legatee on a particular title shall not be liable to the debts of the succession, except the reduction of the legacies as observed above, and except the action of mortgage of the creditors.

CC 1804, Art. 1024.
Same as above.

ART. 1643. The legacy of a certain object is extinguished by the loss of the object; but if the object is only destroyed in part, as if a house bequeathed has been destroyed by fire, the legacy subsists for what remains, that is, for the land on which it was situated.

RCC—613, 614, 1700, 1701, 2155, 2455, 2728.

RCC 1870, Art. 1643.
Same as above.

CC 1825, Art. 1636.
(Projet, p. 219. Addition adopted; no comment)
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Section 5—OF THE OPENING AND PROOF OF TESTAMENTS, AND OF TESTAMENTARY EXECUTORS

ART. 1644. No testament can have effect,* unless it has been presented to the judge of the parish in which the succession is opened; the judge shall order the execution of the testament after its being opened and proved, in the cases prescribed by law.

Art. 1645

The execution of a testament shall not be ordered until the decease of the testator has been sufficiently proved to the judge to whom the testament is presented.

RCC—53, 70, 71, 76, 77, 934, 1644, 1646 et seq., 1688. CP—924, 932, 933.

RCC 1870, Art. 1645.

Same as above.

CC 1825, Art. 1638.

Same as above; but comma (,) after "ordered."

CC 1808, p. 242, Art. 154.

The execution of a testament or codicil shall not be ordered until the decease of the testator has been suffi-

"English translation of French text incomplete; should include "in this State."

*Art. 1645.

The execution of a testament shall not be ordered until the decease of the testator has been sufficiently proved to the judge to whom the testament is presented.

RCC—53, 70, 71, 76, 77, 934, 1644, 1646 et seq., 1688. CP—924, 932, 933.

RCC 1870, Art. 1645.

Same as above.

CC 1825, Art. 1638.

Same as above; but comma (,) after "ordered."

CC 1808, p. 242, Art. 154.

The execution of a testament or codicil shall not be ordered until the decease of the testator has been suffi-

"English translation of French text incomplete; should include "in this State."

*Art. 1645.

The execution of a testament shall not be ordered until the decease of the testator has been sufficiently proved to the judge to whom the testament is presented.

RCC—53, 70, 71, 76, 77, 934, 1644, 1646 et seq., 1688. CP—924, 932, 933.

RCC 1870, Art. 1645.

Same as above.

CC 1825, Art. 1638.

Same as above; but comma (,) after "ordered."

CC 1808, p. 242, Art. 154.

The execution of a testament or codicil shall not be ordered until the decease of the testator has been suffi-

"English translation of French text incomplete; should include "in this State."

*Art. 1645.

The execution of a testament shall not be ordered until the decease of the testator has been sufficiently proved to the judge to whom the testament is presented.

RCC—53, 70, 71, 76, 77, 934, 1644, 1646 et seq., 1688. CP—924, 932, 933.

RCC 1870, Art. 1645.

Same as above.

CC 1825, Art. 1638.

Same as above; but comma (,) after "ordered."

CC 1808, p. 242, Art. 154.

The execution of a testament or codicil shall not be ordered until the decease of the testator has been suffi-

"English translation of French text incomplete; should include "in this State."

*English translation of French text incomplete; should include "in this State."
cantly proved to the judge to whom the said testament or codicil is presented.

CN 1804. No corresponding article.

**ART. 1646.** When the decease of the testator has been sufficiently proved to the judge to whom the testament is presented, he shall immediately proceed to open it, if it be sealed, and to the proof of it in presence of the notary and the witnesses who were present at the making of it, and who are on the spot, or duly called.

RCC—1645, 1647 et seq. CP—932 et seq.

RCC 1870, Art. 1646.

Same as above.

CC 1825, Art. 1639. (Projet, p. 211. Amendment adopted; general comment by redactors)

Same as above; but comma (,) after "judge."

CC 1808, p. 242, Art. 155.

When the decease of the testator has been sufficiently proved to the judge to whom the testament or codicil is presented, he shall immediately proceed to open it, if it be sealed, and to the proof of it in presence of the notary and the witnesses who were present at the making of it, and who are on the spot, or duly called.

CN 1804. No corresponding article.

**ART. 1647.** Nuncupative testaments received by public acts do not require to be proved, that their execution may be ordered; they are full proof of themselves, unless they are alleged to be forged.

RCC—1578 et seq., 1644 et seq., 1656, 1657 et seq. CP—930, 933.

RCC 1870, Art. 1647.

Same as above.

CC 1825, Art. 1640. (Projet, p. 211. Amendment adopted; general comment by redactors)

Same as above; but comma (,) after "testaments", and after "acts."

CC 1808, p. 242, Art. 156.

Nuncupative testaments and codicils received by public acts, do not require to be proved, that their execution may be ordered; they are full proof of themselves, unless they are alleged to be forged.

Les testaments nuncupatifs, reçus par acte public, n'auront pas besoin d'être prouvés, pour que leur exécution soit ordonnée; ils feront pleine foi par eux-mêmes, à moins qu'ils ne soient argués de faux.

Les testaments et codiciles nuncupatifs, reçus par acte public, n'auront pas besoin d'être prouvés, pour que leur
Art. 1648

Nuncupative testaments under private signature cannot be executed until they have been proved by the declaration on oath of at least three of the witnesses, who were present when they were made.

RCC–1581 et seq., 1591 et seq., 1649, 1653, 1654, 1656, 1657 et seq. CP—935, 939.

RCC 1870, Art. 1648.

Same as above.

CC 1825, Art. 1641.

Same as above; but comma (,) after "signature", and after "executed."

CC 1808, p. 242, Art. 157, par. 1.

Nuncupative testaments and codicils under private signature, cannot be executed until they have been proved by the declaration on oath or affirmation of at least three of the witnesses who were present when they were made, in case of a testament, and of at least two of the witnesses, in case of a codicil.

RCC 1870, Art. 1649.

Same as above.

CC 1825, Art. 1642.

Same as above.

Art. 1649. The declaration of the witnesses required for such proof must state in substance, not only that they recognize the testament presented to them as being the same that was written in their presence by the testator himself or by another person by his direction, or which the testator had written or caused to be written out of their presence, and which he declared to them contained his last will, as the case may be; but also that they recognize their signatures and that of the testator at the foot of the testament, if they have signed it, or the signature of him who signed for them respectively, in case of their not having signed for want of knowing how.

RCC–1581 et seq., 1591 et seq., 1649. CP—933, 935, 939, 942, 943.
ART. 1650. The execution of mystic testaments can not be ordered until they have been, in like manner,* proved by the declaration on oath of at least three of the witnesses who were present at the act of superscription. If, in any case, any of said required number of witnesses be dead or absent, so that it be not possible to procure the presence of such required number of witnesses for so proving the execution of the testament, it will then be sufficient to make such proof by the declaration of witnesses, as now prescribed by law. (As amended by Acts 1936, No. 317)

RCC—1584 et seq., 1591, 1593, 1651 et seq. CP—933 et seq., 939, 942, 943.

RCC 1870, Art. 1650.

The execution of mystic testaments can not be ordered, until they have been in like manner* proved by the declaration on oath of at least four of the witnesses who were present at the act of superscription.

CC 1825, Art. 1643. (Projet, p. 211. Amendment adopted; general comment by redactors)

Same as above; but comma (,) after "oath", and after "witnesses."

Les testaments mystiques ne pourront être mis à exécution, qu'après avoir été légalement* prouvés par la déclaration sous serment d'au moins quatre des témoins qui auront été présents à l'acte de suscription.

CC 1808, p. 242, Art. 158, par. 1.

Mystic testaments or codicils cannot be executed until they have been in like manner* proved by the declaration on oath or affirmation of at least four of

* Les testaments ou codiciles mystiques ne pourront être mis à exécution, qu'après avoir été légalement* prouvés par la déclaration sous serment, ou af-
the witnesses who were present at the act of superscription, in case of a testament and of at least three witnesses in case of a codicil.

CN 1804, Art. 1007, par. 2.
If the testament is in the mystic form, its presentation, opening, description and deposit shall be made in the same manner; but it can be opened only in the presence of those of the notaries and witnesses, signers of the act of superscription, who are on the spot, or after they have been summoned.

ART. 1651. The declaration of the witnesses required for the proof of mystic testaments, must state in substance that they recognize the sealed packet presented to them to be the same that the testator delivered to the notary in their presence, declaring to him that it contained his testament; and also that they recognize their signatures and that of the notary at the foot of the act of superscription, if they have signed it, or the signature of him who signed for them respectively, if, not knowing how to write, they did not themselves sign the act of superscription.

RCC—1584 et seq., 1591, 1593, 1650, 1652 et seq. CP—935, 939, 942, 943.

RCC 1870, Art. 1651.
Same as above.

CC 1825, Art. 1644. (Projet, p. 211. Amendment adopted; general comment by redactors)
Same as above; but comma (,) after “substance.”

CC 1808, p. 242, Art. 158, par. 2.
The declaration of the witnesses required for the proof of mystic testaments and codicils, must state in substance that they recognize the sealed packet presented to them, as being the same that the testator delivered to the notary in their presence, declaring to him that it contained his testament or codicil, as the case may be; as also that they recognize their signatures and that firmation d’au moins quatre des témoins qui auront été présents à l’acte de suscription, s’il s’agit d’un testament, et d’au moins trois témoins, s’il ne s’agit que d’un codicile.

Si le testament est dans la forme mystique, sa présentation, son ouverture, sa description et son dépôt, seront faits de la même manière; mais l’ouverture ne pourra se faire qu’en présence de ceux des notaires et des témoins, signataires de l’acte de suscription, qui se trouveront sur les lieux, ou eux appelés.

*Note error in English translation of French text; “in like manner” should be “lawfully.”
ART. 1652. When the notary, who has passed the act of superscription, is one of the witnesses appearing, his declaration on oath, with that of two witnesses only, is sufficient proof of a testament.

RCC—1584, 1580, 1585, 1586, 1584.

RCC 1870, Art. 1652.
Same as above.

ART. 1653. If any of the witnesses, who were present at the making of the nuncupative testament under private signature, or at the act of superscription of the mystic testament, be dead or absent, so that it be not possible to procure the number of witnesses prescribed by law for proving the testament, it will be sufficient to prove it by the declaration of the witnesses living, who are in the State.*

RCC—1581, 1584, 1588, 1648, 1650, 1652, 1654, 1656.

RCC 1870, Art. 1653.
Same as above.

*English translation of French text incomplete; should include "is sufficient."
Art. 1654

CC 1808, p. 244, Art. 159, par. 1.

If any of the witnesses who were present at the making of the nuncupative testament or codicil under private signature (signature), or at the act of superscription of the mystic testament or codicil, be dead or absent, so that it be not possible to procure the number of witnesses prescribed by law for proving said testament or codicil, it will be sufficient to prove it by the declaration of the witnesses living being near the place.

CN 1804. No corresponding article.

*Note error in English translation of French text; "in the State" should be "on the spot."

Art. 1654. If none of the persons, who were present at such acts, are living in the State,* but all are absent or deceased, it will be sufficient for the proof of the testament if two credible persons make a declaration on oath that they recognize the signatures of the different persons, who have signed the will or the act of superscription.

RCC—1581, 1583, 1584, 1648, 1650, 1652, 1653, 1656.

RCC 1870, Art. 1654.

Same as above.

CC 1825, Art. 1647.

Same as above.

CC 1808, p. 244, Art. 159, par. 2.

And if none of the persons who were present at the said acts are living near the place, but all are absent or deceased, it will be sufficient for the proof of said testaments and codicils, if two credible persons make a declaration on oath or affirmation that they recognize the signatures of the different persons who have signed the will or the act of superscription.

CN 1804. No corresponding article.

*Note error in English translation of French text; "in the State" should be "on the spot."

Art. 1655. The olographic testament shall be opened, if it be sealed and it must be acknowledged and proved by the declaration of two credible persons, who must attest that they recognize the testament as being entirely written, dated and signed in the testator's handwriting.
The judge shall interrogate the witnesses under oath touching their knowledge of the testator’s handwriting and signature and shall satisfy himself that they are familiar therewith making mention of the whole in his proces verbal thereof. (As amended by Acts 1896, No. 119)

RCC 1870, Art. 1655.
The holographic testament shall be opened, if it be sealed; and it must be acknowledged and proved by the declaration of two credible persons, who must attest that they recognize the testament as being entirely written, dated and signed in the testator’s handwriting, as having often seen him write and sign during his lifetime.

CC 1825, Art. 1648.
Same as above.

CC 1808, p. 244, Art. 160.
The holographic testament or codicil shall be opened, if it be sealed, and it must be acknowledged and proved by the declaration or affirmation of two credible persons, who must attest that they recognize the testament or codicil as being entirely written, dated and signed in the testator's handwriting, as having often seen him write and sign during his lifetime.

CN 1804, Art. 1007, par. 1.
Quoted under RCC 1870, Art. 1644, above.

ART. 1656. When a nuncupative testament has been put under an envelope, or sealed, merely through precaution on the part of the testator, without any act of superscription or any indication of the names of the witnesses who have signed the testament, the judge shall open it in the presence of the party requiring it, and of two witnesses called in for that purpose.

RCC—1577 et seq., 1647, 1648, 1653, 1654. CP—934, 935.

RCC 1870, Art. 1656.
Same as above.

CC 1825, Art. 1649.
(Projet, p. 211. Amendment adopted; general comment by redactors)

When a nuncupative testament has been put under an envelope, or sealed, merely through precaution on the part of the testator, without any act of superscription or any indication of the names of the witnesses who have signed the testament, the judge shall open it in presence of the party requiring it, and of two witnesses called in for that purpose.

Lorsqu’un testament nuncupatif aura été mis sous enveloppe ou sous cachet, par simple précaution de la part du testateur, sans aucun acte de suscription ni autre indication du nom des témoins qui ont signé le testament, le juge en fera l’ouverture en présence de la partie requérante et de deux témoins appelés à cet effet.
Art. 1657

When a nuncupative testament or codicil has been put under an envelope, or sealed merely through precaution, on the part of the testator without any act of superscription or any indication of the names of the witnesses who have signed the testament or codicil, the judge shall open it in presence of the party requiring it, and of two witnesses called in for that purpose.

CN 1804. No corresponding article.

Art. 1658. The execution of the dispositions, contained in testaments, is usually confided by the testators [testator] to one or more testamentary executors.

RCC—995, 1089, 1659 et seq., 1678 et seq., 1681, 1685, 2274. CP—123, 931.

RCC 1870, Art. 1658.
Same as above.

CC 1825, Art. 1651.
Same as above; but “testators” correctly spelled “testator.”
The execution of the dispositions contained in testaments and codicils, is usually confided to a testamentary executor named by the testator.

The testator may name one or several testamentary executors. (Suppressed on recommendation of redactors; see comment, Projet, p. 220)

The testator may give his testamentary executor the seizin of the whole of his succession, or only of a certain determinate portion, according as he has expressed himself, saving the restrictions contained in the following articles.

But this seizin can not continue beyond a year and a day from the decease of the testator, if he died in the State, or from the day on which his death was first known, if he died out of the State.

If the testator has not granted the seizin to the testamentary executor, the latter can not require it.

The testator may partially give the seizin of his movable goods, but it cannot continue beyond a year and a day from his death.

If he has not given it to them, they cannot require it.
Art. 1660

The testator may express his intention to grant the seizin of his estate to the testamentary executor, either in express terms, by authorizing him to take possession of the whole, or a part of the estate of his succession after his death, or by merely appointing him testamentary executor and detainer of his estate; the word detainer sufficiently announcing that the executor is to be seized of the property of the succession.

But if the executor testamentary be merely appointed testamentary executor, without any other power, his functions are confined to see to the execution of the legacies contained in the will, and to cause the inventory and other conservatory acts of the property of the succession to be made.

RCC—940 et seq., 1105 et seq., 1628, 1630, 1659, 1671 et seq. CP—123.

RCC 1870, Art. 1660.
Same as above.

CC 1825, Art. 1653.
Same as above; but comma (,) after "his estate."

CC 1808, p. 244, Art. 167.
The testator may express his intention to grant the seizin of his estate to the testamentary executor, either in express terms, by authorizing him to take possession judicially or extra-judicially of the whole or a part of the estate of his succession after his death, or by merely appointing him testamentary executor and detainer of his estate, the word detainer sufficiently announcing that the executor is to be seized of the property of the succession.

But if the executor testamentary be appointed merely and simply testamentary executor, without any other power, his functions are confined to see to the execution of the legacies contained in the will, and to cause to be made the inventory and other conservatory acts of the property of the succession.

CN 1804. No corresponding article.
ART. 1661. When of the testator’s heirs some are absent and not represented in the State, the judge shall appoint for them a counsel, whose duty it shall be to assist for them at the inventory of the effects left by the testator, to take care of their interests, and to oppose every thing which may prejudice the same.

RCC—926, 927, 1105 et seq., 1152, 1160, 1210 et seq., 1662, 1667, 1675. CP—924, 1009 et seq.

RCC 1870, Art. 1661.
Same as above.

CC 1825, Art. 1654. (Projet, p. 220. Amendment ‡ adopted; no comment)
Lorsque parmi les héritiers du testateur, il s’en trouve d’absents et non représentés en cet État, le juge leur nommera un défenseur, dont le devoir sera d’assister pour eux à l’inventaire des biens laissés par le testateur, de prendre soin de leurs intérêts, et de s’opposer à tout ce qui pourrait leur porter préjudice.

CC 1808, p. 246, Art. 169.
When of the testator’s heirs some are absent or not represented in this territory, the testamentary executor, whether the seizin be granted to him or not and whether those heirs be forced or voluntary, shall be authorised to take possession of the property of the succession, to cause it to be sold, and to remain in possession of the portion accruing to the absent heir or heirs, deducting the debts and legacies, until those heirs shall have sent their power of attorney, or till the expiration of the year of the testamentary execution.

-CN 1804. No corresponding article.

ART. 1662. It shall also be the duty of this counsel to inform, with all possible diligence, those whom he represents, of the opening of the succession, and to correspond with them; and when he has once accepted this charge, he can not divest himself of it, until the heirs have sent their power of attorney, or until the succession is liquidated.

RCC—1210 et seq., 1216 et seq., 1661.

RCC 1870, Art. 1669.
Same as above.

CC 1825, Art. 1655. (Projet, p. 220. Addition ‡ adopted; no comment)
Il sera également du devoir de ce défenseur de faire toutes les diligences nécessaires pour informer ceux qu’il représente, de l’ouverture de la succession, et pour correspondre avec eux; et une fois qu’il aura accepté cette charge, il ne pourra s’en démettre, jusqu’à ce
Art. 1663. He who can not obligate himself, can not be a testamentary executor.

RCC—1664, 1665, 1782 et seq.

RCC 1870, Art. 1663.
Same as above.

CC 1825, Art. 1656.
(No reference in Projet)
Same as above.

CC 1808, p. 246, Art. 170.
Same as above.

CN 1804, Art. 1028.
Same as above.

Art. 1664.* A married woman can not accept a testamentary executorship without the consent of her husband.

If there is between them a separation of property, she may accept it with the consent of her husband, or, on his refusal, she may be authorized by the court, conformably to what is prescribed by the title: Of Husband and Wife.


RCC 1870, Art. 1664.
Same as above.

CC 1825, Art. 1657.
(No reference in Projet)
Same as above; but no punctuation after “title.”

CC 1808, p. 246, Art. 171.
Same as above; but no punctuation after “or.”

CN 1804, Art. 1029.
Par. 1 same as par. 1, above.

If there is between them a separation of property either by a marriage contract or by a judgment, she may accept it with the consent of her husband, or, on his refusal, she may be authorized by the court conformably to what is prescribed by articles 217 and 219 of the title of Marriage.

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

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ART. 1665. A minor can not be testamentary executor, even with the authorization of his tutor or curator.

RCC—34, 1663, 1782, 1785.

RCC 1870, Art. 1665.
Same as above.

CC 1825, Art. 1658.
Same as above.

(RCC 1870, Art. 1665.
Same as above.

CC 1808, p. 246, Art. 172.
Same as above; but no punctuation after “executor.”

CN 1804, Art. 1030.
Same as above.

ART. 1666. The testamentary executor shall cause the seals to be affixed, if there be any minor, interdicted or absent heirs; he shall cause an inventory of the property of the succession to be made, in the different parishes in which the testator has left property, by the parish recorder or by any notary public duly authorized to that effect by the judge.

RCC—47, 389, 1075 et seq., 1105 et seq., 1658 et seq., 1667, 1682.

RCC 1870, Art. 1666.
(Of Art. 1667 of Proposed Revision of 1869)

CC 1825, Art. 1659.
The testamentary executor shall cause the seals to be affixed, if there be any minor, interdicted or absent heirs; he shall cause an inventory of the property of the succession to be made by the parish judge or by any notary public duly authorized to that effect by the judge.

CC 1808, p. 246, Art. 173, par. 1.
The testamentary executor shall cause the seals to be affixed, if there be any minor, interdicted or absent heirs; he shall cause an inventory of the property of the succession to be made by the parish judge or by any notary public duly authorized to that effect by the judge, and in presence of the presumptive heir or him expressly called, unless the testator should have duly authorized said executor by his last will to make said inventory without the interposition of justice, in which case, the inventory may be made under private signature, provided it be afterwards approved by the parish judge and duly recorded in a public office.

p. 247, Art. 173, pars. 1, 2.
Par. 1 same as par. 1, above.
Il fera faire inventaire des biens de la succession, par le juge de paroisse ou par un notaire public dûment autorisé à cet effet par ledit juge, et en présence de l'héritier présomptif, ou lui dûment appelé, si ce n'est que le testateur ne l'aît autorisé à agir sans l'intervention de justice, dans lequel cas, ledit inventaire pourra être fait sous signature privée, à la charge de le faire approuver ensuite par ledit juge, et de le faire enregistrer dans l'étude d'un officier public.
Art. 1667

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CN 1804, Art. 1031, pars. 1, 2.
Testamentary executors shall cause the seals to be affixed, if there be any minor, interdicted or absent heirs. They shall, in presence of the presumptive heir, or after having duly summoned him to attend, cause to be made an inventory of the property of the succession.

*Note error in English translation of French text; "him expressly called" should be "after having duly summoned him to attend."

Art. 1667. The presumptive heirs present, and the counsel of the absent heirs must be notified to attend at the taking of the inventory.

RCC—880, 1105 et seq., 1210 et seq., 1661, 1666, 1675.

RCC 1870, Art. 1667.
Same as above.

CC 1825, Art. 1660.
(Same as Art. 1668 of Proposed Revision of 1869)

Art. 1668. In default of funds sufficient to discharge the debts and legacies of sums of money, the testamentary executor shall cause himself to be authorized by the court to sell the moveables, and if they are insufficient, the immovables, to a sufficient amount to satisfy those debts and legacies.

RCC—1051 et seq., 1062, 1162 et seq., 1669 et seq.

RCC 1870, Art. 1668.
(Same as Art. 1668 of Proposed Revision of 1869)

CC 1808, p. 246, Art. 173, par. 1; p. 247, Art. 173, par. 2.
Quoted under RCC 1870, Art. 1666, above.

CN 1804, Art. 1031, par. 2.
Quoted under RCC 1870, Art. 1666, above.
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Art. 1670

The testamentary executor shall proceed to the sale above mentioned and to the payment of the debts of the succession, in the same manner as is prescribed for curators of vacant successions.

RCC—1051, 1052, 1164 et seq., 1668, 1670.

RCC 1870, Art. 1670. (Same as Art. 1669 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1663. (Projet, p. 221. Amendment rejected; no comment)
Except in the cases provided for in the preceding article, he cannot cause the immovables, nor the slaves employed therein, to be sold, unless he is authorized by the will to do so.

CC 1808, p. 246, Art. 173, par. 3; p. 247, Art. 173, par. 4.
Quoted under RCC 1870, Art. 1668, above.

CN 1804. No corresponding article.

Art. 1670. The testamentary executor shall proceed to the sale above mentioned and to the payment of the debts of the succession, in the same manner as is prescribed for curators of vacant successions.

RCC—1051, 1052, 1064 et seq., 1162 et seq., 1179 et seq., 1184 et seq., 1668, 1669. CP—924, 990 et seq.

RCC 1870, Art. 1670.
Same as above.

CC 1825, Art. 1663. (Projet, p. 221. Amendment adopted; no comment)
L'exécuteur testamentaire doit procéder aux ventes ci-dessus mentionnées et au paiement des dettes de la succession, de la manière qui est prescrite aux curateurs des successions vacantes.

CC 1808, p. 246, Art. 174.
When the testamentary executor has the seizin of the property of the succession and is directed to sell it, he must proceed to the sale and to the payment of the debts of the succession in the manner prescribed to the creditors (curators) of absent heirs and of vacant successions in the title of successions.

As to whatever concerns the administration of the property of the succession which they hold, they must conform to the rules prescribed to tutors or curators of minors, except that they testateur; et les héritiers pourront même empêcher cette vente, s'ils sont des héritiers forcés et tous présents dans le territoire.

CN 1804, Art. 1031, par. 3.
They shall cause the movables to be sold in default of funds sufficient to discharge the legacies.
have not recourse to the meetings of families, and are not bound to pay interest for the capitals in their hands.

CN 1804. No corresponding article.

ART. 1671. The heirs can, at any time, take the seizin from the testamentary executor, on offering him a sum sufficient to pay the movable legacies and on complying with the requirements of article 1012.

RCC—940 et seq., 1012, 1607, 1609, 1610, 1613, 1626, 1628, 1630, 1659, 1660.

RCC 1870, Art. 1671.

Same as above.

CC 1825, Art. 1664. (Projet, p. 221. Amendment adopted; no comment)

The heirs can, at any time, take the seizin from the testamentary executor, on offering him a sum sufficient to pay the moveable legacies.

CC 1808, p. 246, Art. 168.

Even when the testamentary executor has been appointed detainer of the property, or expressly authorised by the testator to take possession of it, if there be any forced heirs, those heirs may prevent the seizin of the testamentary executor by offering him the necessary sums, or delivering to him sufficient effects for the payment of the legacies, or by securing their payment.*

CN 1804, Art. 1027.

The heir may cause the seizin to cease, by offering to give to the testamentary executors a sum sufficient to pay the movable legacies, or by proving that he has made such payment.

*Note error in English translation of French text; "securing their payment" should be "proving that they have made such payment."

ART. 1672. The testamentary executor is bound, even after the expiration of his seizin, to see the testament faithfully executed.

RCC—1049, 1192, 1195, 1659, 1673, 1676.

RCC 1870, Art. 1672.

Same as above.

CC 1825, Art. 1665. (Projet, p. 221. Amendment adopted; no comment)

Same as above.

CC 1808, p. 246, Art. 173, par. 4.

The testamentary executor shall see that the will be executed, and in case of any dispute as to its execution, he may interfere to maintain its validity.


Lors même que l’executeur testamentaire aura été nommé détenteur des biens, ou autorisé expressément par le testateur à s’en emparer, s’il existe des héritiers forcés, ces héritiers pourront empêcher la saisine de l’executeur testamentaire, en lui offrant des sommes suffisantes pour payer les legs, ou en justifiant de leur paiement.*

CC 1808, p. 246, Art. 173, par. 4.

L’exécuteur testamentaire, même après que la saisine est expirée, doit veiller à ce que le testament soit fidèlement exécuté.

-p. 247, Art. 173, par. 5.

L’exécuteur testamentaire veillera à ce que le testament soit exécuté, et il pourra, en cas de contestation sur son exécution, intervenir pour en soutenir la validité.
They shall see that the will be executed; and in case of any dispute as to its execution, they may interfere to maintain its validity.

Ils veilleront à ce que le testament soit exécuté; et ils pourront, en cas de contestation sur son exécution, intervenir pour en soutenir la validité.

ART. 1673. Executors shall continue in office until the estate shall be finally wound up. Any creditor or person interested shall have the right to require that they shall give new or additional security for the faithful performance of their duties as often as once in every twelve months, and oftener, if the court, on motion to that effect, may judge it to be necessary.

RCC—1049, 1127 et seq., 1192, 1195, 1659, 1672, 1676.

RCC 1870, Art. 1673. (Same as Art. 1673 of Proposed Revision of 1869; similar to Acts 1837, No. 102, §7; same as Acts 1855, No. 90, §5 (RS §§10, 1108, 1466, 3698))

CC 1825, Art. 1667. (Projet, p. 221. Addition adopted; no comment) Mais après la reddition de ce compte, il peut continuer ses fonctions, si les héritiers absents n'ont pas point paru, ou n'ont pas réclamé, en lui faisant toute fois (toujours) donner caution du montant des sommes ou valeurs qui restent dans ses mains.

CC 1808. No corresponding article.

CC 1804. No corresponding article.

ART. 1674. The testamentary executor is bound to render an annual account of his administration, reckoning from the day of his appointment.

The judgment homologating the account shall be prima facie evidence of the correctness of the account homologated.

RCC—54, 366, 1049, 1147, 1191. CP—924, 997.

RCC 1870, Art. 1674. (Same as Art. 1674 of Proposed Revision of 1869; similar to Acts 1837, No. 102, 16, and Acts 1855, No. 90, §4 (RS §§9, 1107, 1465, 3697))

CC 1825, Art. 1666. (Projet, p. 221. Amendment adopted; no comment) Il doit rendre compte de sa gestion à l'expiration d'une année, à compter du moment où il a eu la saisine.

CC 1808, p. 246, Art. 173, par. 5. At the expiration of the year of his executorship, he must render an account of his administration.

CN 1804, Art. 1031, par. 5. At the expiration of the year following the death of the testator, they must render an account of their administration.

CC 1808, p. 247, Art. 173, par. 6. Il devra, à l'expiration de l'année de son exécution testamentaire, rendre compte de sa gestion.

ART. 1675. When the heirs are absent, the testamentary executor must pay into the treasury of the State the balance in favor
Art. 1676

The testamentary executor, even after the expiration of his administration, is bound to continue to defend the suits commenced by or against him on account of the succession, until the heirs appear or cause themselves to be represented.

RCC—52, 945, 1195, 1216, 1672, 1673. CP—123. Acts 1934, No. 189. RS—6, 1104, 1462, 3694.

RCC 1870, Art. 1676.
Same as above.

CC 1825, Art. 1669.
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1677. The testamentary executor is not bound to accept the executorship, nor to give security when he does accept it, unless there should be debts due by the succession, or property in possession thereof, claimed by other persons.

Any person having a claim for money against the succession, or claiming the ownership of specific property in possession thereof, whether such claim be liquidated or not, can compel the testamentary executor to give security for an amount exceeding by one-fourth the amount of money or the appraised value of the property claimed.
For this purpose he shall present in open court or in chambers, to the judge of the court wherein the succession has been opened, his petition, alleging under oath the sum due him or his ownership of the property described.

It shall be the duty of the judge, without further proceeding or delay, to issue his order commanding the testamentary executor to give the required security within thirty days from the service of the order. Should the testamentary executor, if present in the parish, or in his absence, his agent or his attorney at law, fail to furnish the required security within the delay allowed, it shall ipso facto work an immediate removal of the testamentary executor, and the judge shall appoint a dative testamentary executor.

But the testamentary executor shall not be required to give security for an aggregate sum exceeding one-fourth over and above the amount of the inventory, had debts deducted, and the securities may be furnished from any part of the State; and no proceeding under this article shall decide in any manner the merit of the claim against the succession.

RCC—1012, 1041, 1048, 1126, 1132, 1159, 1671. CP—924. Acts 1900, No. 76. RS—1460.

RCC 1870, Art. 1677. (Same as Art. 1677 of Proposed Revision of 1869; same as CC 1825, Art. 1670, as amended by Acts 1868, No. 86 [RS §§1477, 3710])

CC 1825, Art. 1670. (No reference in Projet) L'executeur testamentaire n'est point assujetti à accepter l'exécution testamentaire, ni à donner caution quand il l'accepte.

CC 1808, p. 248, Art. 175. Same as above; but no punctuation after "executorship", or after "security." -p. 249, Art. 175. L'executeur testamentaire n'est point assujetti à accepter l'exécution testamentaire, ni à donner caution lorsqu'il l'accepte.

CN 1804. No corresponding article.

ART. 1678. If the testator has omitted to name a testamentary executor, or if the one named refuses to accept, the judge shall appoint one ex officio.

RCC—1041, 1132, 1658, 1679. CP—924. RS—11, 1110, 1459, 1468.

RCC 1870, Art. 1678. Same as above.

CC 1825, Art. 1671. (Projet, p. 221. Addition § adopted; no comment) Si le testateur avait omis de nommer un exécuteur testamentaire, ou si celui qui a été nommé n'accepte point, le juge doit en nommer un d'office.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
Art. 1679  COMPILED EDITION

Art. 1679. The testamentary executor, thus appointed by the judge, and called the dative testamentary executor, is bound to give security in the same manner as curators of vacant successions.

RCC—1048, 1126, 1678.

RCC 1870, Art. 1679.
Same as above.

CC 1825, Art. 1672. (Projet, p. 222. Addition adopted; no comment)
Cet exécuteur nommé d'office, autrement appelé exécuteur testamentaire datif, est tenu de fournir caution de la même manière que les curateurs aux successions vacantes.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1680. The powers of the testamentary executor do not go to his heirs.

RCC—315, 1049, 1209, 3027, 3034.

RCC 1870, Art. 1680.
Same as above.

CC 1825, Art. 1673. (No reference in Projet)
Les pouvoirs de l'exécuteur testamentaire, ne passent point à ses héritiers.

CC 1808, p. 248, Art. 176.
Same as above; but comma (,) after "executor."

CN 1804, Art. 1032.
Same as above.

Art. 1681. If there be several executors who have accepted, any one of them may act for them all,* but they shall all be responsible in solido for the property subject to the executorship, unless the testator has divided their functions, and each of them has confined himself to that which to him was allotted.

RCC—1658, 1685, 2091 et seq., 3014.

RCC 1870, Art. 1681. (Same as Art. 1681 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1674. (No reference in Projet)
S'il y a plusieurs exécuteurs testamentaires qui aient accepté, un seul pourra agir à défaut des autres,* et ils seront solidairement responsables** du compte des biens sujets à l'exécution testamentaire, à moins que le testateur n'ait divisé leurs fonctions, et que chacun d'eux ne se soit renfermé dans celle qui lui est attribuée.

CC 1808, p. 248, Art. 177.
If there be many executors who have accepted, any one of them may act for

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them all,* but they shall all be jointly and severally accountable** for the property subject to the executorship, unless the testator has divided their functions, and each of them has confined himself to that which to him was allotted.

**Note error in English translation of French text; “jointly and severally accountable” should be “responsible in solido.”

ART. 1682. The expenses incurred by the executor for affixing the seals, for the inventory, for the accounts and the other charges relative to his functions, shall be defrayed out of the succession.

RCC—1052, 1070, 1075 et seq., 1089, 1632, 1666.

RCC 1870, Art. 1682.
Same as above.

CC 1825, Art. 1675.
Same as above.

CC 1808, p. 248, Art. 178.
The expenses incurred by the executor for affixing the seals, the inventory, the accounts and the other charges relative to his functions, shall be defrayed out of the succession.

p. 249, Art. 178.
Same as above; but comma (,) after “faits”, and after “testamentaire.”

ART. 1683. An executor who has had the seizin of all the estate of the succession, whether he were charged to sell it or not, shall be entitled, for his trouble and care, to a commission of two and a half per cent. on the whole amount of the estimate of the inventory, making a deduction for what is not productive,* and for what is due by insolvent debtors.

RCC—1048, 1069, 1106, 1109 (3), 1194, 1200 et seq., 1659, 1660, 1684 et seq.

RCC 1870, Art. 1683.
Same as above,
**Art. 1684**  
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CC 1825, Art. 1676.  
Same as above.  

CC 1808, p. 248, Art. 179, par. 1.  
Same as above; but no punctuation after "entitled", or after "productive."

CN 1804.  No corresponding article.

* "Non-valeurs", here translated as "what is not productive", is defined in RCC 1870, Art. 1048, above, as "bad debts."

**ART. 1684.**  
If the executor has not had a general seizin, his commission shall only be on the estimated value of the object which he has had in his possession, and on the sums put into his hands for the purpose of paying the legacies and other charges of the will.

 disc - seq., 1659, 1660, 1663, 1665 et seq.

RCC 1870, Art. 1684.  
Same as above.

CC 1825, Art. 1677.  
Same as above.

CC 1808, p. 248, Art. 179, par. 2.  
If the executor has not had a general seizin, his commission shall only be on the estimated value of the objects which he has had in his possession, and on the sums put into his hands for the purpose of paying off the legacies and other charges of the will.

CN 1804.  No corresponding article.

**ART. 1685.**  
The commission shall be shared among the executors, if there be several, and if their functions are not divided by the testator.

In this latter case, they shall be entitled to a commission on what has fallen to the administration of each respectively.

RCC—1069, 1106, 1194, 1200 et seq., 1658, 1661, 1663, 1684, 1686, 1687.

RCC 1870, Art. 1685.  
Same as above.
Art. 1688.* Testaments made in foreign countries and other States of the Union, can not be carried into effect on property in this State, without being registered in the court within the jurisdiction.
Art. 1689

This order of execution shall be granted without any other form than that of registering the testament, if it be established that the testament has been duly proved before a competent judge of the place where it was received. In the contrary case, the testament can not be carried into effect, without its being first proved before the judge of whom the execution is demanded.


RCC 1870, Art. 1689.
Same as above.

CC 1825, Art. 1682.
Same as above.

*(Projet, p. 222. Addition adopted; no comment)*

Cet ordre d'exécution sera accordé, sans autre formalité que celle de l'enregistrement, s'il est justifié que le testament a été dûment prouvé par devant le tribunal compétent du lieu où le testament a été reçu. Dans le cas contraire, le testament ne pourra être exécuté, sans avoir été préalablement prouvé par devant le juge auquel on en demande l'exécution.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
Section 6—OF THE REVOCATION OF TESTAMENTS AND
OF THEIR CADUCITY

ART. 1690. Testaments are revocable at the will of the testator until his decease.

The testator can not renounce this right of revocation nor obligate himself to exercise it only under certain words and restrictions,* and if he does so, such declaration shall be considered as not written.

RCC—11, 12, 616, 1691 et seq., 1892, 2031.

RCC 1870, Art. 1690.
Same as above.

CC 1825, Art. 1683. (Projet, p. 211. Amendment adopted; general comment by redactors)
Same as above.

CC 1808, p. 248, Art. 182.
Testaments and codicils are revocable at the will of the testator, until his decease.

The testator cannot renounce this right of revocation, nor obligate himself to exercise it only under certain words or expressions or restrictions, and if he does so obligate himself, any declaration to that effect shall be considered as not written.

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Book III, Title IX, Art. 123.
Testamentary donations are revocable at the will of the testator until his decease.

*Note error in English translations of French text; "words and restrictions" should be "words, expressions or restrictions."

ART. 1691. The revocation of testaments by the act of the testator is express or tacit, general or particular.

It is express when the testator has formally declared in writing that he revokes his testament, or that he revokes such a legacy or a particular disposition.

It is tacit when it results from some other disposition of the testator, or from some act which supposes a change of will.

It is general when all the dispositions of a testament are revoked.

It is particular when it falls on some of the dispositions only, without touching the rest.
However, in all cases, a legacy or disposition shall be deemed revoked in the event that the legatee has unlawfully taken the life of the testator, and said legacy or disposition shall be deemed not written. (As amended by Acts 1928, No. 114)

RCC—1600, 1604, 1690, 1692 et seq., 1723.

RCC 1870, Art. 1691.
The revocation of testaments by the act of the testator is express or tacit, general or particular.
It is express when the testator has formally declared in writing that he revokes his testament, or that he revokes such a legacy or a particular disposition.
It is tacit when it results from some other disposition of the testator, or from some act which supposes a change of will.
It is general when all the dispositions of a testament are revoked.
It is particular when it falls on some of the dispositions only, without touching the rest.

CC 1825, Art. 1684. (Projet, p. 222. Addition adopted; no comment)
Same as above; but comma (,) after "tacit", after "general", and after "particular."

La révocation des testaments par le fait du testateur, est expresse ou tacite, générale ou particulière.
Elle est expresse, lorsque le testateur a déclaré formellement par écrit, qu'il révoque son testament, ou qu'il révoque tel legs ou telle disposition particulière.
Elle est tacite, lorsqu'elle résulte d'une autre disposition du testateur, ou d'un acte qui suppose un changement de volonté.
Elle est générale, lorsque toutes les dispositions d'un testament sont révoquées.
Elle est particulière, lorsqu'elle ne tombe que sur quelques-unes des dispositions, sans toucher aux autres.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 1692. The act by which a testamentary disposition is revoked, must be made in one of the forms prescribed for testaments, and clothed with the same formalities.

RCC—1574 et seq., 1597 et seq., 1691.

RCC 1870, Art. 1692.
Same as above.

CC 1825, Art. 1685. (Projet, p. 222. Substitution amended and adopted; p. 223, addition rejected; general comment by redactors, p. 211)
L'acte par lequel on révoque une disposition testamentaire, doit être fait dans l'une des formes prescrites pour les testaments, et revêtu des mêmes formalités.

CC 1808, p. 250, Art. 184.
In revoking a testamentary disposition, less solemnity is required than in making it.
Thus a testament may be revoked by another testament or by a codicil, or

-p. 251, Art. 184.
Il faut moins de solennité, pour révoquer une disposition testamentaire, que pour la faire.
Ainsi, un testament peut être révoqué par un autre testament, ou par un codi-
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Art. 1694
by any other act received by a notary
in presence of two witnesses expressing
a declaration of a change of will.

In like manner a codicil may be re-
voked by a new codicil, or by a testa-
ment, or by an act passed as above
specified.

CN 1804, Art. 1035.
Testaments can not be revoked either
in whole or in part except by a posterior
testament or by an act made before
notaries, expressing a declaration of a
change of will.

ART. 1693. Posterior testaments, which do not, in an express
manner, revoke the prior ones, annul in the latter only such of
the dispositions therein contained as are incompatible with the new ones,
or contrary to them, or entirely different.

RCC—1691, 1694, 1723.
RCC 1870, Art. 1693.
Same as above.

CC 1825, Art. 1686.
Same as above; but no punctuation
after "not."

CC 1808, p. 250, Art. 185.
Posterior testaments and codicils
which do not, in an express manner,
revoke the prior ones, annul in the
latter only such of the dispositions there
contained, as are incompatible with the
new ones, or contrary to them, or en-
tirely different.

CN 1804, Art. 1036.
Posterior testaments, which do not,
in an express manner, revoke the prior
ones, annul in the latter only such of
the dispositions there contained as are
incompatible with the new ones, or con-
trary to them.

Projet du Gouvernement (1800), Book III, Title IX, Art. 125.
Same as CC 1825, Art. 1686, above.

Art. 1694. A revocation made in a posterior testament has
its entire effect, even though this new act remains without execution,
Art. 1695

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either through the incapacity of the person instituted, or of the legatee, or through his refusal to accept it, provided it is regular as to its form.*

RCC—1482 et seq., 1693, 1723.

RCC 1870, Art. 1694.
Same as above.

CC 1825, Art. 1687.
Same as above; but semicolon (;) after “accept it.”

CC 1808, p. 250, Art. 186.
A revocation made in a posterior testament or codicil, has its entire effect, even though this new act remains without execution, either through the incapacity of the person instituted, or of the legatee, or through his refusal to accept it.

CN 1804, Art. 1037.
A revocation made in a posterior testament has its entire effect, even though this new act remains without execution through the incapacity of the instituted heir or of the legatee, or through his refusal to accept it.

Same as above; but no punctuation after “of the testator.”

*“Provided it is regular as to form” has no counterpart in French text.

ART. 1695. A donation inter vivos, or a sale made by the testator of the whole or a part of the thing bequeathed as a legacy, amounts to a revocation of the testamentary disposition, for all that has been sold or given, even though the sale or donation be null, and the thing have returned into the possession of the testator, whether by the effects of that nullity, or by any other means.

RCC—616, 1638, 1696.

RCC 1870, Art. 1695.
Same as above.

CC 1825, Art. 1688.
Same as above; but no punctuation after “inter vivos”; comma (,) after “nullity.”

Same as above; but no punctuation after “of the testator.”

-p. 251, Art. 186.
La révocation faite dans un testament postérieur, a tout son effet, quoique ce nouvel acte reste sans exécution, soit par l’incapacité de l’instuit ou du légataire, soit par son refus de recueillir.*

La donation faite entre-vifs, ou la vente que fait le testateur de tout ou partie de la chose léguee, emporte la révocation de la disposition testamentaire pour tout ce qui a été vendu ou donné, encore que la vente ou donation soit nulle, et que l’objet soit rentré dans les mains du testateur, soit par l’effet de cette nullité, soit par toute autre voie.
Every alienation made by the testator of the whole or of a part of a thing bequeathed as a legacy, even that which is made by sale with the right of redemption or by exchange, amounts to a revocation of the legacy for all that has been alienated, even though the subsequent alienation be null and the thing have returned into the possession of the testator.

La vente que le testateur a faite de l'objet légué, même par acte sous-seing privé, postérieurement à la date du testament, opère également la révocation du legs, si l'acte est entièrement écrit, daté et signé de sa main.

The sale, made by the testator, of an object bequeathed, even by act under private signature, after the date of the testament, produces a revocation of the legacy, if the act be entirely written, signed and dated with his hand.

La vente ou la vente que fait le donateur de tout ou de partie de la chose donnée par testament, emporte la révocation de la donation testamentaire pour tout ce qui a été vendu ou donné, encore que la vente ou donation postérieure soit nulle, et que l'objet soit rentré dans la main du donateur.

The testamentary disposition becomes without effect, if the person instituted or the legatee does not survive the testator.

La disposition testamentaire devient caduque, si l'institué ou le légataire ne survit pas au testateur.
ART. 1698. Every testamentary disposition made on a condition depending on an uncertain event, so that in the intention of the testator the disposition shall take place only inasmuch as the event shall or shall not happen, is without effect, if the instituted heir or the legatee dies before the accomplishment of the condition.


RCC 1870, Art. 1698.
Same as above.

CC 1825, Art. 1691. (No reference in Projet)
Same as above.

CC 1808, p. 250, Art. 189.
Same as above; but comma (,) after "testator."

CN 1804, Art. 1040.
Every testamentary disposition made on a condition depending on an uncertain event, so that in the intention of the testator, this disposition shall be executed only inasmuch as the event shall or shall not happen, shall be without effect if the instituted heir or the legatee dies before the accomplishment of the condition.

Projet du Gouvernement (1800), Book III, Title IX, Art. 129.
Every gift or legacy made on a condition depending on an uncertain event so that in the intention of the donor the legacy shall take place only inasmuch as the event shall or shall not happen, is without effect, if the donee or legatee dies before the accomplishment of the condition.

Toute disposition testamentaire faite sous une condition dépendant d'un événement incertain, et telle que, dans l'intention du testateur, cette disposition ne doive être exécutée qu'autant que l'événement arrivera ou n'arrivera pas, sera caduc, si l'héritier institué ou le légataire décède avant l'accomplissement de la condition.
**ART. 1699.** A condition which, in the intention of the testator, does but suspend the execution of the disposition, does not hinder the instituted heir or the legatee from having a right acquired and transmissible to his heirs.

RCC—1565, 1626, 1698, 2041, 2043, 2045 et seq.

RCC 1870, Art. 1699.
Same as above.

CC 1825, Art. 1692.
(No reference in Projet)
Same as above.

CC 1808, p. 250, Art. 190.
Same as above; but no punctuation after “which.”

CN 1804, Art. 1041.
Same as above.

**ART. 1700.** The legacy falls, if the thing bequeathed has totally perished during the lifetime of the testator.

RCC—613, 614, 615, 616, 1636, 1643, 1701, 1702, 2044, 2155, 2219, 2455, 2728.

RCC 1870, Art. 1700.
Same as above.

CC 1825, Art. 1693.
(No reference in Projet)
Same as above.

CC 1808, p. 250, Art. 191, par. 1.
Same as above; but no punctuation after “falls.”

CN 1804, Art. 1042, par. 1.
Same as above.

**ART. 1701.** It likewise falls if the thing has perished since his death, without the act or fault of the heir, although the latter may have delayed to deliver it, when it must equally have perished in the possession of the legatee.

RCC—1643, 1907, 2044, 2219.

RCC 1870, Art. 1701.
Same as above.

CC 1825, Art. 1694.
(No reference in Projet)
Same as above; but comma (,) after “falls.”

Il en est de même, si elle a péri depuis sa mort, sans le fait et la faute de l’héritier quoique celui-ci ait été mis
Art. 1702

In case of an alternative legacy of two things, if one of them perishes, the legacy subsists as to that which remains.

RCC—1700, 2071 et seq.

RCC 1870, Art. 1702.
Same as above.

CC 1825, Art. 1695. (No reference in Projet)
Dans le legs alternatif de deux choses, si l'une d'elles périt, le legs subsiste dans celle qui reste.

CC 1808, p. 250, Art. 192.
In case of an alternative legacy of two things, if one of them perishes, the legacy subsists in that which remains.

CN 1804. No corresponding article.

Art. 1703. The testamentary disposition falls, when the instituted heir or the legatee rejects it, or is incapable of receiving it.

RCC—977, 1004, 1014 et seq., 1482 et seq., 1704, 1709.

RCC 1870, Art. 1703.
Same as above.

CC 1825, Art. 1696. (No reference in Projet)
La disposition testamentaire est caduque, lorsque l'héritier institué ou le légataire la repudie, ou se trouve incapable de la recueillir.

CC 1808, p. 250, Art. 193.
The testamentary disposition falls when the instituted heir or the legatee rejects it or finds himself incapable of receiving it.

CN 1804, Art. 1043.
Same as above.

La disposition testamentaire sera caduque, lorsque l'héritier institué ou le légataire la repudiera, ou se trouvera incapable de la recueillir.
ART. 1704. Legatees under a universal title, and legatees under a particular title, benefit by the failure of those particular legacies which they are bound to discharge.

RCC—947, 1022 et seq., 1695 et seq., 1706 et seq.

RCC 1870, Art. 1704. (Same as Art. 1704 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1697. (Projet, p. 223. Addition adopted; no comment)

Les légataires à titre universel et les légataires à titre particulier profitent de la caducité des legs particuliers qu'ils étaient chargés d'acquitter.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1705. The testament falls by the birth of legitimate* children of the testator, posterior to its date.

RCC—27, 29, 178 et seq., 1750.

RCC 1870, Art. 1705. Same as above.

CC 1825, Art. 1698. (No reference in Projet)

Le testament est caduc, quand il est survenu des enfants,* depuis qu'il a été fait.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*"Legitimate" has no counterpart in French text.

ART. 1706. The right of accretion relative to testamentary dispositions, shall no longer subsist, except in the cases provided for in the two following articles.

RCC—969, 1022 et seq., 1498, 1704, 1707, 1708, 1709.

RCC 1870, Art. 1706. Same as above.

CC 1825, Art. 1699. (No reference in Projet)

Le droit d'accroissement, relativement aux dispositions testamentaires, ne subsistera plus que dans les cas spécifiés dans les deux articles suivants.

CC 1808, p. 250, Art. 194.

The right of accretion relative to testamentary dispositions, shall no longer subsist, except in the cases marked in the two following articles.

p. 251, Art. 194.

Le droit d'accroissement, relativement aux dispositions testamentaires, ne subsistera plus, que dans les cas marqués aux deux articles suivants.

CN 1804. No corresponding article.

ART. 1707. Accretion shall take place for the benefit of the legatees, in case of the legacy being made to several conjointly.
Art. 1708

The legacy shall be reputed to be made conjointly when it is made by one and the same disposition without the testator’s having assigned the part of such co-legatee in the thing bequeathed.

RCC—1022, 1498, 1706, 1708, 1709, 2287.

RCC 1870, Art. 1707.

Same as above.

CC 1825, Art. 1700. (No reference in Projet)

Same as above; but comma (,) after “made conjointly.”

CC 1808, p. 250, Art. 195.

Same as above.

CN 1804, Art. 1044.

Same as above.

Art. 1709. It shall also be reputed to be made conjointly when a thing, not susceptible of being divided without deterioration, has been given by the same act to several persons, even separately.

RCC—1022, 1706, 1707, 1709, 1723, 2076, 2287.

RCC 1870, Art. 1708.

Same as above.

CC 1825, Art. 1701. (No reference in Projet)

Same as above; but comma (,) after “conjointly.”

CC 1808, p. 250, Art. 196.

Same as above.

CN 1804, Art. 1045.

Same as above.

Art. 1709. Except in the cases prescribed in the two preceding articles, every portion of the succession remaining undisposed of, either because the testator has not bequeathed it, either to a legatee or to an instituted heir, or because the heir or the legatee has not been able, or has not been willing to accept it, shall devolve upon the legitimate heirs.*

RCC—886, 929, 1022, 1498, 1531, 1560, 1706 et seq.
RCC 1870, Art. 1709.
Same as above.

CC 1825, Art. 1702.
Same as above.

CC 1808, p. 250, Art. 197.
Except in the cases prescribed in the two preceding articles every portion of the succession remaining vacant, whether because the testator has not formally disposed of it, on the title of institution or of legacy, or because the heir or the legatee has not been able or has not been willing to accept it, shall devolve to the blood or the legitimate heirs.

CN 1804. No corresponding article.

**Note error in English translation of French text; “the legitimate heirs” should be “the heirs of the blood or legal heirs.”

ART. 1710. The same causes which, according to the foregoing provisions of the present title,* authorize an action for the revocation of a donation inter vivos, are sufficient to ground an action of revocation of testamentary dispositions; provided, however, that no charges or conditions can be imposed by the testator on the legitimate portion of forced heirs, nor can they lose their inheritance for any act of ingratitude to the testator, prior to his decease. That he has not disinherited them shall be sufficient evidence of his having forgiven the offense.

RCC—975, 1300, 1431, 1493 et seq., 1559 et seq., 1621, 1622, 1623, 1711.

RCC 1870, Art. 1710.
Same as above.

CC 1825, Art. 1703.
Same as above.
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CC 1808, p. 252, Art. 199.

The same causes which, according to article 66 above, and the two first dispositions of article 67 of the present title, shall authorize an action of revocation of a donation between the living, shall be admitted to ground an action of revocation for testamentary dispositions, observing only with respect to the forced heirs, that they cannot be bound to any charges or conditions imposed by the testator on their legitimate or legal portion, or be sued for any act of ingratitude anterior to the decease of the testator who had against them the punishment of disinherison, if he had thought proper to inflict it, and who, from his not having disinherited them, is deemed to have forgiven their offense.

CN 1804, Art. 1046.

The same causes which, according to article 954 and the first two dispositions of article 955 authorize an action for the revocation of a donation inter vivos, are admitted to ground an action of revocation of testamentary dispositions.

"According to the foregoing provisions of the present title" has no counterpart in French text.

Art. 1711. If the action be founded on a grievous injury done to the memory of the testator, it must be brought within a year from the day of the offense.

RCC—1560, 1561, 1621, 1623, 1710.

RCC 1870, Art. 1711.

Same as above.

CC 1825, Art. 1704.

Same as above.

CC 1808, p. 252, Art. 199.

Same as above.

CN 1804, Art. 1047.

Same as above.

=p. 253, Art. 198.

Les mêmes causes qui, suivant l'article 66 ci-dessus, et les deux premières dispositions de l'article 67 du présent titre, autorisent la demande en révocation de la donation entre vifs, pourront être admises pour la demande en révocation des dispositions testamentaires, en observant seulement, quant aux héritiers forcés, qu'ils ne peuvent être astreints à aucunes charges et conditions par le testateur, relativement à leur légitime; et qu'ils ne peuvent être recherchés pour les faits d'ingratitude, antérieurs au décès du testateur qui avait contre eux la peine de l'exhérédation, s'il eût voulu en user, et qui par cela, qu'il n'en a pas usé, est censé leur avoir remis leur faute.

Les mêmes causes qui, suivant l'article 954 et les deux premières dispositions de l'article 955, autoriseront la demande en révocation de la donation entre-vifs, seront admises pour la demande en révocation des dispositions testamentaires.

Si cette demande est fondée sur une injure grave, faite à la mémoire du défunt, elle doit être intentée dans l'année à compter du jour du délit.

Si cette demande est fondée sur une injure grave, faite à la mémoire du testateur, elle doit être intentée dans l'année, à compter du jour du délit.

Same as above; but no punctuation after "grave."
Section 7—GENERAL RULES FOR THE INTERPRETATION OF LEGACIES

ART. 1712. In the interpretation of acts of last will, the intention of the testator must principally be endeavored to be ascertained, without departing, however, from the proper signification of the terms of the testament.

RCC—1713 et seq., 1945 et seq., 2076.

RCC 1870, Art. 1712.
Same as above.

CC 1825, Art. 1705. (Projet, p. 223. Substitution adopted; no comment)
Same as above.

CC 1808, p. 252, Art. 200.
If any obscurity be found in the meaning or the terms of the disposition, either as to the person to whom it is made, or as to the thing bequeathed, the judge must endeavor to discover what was the intention of the donor.

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Book III, Title IX, Art. 136.
If any obscurity be found in the meaning of the terms of the donation either as to the donee or as to the thing bequeathed, the judges must endeavor to discover the intention of the donor.

ART. 1713. A disposition must be understood in the sense in which it can have effect, rather than that in which it can have none.

RCC—1519 et seq., 1712, 1951.

RCC 1870, Art. 1713.
Same as above.

CC 1825, Art. 1706. (Projet, p. 223. Substitution adopted; no comment)
Same as above.

CC 1808, p. 252, Art. 201.
In case of doubt as to that intention, the interpretation is made in the sense most favorable to the heir, but the sense in which the disposition will have effect, is to be preferred to that in which it could have none.

CN 1804. No corresponding article.
Art. 1714

In case of ambiguity or obscurity in the description of the legatee, as, for instance, when a legacy is bequeathed to one of two individuals bearing the same name, the inquiry shall be which of the two was upon terms of the most intimate intercourse or connection with the testator, and to him shall the legacy be decreed.

RCC—1712, 1715.

ART. 1715. When, from the terms made use of by the testator, his intention can not be ascertained, recourse must be had to all circumstances which may aid in the discovery of his intention.

RCC—1712.

ART. 1716. A mistake in the name of an object bequeathed is of no moment, if it can be ascertained what the thing was which the testator intended to bequeath.

RCC—1712.
ART. 1717. If it can not be ascertained whether a greater or less quantity has been bequeathed, it must be decided for the least.
RCC—1722.

RCC 1870, Art. 1717.
Same as above.

CC 1825, Art. 1710.
(Projet, p. 224. Addition adopted; no comment)
A défaut de circonstances, qui puissent faire reconnaître la plus ou moins grande quantité de ce qui a été légué, on doit décider pour la moins grande.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 1718. A general legacy does not embrace the things included under the [this] genus, which have been acquired after the death of the testator, though by his order.
RCC—1719.

RCC 1870, Art. 1718.
(Same as Art. 1718 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1711.
(Projet, p. 224. Addition adopted; no comment)
Un legs général ne renferme point les choses comprises sous ce genre, qui n'ont été acquises que depuis la mort du testateur, quoique par son ordre.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 1719. A general legacy does not embrace the things included under the [this] genus, which have been bequeathed in particular to other persons.
RCC—1718.

RCC 1870, Art. 1719.
Same as above.

CC 1825, Art. 1712.
(Projet, p. 224. Addition adopted; no comment)
Un legs général ne renferme pas les choses comprises sous ce genre, qui ont été léguées en particulier à d'autres personnes.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 1720. A disposition, couched in terms present and past, does not extend to that which comes afterwards.
For example, a legacy of all the books a testator possesses does not include those which he has purchased after the date of the testament.
RCC—1528, 1721, 1722.

RCC 1870, Art. 1720.
Same as above.
ART. 1721. A disposition, couched in the future tense, refers to the time of the death of the testator.

Thus, a legacy of all the furniture there shall be in the house of the testator includes that which he has purchased since the date of the testament as well as the rest.

RCC—1720, 1722.

RCC 1870, Art. 1721.
Same as above.

ART. 1722. A disposition, the terms of which express no time, neither past nor future, refers to the time of making the will.

Thus, when the testator expresses simply that he bequeaths his plate to such a one, the plate that he possessed at the date of the will, is only included.

RCC—1717, 1720, 1721.

RCC 1870, Art. 1722.
Same as above.

ART. 1723. When a person had ordered two things, which are contradictory, that which is last written is presumed to be the will
of the testator, in which he has persevered, and a derogation to what has before been written to the contrary.

RCC—1691, 1693, 1708, 2076.

RCC 1870, Art. 1723.
Same as above.

CC 1825, Art. 1716.
Same as above; but comma (,) after "written."

RCC 1870, Art. 1724.
Same as above.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

Chapter 7—Of Partitions made by Parents and Other Ascendants Among their Descendants

Art. 1724. Fathers and mothers and other ascendants may make a distribution and partition of their property among their children and legitimate descendants, either by designating the quantum of the parts and partitions [portions] which they assign to each of them, or in designating the property [that shall compose their respective lots.

RCC—1302, 1411, 1415, 1725 et seq.

CC 1825, Art. 1717. (No reference in Projet) Les père et mère et autres ascendants peuvent faire entre leurs enfans ou descendans légitimes, la distribution et partage de leurs biens, soit en désignant la quantité des parts et portions qu'ils assignent à chacun d'eux, soit en désignant les biens de telle ou telle nature,* qui composeront leurs lots.


Fathers and mothers and other ascendants may make among their children or legitimate descendants, a distribution and partition of their property, either by designating the quantum of the parts and partitions [portions] which they assign to each of them, or in designating the property of such particular kind which shall compose their respective lots.

CN 1804, Art. 1075.

Fathers and mothers and other ascendants may make a distribution and partition of their property among their children and descendants.

* Les père et mère et autres ascendants pourront faire, entre leurs enfans et descendans, la distribution et le partage de leurs biens.
Art. 1725

These partitions may be made by act *inter vivos* or by testament.

RCC—1467, 1570, 1724, 1726 *et seq.*, 1735.

RCC 1870, Art. 1725. (Same as Art. 1725 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1718. (No reference in Projet)

Those partitions may be made by act *inter vivos* or by testament.


Those partitions may be made by act *inter vivos* (between the living)* or by testament.

CN 1804, Art. 1076, par. 1. Same as above.

Those partitions may be made by act *inter vivos* or by testament, with the formalities, conditions and rules prescribed for donations *inter vivos* and testaments.

Projet du Gouvernement (1800), Book III, Title IX, Art. 139.

Same as RCC 1870, Art. 1725, above. Same as CC 1808, p. 253, Art. 203, above.

*"(between the living)" has no counterpart in French text.

Art. 1726. Those made by an act *inter vivos* can have only present property for their object, and are subject to all the formalities and conditions of donations *inter vivos*.

RCC—1468, 1523 *et seq.*, 1536 *et seq.*, 1725, 1735.

RCC 1870, Art. 1726.

Same as above.

CC 1825, Art. 1719. (No reference in Projet)

Same as above.

CC 1808, p. 252, Art. 204. -p. 253, Art. 204.

Same as above.

CN 1804, Art. 1076.

Par. 1 quoted under RCC 1870, Art. 1725, above.

Partitions made by act *inter vivos* can have only present property for their object.

Les partages faits par actes *entre-vifs* ne pourront avoir pour objet que les biens présents.
ART. 1727. Those made by testament must be made in the forms prescribed for acts of that kind, and are subject to the same rules.

RCC—1469, 1570, 1574 et seq., 1597 et seq., 1725.

RCC 1870, Art. 1727.
Same as above.

CC 1825, Art. 1720. (No reference in Projet)
Same as above; but comma (,) after "testament."

CC 1808, p. 254, Art. 205, par. 1.
Those made by testament must be made in the form prescribed for acts of that kind, and are subject to the same rules.

CN 1804, Art. 1076, par. 1.
Quoted under RCC 1870, Art. 1725, above.

Projet du Gouvernement (1800), Book III, Title IX, Art. 141.
Those made by testament must be made in the form prescribed for donations of that kind, and are subject to the same rules.

ART. 1728. If the partition, whether inter vivos or by testament, has not comprised all the property that the ascendant leaves on the day of his decease, the property not comprised in the partition is divided according to law.

RCC—1293 et seq.

RCC 1870, Art. 1728.
Same as above.

CC 1825, Art. 1721. (No reference in Projet)
Same as above; but comma (,) after "decease, the property", and after "in the partition."

CC 1808, p. 254, Art. 206.
Same as above; but no punctuation after "if the partition", after "testament"; after "decease, the property", or after "in the partition."

CN 1804, Art. 1077.
If all the property that the ascendant leaves on the day of his decease has not been comprised in the partition, the part of the property not comprised in it shall be partitioned according to law.

Si le partage, soit entre-vifs, soit par testament, n'a pas compris tous les biens que l'ascendant laisse au jour de son décès, les biens non compris dans le partage sont divisés conformément à la loi.

Same as above; but comma (,) after "dans le partage."

Si tous les biens que l'ascendant laissera au jour de son décès n'ont pas été compris dans le partage, ceux de ces biens qui n'y auront pas été compris, seront partagés conformément à la loi.
ART. 1729. If the partition, whether *inter vivos* or by testament, be not made amongst all the children living at the time of the decease and the descendants of those predeceased, the partition shall be null and void for the whole; the child or descendant who had no part in it, may require a new partition in legal form. (As amended by Acts 1871, No. 87)

RCC-1397 et seq., 1412, 1413, 1724, 1731, 1732, 1733.

RCC 1870, Art. 1729. (Same as Art. 1729 of Proposed Revision of 1869)

If the partition, whether *inter vivos* or by testament, be not made amongst all the children living at the time of the decease and the descendants of those predeceased, the partition shall be null and void for the whole; the child or descendant, who had no part in it, may require a new partition in legal form.

CC 1825, Art. 1722. (No reference in Projet)

Same as RCC 1870, Art. 1729, as amended by Acts 1871, No. 87, above.

CC 1808, p. 254, Art. 207.

Same as above.

CN 1804, Art. 1078.

If the partition be not made amongst all the children living at the time of the decease and the descendants of those predeceased, the partition shall be null and void for the whole. A new partition may be required in legal form, either by the children or descendants who received no part in it, or even by those amongst whom the partition has been made.

Projet du Gouvernement (1800), Book III, Title IX, Art. 143.

If the partition whether made *inter vivos* or by testament, does not call all the children alive at this time, or the descendants of those predeceased, the partition is null and void for the whole; the child or descendant who received no part in it may require a new partition in legal form.

*English translation of French text incomplete; should include "decease and the."*

ART. 1730. Partitions, made by ascendants, may be avoided,* when the advantage secured to one of the coheirs exceeds the disposable portion.
ART. 1731. The child who objects to the partition made by the ascendant, must advance the expenses of having the property estimated, and must ultimately support them and the costs of suit, if his claim be not founded.

RCC—1724, 1730.

RCC 1870, Art. 1731.
Same as above.

CC 1825, Art. 1724.
Same as above.

CC 1808, p. 254, Art. 209.
The child who objects to the partition made by the ascendant on the plea of
Art. 1732

Lesion of more than one fifth to his pre-judice, must advance the expenses of having the property estimated, and must ultimately support them and the costs of suit, if his claim be not founded.

CN 1804, Art. 1080.

The child who, for one of the causes set forth in the preceding article, shall object to the partition made by the ascendant, must advance the expenses of having the property estimated; and he shall ultimately support them as well as the costs of suit, if his claim be not founded.

Projet du Gouvernement (1800), Book III, Title IX, Art. 145.

The child who objects to the partition made by the ascendant on the plea of lesion of from a third to a fourth, must advance the expenses of having the property estimated, and must ultimately support them and the costs of suit, if his claim be not founded.

Art. 1732. The defendant in the action of rescission may arrest it by offering to the plaintiff the supplement of the portion to which he has a right.

RCC—1408, 1409, 1729, 1730.

RCC 1870, Art. 1732.

Same as above.

CC 1825, Art. 1725.

Same as above.

Art. 1733. The rescission of the partition does not carry with it the nullity of a donation made as an advantage.

RCC—1231 et seq., 1493 et seq., 1501, 1502 et seq., 1512.

RCC 1870, Art. 1733.

Same as above.

CC 1825, Art. 1726.

Same as above.

Art. 1733. The rescission of the partition does not carry with it the nullity of a donation made as an advantage.

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Chapter 8—Of Donations made by Marriage Contract to the Husband or Wife, and to the Children to be Born of the Marriage

ART. 1734. Every donation inter vivos, though made by marriage contract to the husband and wife or to either of them, is subject to the general rules prescribed for the donations made under that title.

It cannot take effect for the benefit of children not yet born.

RCC—29, 252, 953 et seq., 1467, 1468, 1470 et seq., 1482, 1502, 1520, 1532, 1536 et seq., 1559, 1564, 1735 et seq., 1743 et seq., 1745, 2273, 2325 et seq., 2331, 2336.

RCC 1870, Art. 1734.
Same as above.

CC 1825, Art. 1727.
(No reference in Projet)

Par. 1 same as par. 1, above; but no punctuation after "vivos"; or after "them"; comma (,) after "contract."

It cannot take effect for the benefit of children to be born.


Projet du Gouvernement (1800), Book III, Title IX, Art. 146.
Same as CC 1808, p. 255, Art. 210, above; but no punctuation after "marriage"; comma (,) after "époux."

ART. 1735. Fathers and mothers, the other ascendants, the collateral relations of either of the parties to the marriage, and even strangers, may give the whole or a part of the property they shall leave on the day of their decease, both for the benefit of the parties, and for that of the children to be born of their marriage, in case the donor survive the donee.

Such a donation, though made for the benefit of the parties to the marriage, or for one of them, is always, in case of the survivor-
ship of the donor, presumed to be made for the benefit of the children, or descendants to proceed from that marriage.

RCC—1469, 1497, 1527, 1528, 1532, 1534, 1564, 1570, 1725, 1726, 1728, 1734, 1738 et seq., 1741, 1742, 1744, 1745.

RCC 1870, Art. 1735.
Same as above.

CC 1825, Art. 1728.
Same as above.

CC 1808, p. 254, Art. 211.
Fathers and mothers, the other ascendants, the collateral relations of either of the spouses, and even strangers, may give the whole or a part of the property they shall leave on the day of their decease, both for the benefit of said spouses and for that of the children to be born of their marriage, in case the donor survive the spouse donee.

Such a donation though made for the benefit of the spouses or of one of them, is always in the aforesaid case of the survivorship of the donor, presumed to be made for the benefit of the children or descendants to proceed from that marriage.

CN 1804, Art. 1082.
Fathers and mothers, the other ascendants, the collateral relations of either of the spouses, and even strangers may, by marriage contract, dispose of the whole or a part of the property they shall leave on the day of their decease, both for the benefit of said spouses and for that of the children to be born of their marriage, in case the donor survive the spouse donee.

Such a donation, though made only for the benefit of the spouses or of one of them, shall always, in the aforesaid case of the survivorship of the donor, be presumed to be made for the benefit of the children and descendants to proceed from that marriage.

Art. 1736. A donation, in the form specified in the preceding article, is irrevocable only in this sense, that the donor can no longer dispose of the objects comprised in the donation on a gratuitous title unless it be for moderate sums, by way of recompense or otherwise.
ART. 1737. A donation in favor of marriage may be made cumulatively of the property present and future, provided, that to the act be annexed a statement of the debts and charges of the donor, existing on the day of the donation, in which case the donee, on the
Art. 1738

decease of the donor, may accept merely the present property, renouncing the surplus of the property of the donor.

RCC—1527, 1528, 1532, 1552, 1553, 1734 et seq., 1738 et seq., 1745.

RCC 1870, Art. 1737.

Same as above.

CC 1825, Art. 1730. (No reference in Projet)

La donation en faveur de mariage pourra être faite cumulativement des biens présents et à venir, à la charge qu'il sera annexé à l'acte un état des dettes et charges du donateur, existant l'existant au jour de la donation, auquel cas il sera libre au donataire, lors du décès du donateur, de s'en tenir aux biens présents, en renonçant au surplus des biens du donateur.

CC 1808, p. 254, Art. 213.

A donation in favor of marriage may be made accumulatively of the property present and future, provided that to the act be annexed a statement of the debts and charges of the donor existing on the day of the donation; in which case the donee, on the decease of the donor may accept merely the present property, renouncing the surplus of the property of the donor.

CC 1808, p. 255, Art. 213.

Same as above; but “existant” correctly spelled “existantes”; comma (,) after “mariage”, after “charge”, and after “cas.”

CN 1804, Art. 1084.

A donation by marriage contract may be made cumulatively of property present and future, in whole or in part, provided that to the act be annexed a statement of the debts and charges of the donor, existing on the day of the donation; in which case, the donee, on the decease of the donor, may accept merely the present property, renouncing the surplus of the property of the donor.

Projet du Gouvernement (1800), Book III, Title IX, Art. 149.

La donation par contrat de mariage pourra être faite cumulativement des biens présents et à venir, en tout ou en partie, à la charge qu'il sera annexé à l'acte, un état estimatif des dettes et charges du donateur existantes au jour de la donation; auquel cas, il sera libre au donataire, lors du décès du donateur, de s'en tenir aux biens présents, en renonçant au surplus des biens du donateur.

ART. 1738. If the statement, mentioned in the preceding article, has not been annexed to the act containing a donation of present and future property, the donee shall be obliged to accept or reject that donation wholly; and in case of acceptance, he shall claim only the property existing on the day of the donor's decease, and he shall be liable to the payment of all the charges and debts of the succession.

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ART. 1739. Donations made by marriage contract can not be impeached or declared void on pretense of a want of acceptance.

RCC—976 et seq., 1540, 1545, 1550, 1564, 1734 et seq., 1738, 1740 et seq.

RCC 1870, Art. 1739.
Same as above.

CC 1825, Art. 1732. (No reference in Projet)
Same as above.

CC 1808, p. 256, Art. 215.
Same as above; but comma (,) after "contract."

Les donations faites par contrat de mariage, ne pourront &tre attaquées ni déclarées nulles, sous prétexte de défaut d'acceptation.

Same as above; but comma (,) after "faites."

*Note error in English translation of French text; "conveying" should be "containing."
Art. 1741

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CN 1804, Art. 1087.
Same as above.

Art. 1740. Every donation made in favor of marriage falls, if the marriage does not take place.

RCC—1559, 1565, 1566, 1697, 1734 et seq., 1739, 1897, 2043.

RCC 1870, Art. 1740.
Same as above.

CC 1825, Art. 1733.
Same as above; but comma (,) after "of marriage."

CC 1808, p. 256, Art. 216.
Same as above.

CC 1804, Art. 1088.
Same as above.

Projet du Gouvernement (1800), Book III, Title IX, Art. 150.
Same as above.

Art. 1741. Donations made to the husband or the wife, on the terms of articles 1735 and 1737, fall if the donor survive the donee and his or her posterity. (As amended by Acts 1871, No. 87)

RCC—885, 908 et seq., 1534 et seq., 1564, 1735, 1737, 1744, 1745.

RCC 1870, Art. 1741.
(Same as Art. 1741 of Proposed Revision of 1869)
Donations made to the husband or wife, on the terms of articles, and fall, if the donor survive the donee, and his or her posterity.

CC 1825, Art. 1734.
(No reference in Projet)
Donations made to the husband or wife, on the terms of articles 1728 and 1730, fall, if the donor survive the donee and his or her posterity.

CC 1808, p. 256, Art. 217.
Donations made to one of the spouses on the terms of articles 211 and 213, fall, if the donor survives the donee and his or her posterity.

CC 1804, Art. 1089.
Donations made to the husband or the wife, on the terms of articles 1082, 1084, and 1086, shall fall, if the donor survive the donee and his or her posterity.

Les donations faites à l’un des époux dans les termes des articles 1728 et 1730 ci-dessus, deviennent caduques, si le donateur survit à l’époux donataire et à sa postérité.

Les donations faites à l’un des époux, dans les termes des articles 211 et 213 ci-dessus, deviennent caduques, si le donateur survit à l’époux donataire et à sa postérité.

Les donations faites à l’un des époux, dans les termes des articles 1082, 1084, et 1086 ci-dessus, deviendront caduques, si le donateur survit à l’époux donataire et à sa postérité.

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Art. 1742. All donations made to a married couple by their marriage contract, are, at the time of the opening of the succession of the donor, reducible to the portion that the law permitted him to dispose of.

RCC—1493 et seq., 1502 et seq., 1735.

RCC 1870, Art. 1742. Same as above.

CC 1825, Art. 1735. Same as above.

CC 1808, p. 256, Art. 218. Same as above; but no punctuation after "are."

CC 1804, Art. 1090. Same as above.

Projet du Gouvernement (1800), Book III, Title IX, Art. 152. Same as above.

Chapter 9—Of Donations between Married Persons, Either by Marriage Contract or During the Marriage

Art. 1743. Married persons can, by marriage contract, make to each other reciprocally, or the one to the other, what donations they think proper, under the modifications hereafter expressed.

RCC—156, 1467 et seq., 1481, 1497, 1528 et seq., 1532, 1564, 1734 et seq., 1744 et seq., 1751, 2325, 2331, 2336.

RCC 1870, Art. 1743. Same as above.

CC 1825, Art. 1736. Same as above.

CC 1808, p. 256, Art. 219. Same as above.
Art. 1745

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CN 1804, Art. 1091.
Same as above.

Les époux pourront, par contrat de mariage, se faire réciprocuellement, ou l'un des deux à l'autre, telle donation qu'ils jugeront à propos, sous les modifications ci-après exprimées.

Projet du Gouvernement (1804), Book III, Title IX, Art. 153.
Same as above.

Same as CC 1808, p. 257, Art. 219, above.

ART. 1744. Every donation inter vivos, of present property, made between married persons by marriage contract, shall not be deemed to be done on the condition of the survivorship of the donee, if that condition be not formally expressed, and it is subject to all the rules above prescribed for those kinds of donations.

RCC—1467, 1468, 1536 et seq., 1735, 1741, 1743, 1745 et seq., 2273, 2325 et seq., 2336.

RCC 1870, Art. 1744.
Same as above.

CC 1825, Art. 1737.
(No reference in Projet)
Toute donation entre-vifs de biens présens, faites (faite) entre époux par contrat de mariage, ne sera point censée faite sous la condition de survie du donataire, si cette condition n'est formellement exprimée, et elle est soumise à toutes les règles ci-dessus prescrites pour ces sortes de donations.

CC 1808, p. 256, Art. 220.

Same as above; but “faite” correctly spelled “faite”; comma (,) after “vifs”, after “époux”, and after “prescrites.”

ART. 1745. A donation of property in future, or of property present and in future, made between married persons by marriage contract, whether simple or reciprocal, shall be subject to the rules established by the preceding chapter, with regard to similar donations made to them by a third person, except that it shall not be transmissive to the children, the issue of the marriage, in case of the death of the donee before the donor.

RCC—1528, 1532, 1564, 1734 et seq., 1741, 1743, 1744, 1746 et seq., 1751.
ART. 1746. One of the married couple may, either by marriage contract or during the marriage, give to the other, in full property, all that he or she might give to a stranger.

(RCC—1480, 1493 et seq., 1497, 1502 et seq., 1743 et seq., 1747 et seq., 1751, 1752, 1754, 2336.)

(RCC 1870, Art. 1746. (Same as Art. 1746 of Proposed Revision of 1869; similar to CC 1825, Art. 1739, as amended by Acts 1850, No. 300 (RS §§ 1434, 1210).)

(CC 1825, Art. 1739. (No reference in Projet)

One of the married couple may, either by marriage contract or during the marriage, in case of his or her leaving no children or legitimate descendants, give to the other in full property, all that he or she might give to a stranger.

And in case the donor leaves children or legitimate descendants, he can give to the other either a tenth part in full property, or the usufruct only of one fifth of all his property.

(CC 1808, p. 256, Art. 222.

Par. 1 same as par. 1, above; but no punctuation after “may”; comma (,) after “contract.”

P. 257, Art. 222.

Same as above; but comma (,) after “Et pour le cas”, and after “peut donner à l'autre époux.”)
And in case the spouse donor leaves children or legitimate descendants, he or she may give to the other spouse, either a tenth part in full property or the usufruct only, of one fifth of all his or her property.

CN 1804, Art. 1094.

One of the married couple may, either by marriage contract, or during the marriage, in case of his or her leaving no children or descendants, dispose in favor of the other, in ownership, of all that he can dispose of in favor of a stranger, and, besides, of the usufruct of the entire portion which the law prohibits him from disposing of to the prejudice of his heirs.

And in case the donor leaves children or descendants, he can give to the other, either one fourth part in full property and the usufruct of another fourth, or the usufruct only of one half of all his property.

ART. 1747. The husband or wife, if a minor emancipated, can, by marriage contract, give to the other, either by simple or by reciprocal donation, whatever can be given by a party who has attained the age of majority.

RCC—97, 365, 366 et seq., 374, 379 et seq., 385 et seq., 1476, 1477, 1743 et seq., 1748 et seq., 1785, 1873, 2330.

RCC 1870, Art. 1747. (Same as Art. 1747 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1740. (No reference in Projet)

The husband or wife, if a minor emancipated, can, by marriage contract, give to each other, either by simple or by reciprocal donation, whatever can be given by one of the parties who has attained the age of majority.

CC 1808, p. 256, Art. 223, par. 1.

A minor emancipated can, by marriage contract, give to his or her spouse, either by simple or by reciprocal donation, whatever can be given by a spouse who has attained the age of majority.

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Book III, Title IX, Art. 157, par. 1.

Same as CC 1808, p. 256, Art. 223, par. 1, above.

ART. 1748. A minor, not emancipated, can give only with the consent of those relations whose consent is requisite for the validity of the marriage; and with that consent, he or she can give all that the law permits a married person of full age to give to his or her consort.
If the relations, whose consent is necessary, be dead, the minor not emancipated can not give without the authorization of a court of justice.

RCC—37, 97, 112, 246, 354, 1476, 1477, 1747, 1873, 2330.

RCC 1870, Art. 1748. (Same as Art. 1748 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1741. (No reference in Projet)

A minor, not being emancipated, can give only with the consent of those relations whose consent is requisite for the validity of the marriage, and with that consent he or she can give all that the law permits a married person of full age to give to his or her consort.

If the relations (relations), whose consent is necessary, be dead, the minor not emancipated cannot give without the authorization of a court of justice.

CC 1808, p. 256, Art. 223, pars. 2, 3.
Same as above; but no punctuation after "A minor", after "being emancipated", or after "relation"; comma (,) after "not emancipated."

CN 1804, Art. 1095.
The minor can, by marriage contract, give to the other spouse, either by simple or reciprocal donation, only with the consent and assistance of those whose consent is requisite for the validity of the marriage; and, with the consent, he or she can give all that the law permits a married person of full age to give to his or her consort.

Projet du Gouvernement (1800), Book III, Title IX, Art. 157, par. 2.

A minor, not being emancipated, can give only with the consent and assistance of those relations whose consent is requisite for the validity of the marriage, and with that consent he or she can give all that the law permits a married person of full age to give to his or her consort.

ART. 1749. All donations made between married persons, during marriage, though termed inter vivos, shall always be revocable.

The revocation may be made by the wife, without her being authorized to that effect by her husband, or by a court of justice.

RCC—156, 1468, 1480, 1528, 1529, 1532, 1559, 1736, 1746, 1750 et seq., 1754.

RCC 1870, Art. 1749.
Same as above.

CC 1825, Art. 1742. (No reference in Projet)

Same as above; but no punctuation after "husband."
Art. 1751  COMPILED EDITION

La révocation pourra être faite par la femme, sans y être autorisée par le mari ni par justice.

CC 1808, p. 258, Art. 224, pars. 1, 2.
Same as above.

CN 1804, Art. 1096, pars. 1, 2.
Same as above.

ART. 1750. Those donations shall not be revoked by the birth of children, provided they do not exceed the quantum, which married persons are permitted to dispose of to each other, to the prejudice of their children, or legitimate descendants, as is above provided.

RCC—199, 1468, 1469, 1480, 1502 et seq., 1705, 1736, 1749.

RCC 1870, Art. 1750.
Same as above.

CC 1825, Art. 1743.
Same as above. (No reference in Projet)

CC 1808, p. 258, Art. 224, par. 3.
Those donations shall not be revoked by the birth of children, provided they do not exceed the quantum of which married persons are permitted to dispose between themselves, to the prejudice of their children or legitimate descendants by article 222 above.

CN 1804, Art. 1096, par. 3.
These donations shall not be revoked by the birth of children.

ART. 1751. Married persons can not, during marriage, make to each other, by an act, either inter vivos or mortis causa, any mutual or reciprocal donation by one and the same act.

RCC—1572, 1743, 1745, 1746 et seq.

RCC 1870, Art. 1751.
Same as above.

CC 1825, Art. 1744.
Same as above. (No reference in Projet)
ART. 1752. A man or woman who contracts a second or subsequent marriage, having a child or children by a former marriage, can give to his wife, or she to her husband, either by donation inter vivos or by last will and testament, in full property or in usufruct, all of that portion of his estate, or her estate, as the case may be, that he or she could legally give to a stranger. (As amended by Acts 1916, No. 116)

RCC—137, 1439 et seq., 1499, 1502 et seq., 1746, 1754.

Art. 1752.

A man or woman who contracts a second or subsequent marriage, having children by a former one, can give to his wife, or she to her husband, either by donation or by last will and testament, in full property, or in usufruct, not exceeding one-third of his or her property. (As amended by Acts 1882, No. 13)

RCC 1870, Art. 1752. (Same as Art. 1752 of Proposed Revision of 1869)

A man or woman, who contracts a second or subsequent marriage, having children by a former one, can give to his wife, or she to her husband, only the least child's portion, and that only as a usufruct; and in no case shall the portion, of which the donee is to have the usufruct, exceed the fifth part of the donor's estate.

CC 1825, Art. 1745. (No reference in Projet)

A man or woman, who contracts a second or subsequent marriage having children by a former one, can give to his wife, or she to her husband, only the least child's portion, and that only as an usufruct; and in no case shall the portion, of which the donee is to have the usufruct, exceed the fifth part of the donor's estate.

CC 1808, p. 258, Art. 226.

Same as RCC 1870, Art. 1752, above; but no punctuation after "woman", after "wife", or after "the portion."

CN 1804, Art. 1098.

The husband or wife who, having children by a former marriage, contracts a second or subsequent marriage, can give to his wife, or she to her husband, only the least legitimate child's portion and in no case shall these donations exceed the fourth part of the estate.

Projet du Gouvernement (1800), Book III, Title IX, Art. 161, par. 1.

The husband or wife who contracts a second or subsequent marriage, having children or descendants by a prior marriage, can give to his wife, or she to her husband, only the least legitimate child's portion, and that only as a usufruct.
Art. 1754


RCC 1870, Art. 1753. (Same as Art. 1753 of Proposed Revision of 1869)

If a person, who marries a second time, has children of his or her preceding marriage, he or she can not, in any manner, dispose of the property given or bequeathed to him or her by the deceased spouse, or which came to him or her from a brother or sister of any of the children which remain.

This property becomes, by the second marriage, the property of the children of the preceding marriage, and the spouse, who marries again, only has the usufruct of it.

CC 1825, Art. 1746. (Projet, p. 225. Amendment adopted; no comment)

Par. 1 same as par. 1, above.

This property, by the second marriage, becomes the property of the children of the preceding marriage, and the spouse, who marries again, only has the usufruct of it.

CC 1808, p. 258, Art. 227.

The donation mentioned in the preceding article, can, in no case, affect any property, but the estate belonging to the man or woman who contracts a second marriage, and cannot comprise any effects which came to him or her, from the deceased spouse, either by donation made before or after the marriage or otherwise or by the succession of some of the children of the preceding marriage; these effects being, according to law, reserved to the children of said marriage, in case their father or mother marries again.

CN 1804. No corresponding article.

Art. 1754. Husbands and wives can not give to each other, indirectly, beyond what is permitted by the foregoing dispositions.

All donations disguised, or made to persons interposed, shall be null and void.

RCC—1481, 1491, 1520, 1746, 1752, 1755, 2446.

RCC 1870, Art. 1754. Same as above.

CC 1825, Art. 1747. (No reference in Projet)

Same as above.

CC 1808, p. 258, Art. 228.

Same as above; but no punctuation after "other", after "indirectly", or after "disguised."

p. 259, Art. 228. Same as above.

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ART. 1755. All donations, made by one of the married parties to the children or to any one of the children of the other party by a former marriage, and such as are made by the donor to relations to whom the other party is presumptive heir on the day of the donation, although the latter may not survive the relation who is the donee, shall be deemed made to persons interposed.

RCC—880, 1491, 1519, 1520, 1754, 1895.