Successions - Prescription of Action for Collation

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case where the person to be bound is not physically present when the act is performed for him. The necessities of the situation do not demand a further relaxation of the requirement of a written signature.

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SUCCESSIONS—PRESCRIPTION OF ACTION FOR COLLATION

In a recently decided case the Louisiana Supreme Court purported to put to rest the undecided issue of the prescriptive period applicable to a demand for collation. Whether the court's pronouncement that the demand prescribed in ten years from the donor's death can be considered conclusive authority is clouded by the context in which the issue was joined. This uncertainty, together with the prior confusion surrounding the proper classification of collation for prescription, especially warrants a close examination of the decision in light of prior jurisprudence and pertinent statutory provisions.

No Louisiana statute specifically governs prescription of the action for collation, but, arguably, any one of the provisions for five, ten, or thirty years could be applied. Civil Code article 3542 provides that actions to reduce excessive donations prescribe in five years. Under article 3544 "all personal actions," not previously provided for specifically, prescribe in ten years. As long as heirs hold a succession in common, the action by any one of them to partition the succession remains imprescriptible under article 1304. If, however, one heir has separately and continuously possessed all or a portion of the succession adversely for thirty years, the other heirs are barred from demanding a partition of the property so possessed. Authorities

2. In Naudon v. Mauvezin, 194 La. 739, 194 So. 766 (1940) an action for collation was held prescribed in five years under Civil Code article 3542, but this holding was apparently overruled sub silentio in Himel v. Connelly, 195 La. 769, 197 So. 424 (1940). See notes 4-8 infra and accompanying text.
3. LA. CIV CODE art. 1305 (1870): "When one of the heirs has enjoyed the whole or part of the succession separately, or all the coheirs have possessed separately each a portion of the hereditary effects, he or they who have thus separately possessed, can successfully oppose the suit for a partition of the effects of the succession, if their possession has continued thirty years without interruption.

Id. art. 1306: "If there be but one of the heirs who has separately enjoyed a portion of the effects of the succession during thirty years, and all the other heirs have possessed the residue of the effects of the succession in common, the
In Naudon v. Mauvezin, the Louisiana Supreme Court, without reasoning or authority, held that a claim for collation of a donation inter vivos prescribed under article 3542 in five years from the donor's death. Shortly afterwards, however, the same court in Himel v. Connely, without mentioning Naudon, held article 3542 inapplicable to collation, because by its terms that provision applied only to reduction of excessive donations. The conflict between Naudon and Himel was resolved in favor of the latter in In re Andrus. The court argued, as it had in Himel, that article 3542 did not mention collation and, further, that collation could not be assimilated to reduction. For the distinction between collation and reduction, the court relied on the succinct language of Jordan v. Filmore: "The difference between the right to demand collation and the right to demand a reduction of an excessive donation or legacy to the disposable portion is that collation can be demanded only from a coheir, but does not depend upon the extent of the inequality in the disposition of the ancestor's estate; whereas the right to demand a reduction of an excessive donation or legacy to the disposable portion may be demanded from any donee or legatee—whether he be an heir or a stranger—but it can be demanded only when—and to the extent that—the donation or legacy exceeds the disposable portion." 

As a matter of strict statutory construction, the Himel and Andrus decisions seem clearly correct. The differences between reduction and collation pointed out in Jordan v. Filmore are undeniable. Naudon's application of article 3542 to collation could not be sustained because the only prescription applicable is that of five years, under the provisions of article 3542 and that period of time has not elapsed. A similar conclusion was reached in Benoit v. Benoit's Heirs, 8 La. 228 (1835), Champagne v. Champagne, 125 La. 408, 51 So. 440 (1910), and Succession of Waterman, 183 La. 1006, 165 So. 182 (1935), the court overruled a plea of prescription to a collation demand because "the only prescription applicable is that of five years, under the provisions of article 3542... and that period of time has not elapsed." 

Action of partition among the latter will always subsist." See note 21 infra and accompanying text.

4. 194 La. 739, 194 So. 766 (1940). In Succession of Waterman, 183 La. 1006, 165 So. 182, 184 (1935) the court overruled a plea of prescription to a collation demand because "the only prescription applicable is that of five years, under the provisions of article 3542... and that period of time has not elapsed." A similar conclusion was reached in Benoit v. Benoit's Heirs, 8 La. 228 (1835).

5. 195 La. 769, 197 So. 424 (1940).

6. 221 La. 995, 60 So. 2d 899 (1952). Previously, in Roach v. Roach, 213 La. 746, 761, 35 So. 2d 597, 602 (1948), the court noted the Naudon-Himel conflict, but found a resolution unnecessary because the collation demand in Roach had been urged within five years of the donor's death.

7. 167 La. 725, 732, 120 So. 275, 277 (1929).

8. See also LA. CIVIL CODE arts. 1227-1235 (1870) (collation) and id. arts. 1502-1505 (reduction).
only be approved by departing sharply from the well-established rule that prescription statutes must be strictly construed and cannot be extended beyond their precise terms by analogy.9 However, on the basis of more fundamental policy considerations, it is difficult to see why collation and reduction should be treated differently for prescription purposes. From the viewpoint of an heir claiming collation or reduction, there seems no reason to prefer one claim over the other by allowing it to be brought during a prolonged term. While the basic purposes of collation and reduction differ, the former designed only to insure equality between descendant forced heirs and the latter to protect the forced heirs' legitime,10 effective operation of each type of relief seems of equal importance to the forced heir. The effect of both is to allow the heir demanding it to inherit more than would otherwise be possible. Although in some cases collation may benefit the claimant-heir more than reduction, since the former restores the entire donation or its value to the succession,12 while the latter retrieves only the amount exceeding the disposable portion,13 this possible advantage of collation is counterbalanced by the assurance of his minimum rights granted to the heir through reduction. Furthermore, the distinction between the two from the heir's point of view diminishes further when it is realized that loss of either by prescription could similarly deprive the forced heir of his legitime.14 Finally, a colla-


10. See LA. CIVIL CODE arts. 1229 (1870); Comment, 26 Tul. L. Rev. 203 (1952). Collation may only be demanded by descendant forced heirs from descendant forced heirs. See LA. CIVIL CODE arts. 1228, 1229, 1235 (1870).

11. See LA. CIVIL CODE arts. 1493-1495, 1502 (1870). Reduction can be demanded by forced heirs against any recipient of an excessive donation, whether he be heir, legatee, or stranger to the succession. See ibid.; Jordan v. Filmore, 167 La. 725, 732, 120 So. 275, 277 (1929).

12. See LA. CIVIL CODE arts. 1227-1235 (1870). When collation is made by "taking less," although the object of the donation is not actually returned to the succession, the same effect in terms of value is achieved by the collating heir's taking his share of the active mass less the value of the donation, the latter being divided between the other heirs. See id. arts. 1253, 1354-1364; Comment, 27 Tul. L. Rev. 232, 236-41 (1953).

13. LA. CIVIL CODE arts. 1502, 1505 (1870).

14. Obviously, this result would follow if the heir's right to reduce excessive donations were prescribed and such donations existed. Since collation does not depend on the amount of the donation, however, only loss of some collations, those excess of the disposab1 portion and not made as an extra portion, would endanger the legitime. See LA. CIVIL CODE arts. 1228-1231 (1870). Reduction
table donation to a forced heir would be no more difficult to discover than a reducible donation to a stranger, coheir, or legatee.

The distinction between collation and reduction for prescription purposes seems equally insignificant from the perspective of the donee or his vendee. As a practical matter, the ability of the recipients of reducible donations and collatable donations to alienate donated immovable property is similarly restricted, since in either case a forced heir could revendicate the immovable from the purchaser after discussing the donee's property, if the donee lacked sufficient assets to satisfy the collation or reduction claim. This fact also makes it clear that although normally collation only affects forced heirs, while reduction may affect strangers to the succession as well, the former may in some cases be adverse to strangers also. Finally, even in the cases in which collation or reduction only affects the donee, there seems no sound reason for allowing the donee of a reducible donation (whether he is heir, legatee, or stranger to the succession) to benefit, at the expense of the forced heir-claimant, by a shorter prescriptive period than is available to the donee of a collatable donation. Arguably, then, legislation providing a like prescriptive period for collation and reduction would be desirable. Under present law, however, the two demands apparently must be treated differently.

The Himel and Andrus decisions left undecided which alternative prescriptive period—ten or thirty years—should be applied to collation. Before examining the rationale of the recent holding in Succession of Webre that ten years applied, consideration will be given to the alternative view.

In several cases Louisiana courts have characterized the action for collation as an incident to the action for partition of the succession. On this basis the Supreme Court in dicta would not be available to protect the legitime in this situation, since it would have prescribed under article 3542 in five years.

15. Compare LA. CIVIL CODE arts. 1281-1282 (1870) (collation) with id. arts. 1517-1518 (reduction).

16. Further, in both situations, a third party mortgagee may lose his rights against the immovable. Compare id. arts. 1264, 1265, 1280 with id. art. 1516.

twice approved the French rule that collation prescribed only when the action of partition prescribed. In Louisiana this would mean that collation could be demanded at any time prior to a judgment of possession so long as the heirs hold the succession property in common, but could not be demanded from an heir who had separately enjoyed continuous adverse possession of all or a portion of the succession for thirty years. In the latter situation, collation could be demanded from any other heir who had not possessed separately, since partition could still be demanded of him. Apparently, this doctrine, as originally envisioned, would only allow a demand for collation to be urged in conjunction with a partition action, except when decedent left no property. To be workable in the context of present law and practice, however, this rule should be modified to allow collation to be urged at any time when a partition could be demanded, or at any time during succession proceedings begun prior to the prescription of a partition action against the donee. Although there is nothing to prevent an heir from demanding a partition in succession proceedings, the prevalent modern practice is to send the heirs into possession of the succession property without a prior partition and allow them to partition at

19. See 9 BAUDRY-LACANTINERIE ET WAHL, TRAITÉ THÉORIQUE ET PRATIQUE ÉD DROIT CIVIL n° 2944 (2d ed. 1899); 5 HUC, COMMENTAIRE THÉORIQUE ET PRATIQUE DU CODE CIVIL n° 366, 734 (1893); 10 LAURENT, PRINCIPES DE DROIT CIVIL FRANÇAIS n° 590 (2d ed. 1876); see also The Work of the Louisiana Supreme Court for the 1939-1940 Term—Successions, 3 LA. L. REV. 284 (1941); Comment, 27 TUL. L. REV. 223, 245 (1953); Note, 3 LA. L. REV. 460 (1941).
20. See LA. CIVIL CODE art. 1304 (1870); Crayton v. Waters, 146 La. 238, 83 So. 540 (1920); Sibley v. Pierson, 125 La. 478, 51 So. 502, 1910. Collation is barred after a judgment of possession. See cases cited note 27 infra.
21. See id. arts. 1305, 1306 (1870), quoted note 3 supra. The prescription provided in these articles has been characterized as a specification of the general rule of thirty years acquisitive prescription. Lee v. Jones, 224 La. 231, 69 So. 2d 26 (1953); Crayton v. Waters, 146 La. 238, 83 So. 540 (1920); Rhodes v. Cooper, 113 La. 600, 37 So. 527 (1904); Rankin v. Bell, 2 La. Ann. 486 (1847).
22. See LA. CIVIL CODE art. 1306 (1870), quoted note 3 supra.
23. See cases cited note 17 supra.
24. Champagne v. Champagne, 125 La. 408, 51 So. 440 (1910); Grandchamps v. Delpeuch, 7 Rob. 429 (La. 1844); Benoit v. Benoit's Heirs, 8 La. 228 (1835).
25. Under present law a judicial succession partition between heirs can be had only after the succession is opened and when the heirs could be sent into possession. LA. CODE OF CIVIL PROCEDURE arts. 3461, 3462 (1960). There is no specific provision governing the time for advancing a collation claim. In spite of the cases indicating collation can be demanded only when there is a partition, there seems no sound reason for not permitting it by petition at any time during succession proceedings. In several cases this has been successfully done. See note 28 infra and accompanying text. Although a partition of succession property can be had after termination of succession proceeding, collation is barred by a judgment sending the heirs into possession. See note 27 infra and accompanying text.
will as between co-owners. This procedure, coupled with the recently developed rule that a demand for collation is barred by a judgment of possession, could result in preventing a justifiably unwary heir from advancing his collation claim, if collation could only be demanded when there is an actual partition of the succession. Furthermore, collation claims have frequently been allowed to be advanced other than in conjunction with an action of partition.

Even with the modification suggested above, the "incident of partition" theory may be undesirable. Collation would be possible for an indefinite period unless there were formal succession proceedings and a judgment of possession. The donee-heir might never during his lifetime be able to convey clear title to the donated property. A more equitable result would be achieved for the donee, as well as his prospective vendees, by applying a more definite and shorter prescriptive period which would still allow the claimant-heir a reasonable time for discovery of the donation and advancement of his collation demand. This leads to consideration of the recent pronouncement in Succession of Webre that the action for collation prescribes in ten years from the donor's death.

In Webre the plaintiffs, children of decedent father, having opened his succession, sued to annul a purported sale of immovable property by their father to defendant brother and sister, and in the alternative demanded collation on the basis that the transaction was a disguised donation under Civil Code article 1248. Defendants plead prescription of five and ten years.

26. See LA. CIVIL CODE OF PROCEDURE art. 3461, comment (a) 1960).
27. Succession of McGearry, 220 La. 391, 50 So. 2d 727 (1952); Succession of Scardino, 215 La. 472, 40 So. 2d 923 (1949); Doll v. Doll, 206 La. 550, 19 So. 2d 249 (1944); Mitcham v. Mitcham, 186 La. 641, 173 So. 132 (1937); Prichard v. McCranie, 160 La. 605, 107 So. 461 (1926); Duffoure v. Duffoure, 154 La. 174, 97 So. 391 (1923). Apparently, the only possibility of subsequent action for collation would be through an annulment of the judgment of possession under LA. CODE OF CIVIL PROCEDURE arts. 2001-2006 (1960), or, perhaps, by a reopening of the succession under id. art. 3393.
28. See, e.g., Succession of Webre, 172 So. 2d 285 (La. 1965); In re Andrus, 221 La. 696, 60 So. 2d 899 (1952); Roach v. Roach, 213 La. 746, 35 So. 2d 597 (1948); Himel v. Connely, 185 La. 769, 17 So. 424 (1940); Naudon v. Mauvezin, 194 La. 1006, 165 So. 182 (1935).
29. See notes 15, 16 supra, 49 infra, and accompanying text.
30. A similar conveyance by the mother was also challenged, but no plea of prescription was pled thereto, the mother having died within five years of the filing of suit. 172 So. 2d 285, 286 (La. 1965). Consequently, this aspect of the case is irrelevant to present discussion.
31. LA. CIVIL CODE art. 1248 (1870); "The advantage which a father-bestows
years, more than ten years having elapsed since their father's death. The Fourth Circuit Court of Appeal found no basis in plaintiff's allegations to support the claim of nullity, although in the petition the transaction was termed a "pure simulation" and only a disguised donation. Accepting only the latter as sufficiently pleaded, the court considered the only issue to be whether the collation demand had prescribed. On the authority of Himel and Andrus the court overruled the plea of five years prescription, but sustained the plea of ten years, on the basis that a demand for collation was a "personal action" under Civil Code article 3544, and as such prescribed in ten years from the donor's death. Plaintiffs' contention that prescription should not begin to run until they knew of the conveyance, a date within ten years of the filing of suit, was rejected. On certiorari, the Supreme Court concluded, contrary to the finding of the court of appeal, that plaintiffs had made sufficient allegations for the court to find the transaction a pure simulation, in which case plaintiffs' principal demand would be in declaration of simulation and imprescriptible. Although the court might have gone no further, a majority proceeded to affirm the court of appeal's decision that the alternative collation demand prescribed in ten years from the death of the donor. Two dissenters contended that the latter determination was premature, could be considered at best an "advisory opinion," and was probably incorrect on the basis that thirty years prescription was upon his son, though in any other manner than by donation or legacy, is likewise subject to collation. Thus, when a father has sold a thing to his son at a very low price, or has paid for him the price of some purchase, or has spent money to improve his son's estate, all that is subject to collation."

32. The father died September 25, 1940; suit was brought November 6, 1950. 172 So. 2d 285, 286 (La. 1965).
33. 164 So. 2d 49, 51-52 (La. App. 4th Cir. 1964).
34. Id. at 50, 52. Apparently, plaintiffs' contention in their claim of nullity was that the deed was a complete simulation, i.e., one in which title was not intended to pass. The Supreme Court accepted this interpretation of the petition. See note 37 infra, and accompanying text.
35. 164 So. 2d 49, 54 (La. App. 4th Cir. 1964): "It is an action which a coheir may or may not, according as his personal desires dictate, elect to assert. The closeness of relationship, love and affection for the favored coheir, his peculiar need and many other strictly personal considerations may influence his decision." This reasoning seems inappropriate, since the criterion for classifying an action is the object of the suit. See LA. CODE OF CIVIL PROCEDURE art. 422 (1960); text accompanying notes 40-52 infra.
36. 164 So. 2d 49, 54 (La. App. 4th Cir. 1964). The court relied on language in Naudon v. Mauvezin, 194 La. 739, 194 So. 766 (1940) and, further, reasoned that collation could be demanded as soon as the succession was opened by the death of the donor under Civil Code article 934. 164 So. 2d 49, 54 (La. App. 4th Cir. 1964). The court relied on language in Naudon v. Mauvezin, 194 La. 739, 194 So. 766 (1940) and, further, reasoned that collation could be demanded as soon as the succession was opened by the death of the donor under Civil Code article 934. 37. 172 So. 2d 285, 288-89 (La. 1965), and authorities there cited.
38. See notes 53-55 infra, and accompanying text, for an evaluation of the court's conclusion that prescription ran from the donor's death.
more likely to be applicable.\textsuperscript{39} Apparently, then, although a majority of the court presently agree that an action for collation prescribes in ten years, the conclusiveness of their decision as authoritative precedent is dubious, since, if on remand the court of appeal concludes that the transaction was a simulation, the Supreme Court's ruling on prescription would become superfluous.

Although the classification of a demand for collation as a personal action under article 3544 appears plausible, it may not be precisely accurate. The Code of Civil Procedure defines a personal action as "one brought to enforce an obligation against the obligor, personally and independently of the property which he may own, claim, or possess."\textsuperscript{40} Argument can be made both ways on the question whether the action for collation falls within this definition. The Civil Code defines collation as "the supposed or real return to the mass of the succession which an heir makes of property which he receives in advance of his share or otherwise, in order that such property may be divided together with the other effects of the succession."\textsuperscript{41} Subsequent articles are phrased in terms of the donee's obligation to collate.\textsuperscript{42} Apparently, the Supreme Court had this language in mind when in \textit{Webre} they characterized a collation demand as a personal action, stating: "Basic to collation, as we view it, is the duty of the heir."\textsuperscript{43} A close examination of the provisions governing collation, however, casts doubt on the accuracy of this classification, at least concerning collation of immovables.

Collation can be made either in kind, by actually returning the specific property donated to the succession,\textsuperscript{44} or by the donee-heir's taking only his share of the succession less the value of the donation.\textsuperscript{45} Collation of movables must be made by taking

\textsuperscript{39} See dissenting opinions of Justice McCaleb, 172 So. 2d 286, 290 (La. 1965) and Chief Justice Fournet, \textit{id. at} 291.

\textsuperscript{40} \textit{LA. CODE OF CIVIL PROCEDURE} art. 422 (1960). The courts have repeatedly used the procedural classification to characterize actions under Civil Code article 3544. See, \textit{e.g.}, \textit{State ex rel. Hyams Heirs v. Grace}, 197 La. 428, 1 So. 2d 683 (1941); \textit{Bandel v. Sabine Lbr. Co.}, 194 La. 37, 121 So. 359 (1929). \textit{Louisiana Oil Ref. Corp. v. Gasidy}, 168 La. 37, 115 So. 742 (1928); \textit{National Park Bank v. Concordia Land & Timber Co.}, 159 La. 536, 115 So. 2d 71 (1941); \textit{Roussel v. Railways Realty Co.}, 165 La. 536, 115 So. 742 (1928); \textit{National Park Bank v. Concordia Land & Timber Co.}, 159 La. 86, 105 So. 234 (1925).

\textsuperscript{41} \textit{LA. CIVIL CODE} art. 1227 (1870).

\textsuperscript{42} See, \textit{e.g.}, \textit{id. arts. 1229, 1234-1236, 1238 (1870).}

\textsuperscript{43} 172 So. 2d 286, 289 (La. 1965).

\textsuperscript{44} \textit{LA. CIVIL CODE} art. 1252 (1870).

\textsuperscript{45} \textit{Id. art. 1253.}
less; thus the Code provides that "the donation of movables contains an absolute transfer of the rights of the donor to the donee in the movables thus given." A demand for collation of movables, then, seems plausibly termed a personal action, since the sole object of the suit is to enforce the donee-heir's obligation to account for his advance by taking a diminished share of the succession. The rules for immovables, however, are significantly different. Immovables in the possession of the donee may be collated in kind or by taking less, at the option of the donee, unless the donor has required a collation in kind. If the donee of an immovable has alienated the property and there are insufficient effects in the succession to allow a collation by taking less, the claimant-heirs, after discussing the donee's property, can revendicate the immovable from the purchaser "as an object which had never belonged to the donee." Apparently, then, immovables subject to collation are considered as never having left the estate of the donor. Since forced heirs become owners of the succession property at the moment of their ancestor's death, arguably their demand for collation of an immovable should be considered primarily an assertion of title to the immovable. The donee then would have the option of either returning the property, which had never belonged to him (collation in kind) or, in effect, purchasing the immovable and compensating the purchasing price against his share of the succession (collation by taking less). On this theory, characterization of a demand to collate an immovable as a personal action appears imprecise and prohibited by the stricti juris rule governing the construction of prescription statutes. Consequently, while an action to collate movables would prescribe in ten years as a personal action, collation of immovables apparently could prescribe only in thirty years under the "incident of partition" doctrine. This bifurcation, plus the same policy considerations which render the "incident of partition" doctrine questionable, may justify relaxing the stricti juris principle and stretching the scope of the term "personal action" under article 3544 to include the peculiar demand for collation of immovables. The interests of

46. Id. art. 1283. An exception is made for money, which may be collated in kind or by taking less. Id. art. 1285.
47. Id. art. 1284.
48. Id. art. 1255.
49. Id. art. 1281; see also id. arts. 1277-1280, 1282.
50. See Cross, LOUISIANA SUCCESSIONS 506 (1891).
51. See LA. CIVIL CODE arts. 940, 941, 944, 946 (1870).
52. See cases cited note 9 supra.
the donee and prospective or actual purchasers would be served by stabilizing the donee's title and ability to alienate freely after the passage of ten years. These interests may well outweigh those of an heir who has failed to discover the collatable donation within ten years of his ancestor's death.

Until now it has been tacitly assumed that the Webre court was correct in concluding that prescription ran from the death of the donor, rather than from the time formal succession proceedings were begun or when the claimant-heir gained knowledge of the collatable donation. Either of the latter alternatives would, in many cases, indefinitely extend the prescriptive period, and thus be subject to criticisms similar to those advanced against the "incident of partition" doctrine. The case would be rare in which an heir would not be able to learn of a collatable donation by a reasonable investigation, and institute succession proceedings within ten years of the donor's death. Conceivably, such a case could occur if the heir were absent for a prolonged period and not informed of the death. Inequity could be avoided in such a case, however, by application of the rule that prescription is suspended in favor of one who for good reason is unable to advance his claim. The same rule would apparently prevent loss of a collation claim by fraudulent concealment of a donation by the donee.

53. The court reasoned as follows: "A succession is opened upon the death, and all rights vest as of that time. From that moment, an heir may file formal succession proceedings and demand collation. "Activating the prescription only from the filing of formal succession proceedings would severely limit its effect. Collation is barred in any event after the heirs unconditionally accept a succession and obtain a judgment putting them in possession of the property." 172 So. 2d 285, 290 (La. 1965). This reasoning is consistent with the general rule that prescription on an action begins to run when the cause of action arises and a suit can be brought. See, e.g., Dalton v. Plumbers & Steamfitters Local Union, 240 La. 246, 122 So. 2d 88 (1960); Succession of Dancie, 191 La. 518, 186 So. 14 (1939); McGuire v. Monroe Scrap Material Co., 189 La. 573, 180 So. 413 (1938); Succession of Oliver, 184 La. 26, 165 So. 318 (1938); Succession of Clark, 155 So. 2d 37 (La. App. 4th Cir. 1963). It also accords with the rule that prescription of an action to reduce an excessive donation inter vivos under article 3542 runs from the donor's death. See, e.g., Himel v. Connely, 195 La. 709, 197 So. 424 (1940); Succession of Dancie, 191 La. 518, 186 So. 14 (1939); Jones v. Jones, 110 La. 677, 44 So. 429 (1907); Wells v. Goss, 110 La. 677, 44 So. 429 (1907). 54. See, e.g., Dalton v. Plumbers & Steamfitters Local Union, 240 La. 246, 122 So. 2d 88 (1960); Liles v. Producers Oil Co., 155 La. 355, 99 So. 339 (1924); Green v. Grain Dealers' Mut. Ins. Co., 144 So. 2d 685 (La. App. 4th Cir. 1962); Aegis Ins. Co. v. Delta Fire & Cas. Co., 99 So. 2d 767 (La. App. 1st Cir. 1963). 55. Cf. Bernstein v. Commercial Nat. Bank, 163 La. 38, 108 So. 117 (1926); Hyman v. Hibernia Bank & Trust Co., 139 La. 411, 71 So. 509 (1916); Green v. Grain Dealers' Mut. Ins. Co., 144 So. 2d 685 (La. App. 4th Cir. 1962); Girod v. Barbe, 153 So. 326 (La. App. 1st Cir. 1934).
In view of the confusion previously surrounding prescription of the action for collation, and the possible inconclusiveness of the *Webre* decision, legislative clarification of this area of the law seems desirable. A provision specifically governing the proper time and mode for advancing a collation claim would be appropriate. Consideration should also be given to providing equal treatment of actions for collation and for reduction of excessive donations. Further, in determining the length of the prescriptive period, the interests of the donee and third party purchasers should be carefully balanced against those of the claimaint-heir; a period not less than five nor more than ten years seems reasonable. In lieu of legislation, it is submitted that the rules announced in the *Webre* case should be followed.

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