CIVIL AFFAIRS HANDBOOK ON ITALY

SECTION 3B: BOOK TWO - ITALIAN CIVIL CODE

ON ITALY

ITALIAN CIVIL CODE - JUNE 1942

ARMY SERVICE FORCES MANUAL

M 353-3B

CIVIL AFFAIRS HANDBOOK

ITALY

SECTION 3B: BOOK TWO

ITALIAN CIVIL CODE

2933

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HEADQUARTERS, ARMY SERVICE FORCES, 26 JUNE 1944

ARMY SERVICE FORCES MANUAL

M 353-3B
Civil Affairs

CIVIL AFFAIRS HANDBOOK

ITALY

SECTION 3B: BOOK TWO

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HEADQUARTERS, ARMY SERVICE FORCES, 26 JUNE 1944

NUMBERING SYSTEM OF
ARMY SERVICE FORCES MANUALS

The main subject matter of each Army Service Forces Manual is indicated by consecutive numbering within the following categories:

M1 - M99 Basic and Advanced Training
M100 - M199 Army Specialized Training Program and Pre-Induction Training
M200 - M299 Personnel and Morale
M300 - M399 Civil Affairs
M400 - M499 Supply and Transportation
M500 - M599 Fiscal
M600 - M699 Procurement and Production
M700 - M799 Administration
M800 - M899 Miscellaneous
M900 - up Equipment, Materiel, Housing and Construction

* * * *

HEADQUARTERS, ARMY SERVICE FORCES
Washington, 25, D. C., 26 June 1944

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[SPX 461 (21 Sep 43)]

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This translation of the Second Book of the Italian Civil Code was prepared for the

MILITARY GOVERNMENT DIVISION, OFFICE OF THE PROVOST MARSHAL GENERAL

by the

RESEARCH AND ANALYSIS BRANCH OF THE OFFICE OF STRATEGIC SERVICES

OFFICERS USING THIS MATERIAL ARE REQUESTED TO MAKE SUGGESTIONS AND CRITICISMS INDICATING THE REVISIONS OR ADDITIONS WHICH WOULD MAKE THIS MATERIAL MORE USEFUL FOR THEIR PURPOSES. THESE CRITICISMS SHOULD BE SENT TO THE CHIEF OF THE LIAISON AND STUDIES BRANCH, MILITARY GOVERNMENT DIVISION, PMGO, 2807 MUNITIONS BUILDING, WASHINGTON 25, D. C.

INTRODUCTION

Purposes of the Civil Affairs Handbook

The basic purposes of civil affairs officers are (1) to assist the Commanding General by quickly establishing those orderly conditions which will contribute most effectively to the conduct of military operations, (2) to reduce to a minimum the human suffering and the material damage resulting from disorder, and (3) to create the conditions which will make it possible for civilian agencies to function effectively.

The preparation of Civil Affairs Handbooks is a part of the effort to carry out these responsibilities as efficiently and humanely as possible. The Handbooks do not deal with plans or policies (which will depend upon changing and unpredictable developments). It should be clearly understood that they do not imply any given official program of action. They are rather ready reference source books containing the basic factual information needed for planning and policy making.

CIVIL AFFAIRS HANDBOOKS

TOPICAL OUTLINE

1. Geographical and Social Background
2. Government and Administration
3. Legal Affairs
   3B. Book Two - Italian Civil Code
4. Government Finance
5. Money and Banking
6. Natural Resources
7. Agriculture
8. Industry and Commerce
9. Labor
10. Public Works and Utilities
11. Transportation Systems
12. Communications
13. Public Health and Sanitation
14. Public Safety
15. Education
16. Public Welfare
17. Cultural Institutions

This translation of Book Two of the Italian Civil Code was prepared for the MILITARY GOVERNMENT DIVISION, OFFICE OF THE PROVOST MARSHAL GENERAL by the RESEARCH AND ANALYSIS BRANCH, OFFICE OF STRATEGIC SERVICES.

This handbook is a translation of Book Two of the Italian Civil Code and is one of a series of six books covering the complete Code. The following outline indicates the place of this handbook in the series.

ITALIAN CIVIL CODE

3A. Book One (OF PERSONS) Italian Civil Code

3B. Book Two (OF SUCCESSIONS) Italian Civil Code

3C. Book Three (OF THE RIGHTS OF PROPERTY) Italian Civil Code

3D. Book Four (OF OBLIGATIONS) Italian Civil Code

3E. Book Five (OF THE RIGHTS OF LABOR) Italian Civil Code

3F. Book Six (OF THE PROTECTION OF RIGHTS) Italian Civil Code

This series of handbooks is believed to be the only available English translations of the Italian Civil Code.

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ITALIAN COURT SYSTEM

	Corte di Cassazione		Court of Cassation
Numero Collegio	1 (Roma) Presidente di Cassazione Consiglieri de Corte di Cassazione	Number Title	1 (Rome) President of Cassation Councillors of Court of Cassation
Numero dei Giudici Votanti	7 per sezione 15 per sezioni unite	Number of Judges per Court	7 for each section 15 for united sections
Suddivisioni	3 sezioni civili 2 sezioni penali 1 sezione unite	Subdivisions	3 civil sections 2 criminal sections 1 united section
Competenza per Territorio	Regno e colonie	Territorial Jurisdiction	All territory subjectto Italian State
Competenza	Illimitata - solo su questioni di diritto	Jurisdiction over Subject Matter	Unlimited - on points of law only
Appello	Da ogni giudizio appellabile di corti di grado inferiore - dalla corte di rimando in determinate circostanze alle sezioni unite il cui giudizio e finele	Appeal	From any judgment of a lower court which may be appealed - under certain specified circumstances; from the court to which the case was referred, to the united sections, the decisions of which are final
Pubblico Ministero	Procuratore Generale presso la Corte di Cassazione	Public Attorney	Procurator General of the Court of Cassation

	Corte d'Appello		Court of Appeals
Numero Collegio	18 Presidente di Corte d'Appello Consiglieri di Corte d'Appello	Number Title	18 President of Court of Appeals Councillors of Court of Appeals
Numero dei Giudici Votanti	5 Sezioni di C. d'A. No. varia Una sezione per Magistratura del Lavoro	Number of Judges per Court	5 Sections of C.of A. No. varies 1 section for Magistracy of Labor

	Corte d'Appello		Court of Appeals
Numero Collegio	18 Presidente di Corte d'Appello Consiglieri di Corte d'Appello	Number Title	18 President of Court of Appeals Councillors of Court of Appeals
Numero dei Giudici Votanti	5	Number of Judges per Court	5
Sezioni di C. d'A.	No. varia Una sezione per Magistratura del Lavoro	Sections of C.of A.	No. varies 1 section for Magistracy of Labor
Corte d'Assise	No. 91 G.V. 7 C.T. Circolo C. Penale per determinati reati App. Inappellabile	Assize Court	No. 91 J. 7 T.J. Circuit S.M. Criminal only for certain specified crimes App. None
Sud-divisioni — Tribunale dei Minorenni	No. 24 G.V. 3 C.T. Distretto C. Sotto anni 18 App. Sezione speciale di Corte d'Appello	Sub-divisions — Juvenile Court	No. 24 J. 3 T.J. District S.M. Under 18 App. Special session of Court of Appeals
Tribunale delle Acque Pubbliche	No. 8 G.V. 3 C.T. Comuni di Cagliari, Firenze, Milano, Napoli, Palermo, Roma, Torino, Venezia App. Tribunale Supremo delle Acque Pubbliche No.1 (J.12	Regional Tribunal of Public Waters	No. 8 J. 3 T.J. Municipalities of Cagliari, Florence, Milan, Naples, Palermo, Rome, Turin, Venice App. Supreme Tribunal of Public Waters No.1 (J.12
Competenza per Territorio	Distretto	Territorial Jurisdiction	District
Competenza	Illimitata	Subject Matter	Unlimited
Appello	Dai Tribunali	Appeal	From Tribunals
Pubblico Ministero	Procuratore Generale di Corte d'Appello	Public Attorney	Procurator General of Court of Appeals

ITALIAN COURT SYSTEM (cont'd)

Tribunali

Numero Collegio	142 Presidente - Giudici
Numero dei Giudici Votanti	3
Suddivisioni	Sezioni - No. varia
Competenza per Territoria	Circondario
Competenza	In materia penale reati non di competenza del pretore o della corte d'assise - in materia civile oltre 5000 lire o indeterminabile
Appello	Dalle sentenze dei pretori
Pubblico Ministero	Procuratore del Re

Tribunals

Number Title	142 President - Judges
Number of Judges per Court	3
Subdivisions	Sections - No. varies
Territorial Jurisdiction	Department
Jurisdiction over Subject Matter	In criminal matters, all crimes which do not fall under the jurisdiction of local magistrate or assizes; in civil cases, matters involving value over 5000 lire or undetermined value
Appeal	From judgments of local magistrates
Public Attorney	Procurator for the King

Pretura

Numero Collegio	986 Pretore
Numero dei Giudici	

Local Magistrate's Court

Number Title	986 Local Magistrate
Number of Judges per Court	1

	Pretura		Local Magistrate's Court
Numero Collegio	986 Pretore	Number Title	986 Local Magistrate
Numero dei Giudici Votanti	1	Number of Judges per Court	1
Suddivisioni	Pretori Aggiunti - Vice Pretori - Giudice Tutelare	Subdivisions	Substitute or extra local magistrate - Judge in charge of minors and incapacitated persons
Competenza per Territorio	Mandamento	Territorial Jurisdiction	District
Competenza	In materia penale, reati punibili con pena non superiore ai 3 anni o pecuniaria non oltre lire 10,000. In materia civile azioni reali e personali non superiore a lire 5,000. Senza limite di valore per azioni di sfratto per locazione finita, danni a fondi rustici, denunce di nuova opera o di danno temuto e distanze legali nel piantamento di alberi e ingiunzione a termini.	Jurisdiction of Subject Matter	In criminal matters, crimes punishable with penal servitude, not over 3 years or fine not over 10,000 lire. In civil matters for actions involving value not over 5,000 lire. For actions involving unlimited value in matters of expulsion for termination of lease, damages to country property, injunctions, legal distance in planting of trees and in boundaries.
Appello	Dalle sentenze dei conciliatori	Appeal	From judgments of the justices of the peace
Pubblico Ministero	Uditori, Vice Commissari di Pubblica Sicurezza, Segretario Comunale, Avvocato, Notaio, o Procuratore scelto dal Pretore	Public Attorney	Junior Magistrate, Local Chief of Police, Secretary attached to municipality, Lawyer, Notary, or Procurator chosenby the local Magistrate

Gradi della Magistratura

Primo Presidente della Corte di Cassazione
*Procuratore Generale della Corte di Cassazione

Presidente di Sezione della Corte di Cassazione
Primo Presidente della Corte d'Appello
*Procuratore Generale di Corte d'Appello
*Avvocato Generale di Corte di Cassazione

Consigliere di Corte di Cassazione
*Sostituto Procuratore Generale di
Corte di Cassazione
Presidente di Sezione di Corte d'Appello

Consigliere di Corte d'Appello
*Sostituto Procuratore Generale di Corte d'Appello
Presidente di Tribunale
*Procuratore del Re

Giudice di Tribunale
*Sostituto Procuratore del Re

Aggiunti Giudiziani

Pretore
**Vice Pretore

**Uditore

Grades of Judiciary

First President of the Court of Cassation
*Procurator General of the Court of Cassation

President of Section of the Court of Cassation
First President of the Court of Appeals
*Procurator General of the Court of Appeals
*Solicitor General of the Court of Cassation

Councillor of Court of Cassation
*Deputy Procurator General of the
Court of Cassation
President of Section of Court of Appeals

Councillor of Court of Appeals
*Deputy Procurator General of Court of Appeals
President of Tribunal
*Procurator for the King

Judge of the Tribunal
*Deputy Procurator for the King

Adjuncts

Local Magistrate
**Assistant Local Magistrate

**Junior Magistrate

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*Fanno parte del pubblico ministero - sono funzionari dell ordine giudiziario renza le guarentigia dell'inamovibilite.

**In materia penale - possono adempiere le funzioni del pubblico ministero su richiesta del pretore.

*Members of the public attorney's office who come under Dept. of Justice, but do not enjoy the guarantee of irremovability (privilege of magistrates - beginning 3 years after their appointment as judges of tribunals by virtue of which they cannot be dismissed or transferred to other jurisdictions for the duration of their office except after trial in which they must appear in person.

**May function as public attorney, in criminal matters, on request of the local magistrate.

Magistratura

lla Corte di Cassazione
e della Corte di Cassazione

ne della Corte di Cassazione
lla Corte d'Appello
e di Corte d'Appello
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Grades of Judiciary

First President of the Court of Cassation
*Procurator General of the Court of Cassation

President of Section of the Court of Cassation
First President of the Court of Appeals
*Procurator General of the Court of Appeals
*Solicitor General of the Court of Cassation

Councillor of Court of Cassation
*Deputy Procurator General of the Court of Cassation
President of Section of Court of Appeals

Councillor of Court of Appeals
*Deputy Procurator General of Court of Appeals
President of Tribunal
*Procurator for the King

Judge of the Tribunal
*Deputy Procurator for the King

Adjuncts

Local Magistrate
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**Junior Magistrate

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*Members of the public attorney's office who come under Dept. of Justice, but do not enjoy the guarantee of irremovability (privilege of magistrates - beginning 3 years after their appointment as judges of tribunals- by virtue of which they cannot be dismissed or transferred to other jurisdictions for the duration of their office except after trial in which they must appear in person.
**May function as public attorney, in criminal matters, on request of the local magistrate.

ITALIAN CIVIL CODE

SECOND BOOK OF SUCCESSIONS

TITLE ONE

GENERAL PROVISIONS

CHAPTER I

IN WHAT MANNER SUCCESSIONS ARE OPENED - DEVOLUTION AND ACQUISITION

ARTICLE 456 - Opening of Successions.

The succession is opened at the time of death, in the place of last domicile of the deceased.

ARTICLE 457 - Devolution of inheritance.

Inheritances devolve by law or by will.

Interstate legal successions do not take place unless testamentary succession is lacking, totally or in part.

The provisions contained in a will shall not affect the rights which the law gives to forced heirs.

ARTICLE 458 - Prohibition of agreements regarding succession.

Any agreement through which any person attempts to dispose of the succession of his estate is null and void.

Any act or document through which any person attempts to dispose of his inchoate rights to a succession not already opened, or to renounce such succession, is also null and void.

ARTICLE 459 - Acquisition of inheritance.

Inheritance is acquired through acceptance.

The acceptance is effective as of the date of the opening of the succession.

ARTICLE 460 - Rights which may be exercised by the heir before acceptance.

The heir may institute possessory actions for the safeguarding of the inheritance, regardless of possession thereof.

Moreover he may perform all acts for the purpose of conserving

and taking care of the property and for the temporary management of the property and he may procure authorization from the judicial authority to alienate any part of such property which cannot be kept or when the keeping of any part thereof is very costly.

The heir shall not perform the acts mentioned in the preceding paragraph when a curator for the inheritance has been appointed according to Article 528.

ARTICLE 461 - Reimbursement for expenses sustained by the heir.

If the heir renounces the inheritance, the expenses sustained in the performance of the acts indicated in the preceding Article are charged to the inheritance.

CHAPTER II

CAPACITY OF HEIRS TO INHERIT

ARTICLE 462 - Capacity of natural persons.

All persons already born or conceived at the time of the opening of the succession have the capacity to inherit.

Unless the contrary is proved, whoever is born within 300 days from the death of the person whose succession is open is presumed to have been conceived before the time of the opening of the succession.

Moreover, the children born of a designated person living at the time of the death of the testator, may inherit through will although the children be not yet conceived.

CHAPTER III

OF UNWORTHINESS

ARTICLE 463 - Unworthy heirs defined.

The following are deprived of the succession as unworthy, to wit:

1. Those who have willfully killed or attempted to kill the deceased or his spouse or descendant or ascendant; provided none of the circumstances are present which would prevent punishment according to the penal code.

2. Those who are found guilty of any act within the provisions of the penal code which is punishable as murder.

3. Those who have accused any of the persons named above of a crime punishable by death or penal servitude for life, or penal servitude of not less than 3 years, provided said accusation has been found calumnious, or those who have testified against such persons accused of the above-mentioned crime, if the testimony has been judicially declared false with respect to the deceased.

4. Those who through fraud or violence have caused the deceased to make a will or to revoke it or to alter it, or have prevented him from making a will.

5. Those who have destroyed, concealed or altered the will on which the succession would have been based.

6. Those who have made a false will or those who made use of it knowing it to be false.

ARTICLE 464 - Restitution of income profits.

An unworthy person, as defined in the preceding Article, is bound to return any income and profits received after the opening of the succession.

ARTICLE 465 - Unworthiness of parents.

A person who is barred from the inheritance because of unworthiness, shall not have the right he would legally have as a parent in the property thus inherited.

ARTICLE 466 - Rehabilitation of unworthy persons.

Whoever has been declared unworthy may be admitted to the inheritance when the deceased has expressly qualified him to inherit through will or public document.

If the unworthy person has not been expressly so qualified, he shall nevertheless be admitted to an inheritance mentioned in a will within the limits of the provisions thereof, if the testator knew the causes of unworthiness.

CHAPTER IV

OF THE SUBSTITUTION OF HEIRS (REPRESENTATION)

ARTICLE 467 - Definition.

The substitution of an heir by his legitimate descendant causes such descendant to stand in the place and in the same degree as the heir in all cases where the heir is unable or

unwilling to accept the inheritance or the legacy.

The substitution of the heir in testamentary succession takes place when the testator has not made provisions for the eventuality that the person mentioned in the will may be unable or unwilling to accept the inheritance or the legacy, provided it does not concern a legacy of usufruct or of some other right of a personal nature.

ARTICLE 468 - Persons subject to provisions concerning substitution.

The right to substitute for the heir passes in the direct line to the descendants of the legitimate, legitimated, or adopted children of the deceased and, in the collateral line, to the descendants of the brothers and sisters of the deceased.

The descendants may inherit through substitution even if they have renounced the inheritance of the person whose place they take or if they are unable to inherit from the latter because of incapacity or unworthiness.

ARTICLE 469 - Limits to rights of substitution. Division.

There are no limits to substitution, regardless of the number and of the degree of the descendants in each stirpe.

Substitution may take place even if there is only one stirpe.

If one stirpe has several branches, the division per stirpes shall apply to each branch and per capita among the members of the same branch.

CHAPTER V

ACCEPTANCE OF INHERITANCE

SECTION I

GENERAL RULES

ARTICLE 470 - Simple acceptance. Acceptance with benefit of inventory.

The inheritance may be simple or with benefit of inventory.

The acceptance with benefit of inventory may be made regardless of any prohibition of the testator.

ARTICLE 471 - Inheritance devolving upon minors or interdicts.

Inheritances devolving upon minors or interdicts shall not be accepted except with benefit of inventory and in compliance with the provision of Articles 321 and 374.

ARTICLE 472 - Inheritance devolving upon emancipated minors or incapacitated persons.

Emancipated minors and incapacitated persons shall not accept inheritances except with benefit of inventory and in compliance with the provision of Article 394.

ARTICLE 473 - Inheritance devolving upon juridical persons.

Inheritances devolving upon juridical persons may only be accepted with benefit of inventory and in compliance with the provisions of the law regarding governmental authorization.

This Article is not applicable to partnerships.

ARTICLE 474 - Modes of acceptance.

The acceptance may be expressed or tacit.

ARTICLE 475 - Express acceptance.

The acceptance is express when the heir has declared his acceptance through public document or through private writing and has assumed the status of heir in an unqualified manner.

A conditional or limited acceptance is null and void.

A declaration of partial acceptance of the inheritance is also null and void.

ARTICLE 476 - Tacit acceptance.

The acceptance is tacit when the heir performs an act which necessarily implies an intention to accept, and which he would have no right to do except in the status of heir.

ARTICLE 477 - Donation, sale and surrender of rights of inheritance.

A donation, sale or surrender made by the heir with respect to his rights of inheritance implies an acceptance of same, whether such donation, sale or surrender be made to all the other heirs, to some of them, or to any other persons.

ARTICLE 478 - Renunciation implying acceptance.

The renunciation of the rights of succession implies acceptance thereof whenever it is made for a consideration or in favor of only some of the heirs.

ARTICLE 479 - Transfer of right of acceptance.

If the heir dies without having accepted the inheritance, the right to accept such inheritance is transferred to his heirs.

If the heirs do not agree as to the acceptance or the renunciation, those who do accept acquire all rights and are liable for all burdens connected with the inheritance, while those who renounce are excluded from both rights and burdens.

The renunciation of an inheritance includes renunciation of any inheritance devolving on the testator.

ARTICLE 480 - Prescription.

The right to accept an inheritance is barred after ten years.

This period is counted from the day of the opening of the succession and, in case of conditional devolution, from the day in which the condition is met.

This period is not counted with respect to the secondary heirs, if the primary heirs do not acquire the inheritance which they have accepted.

ARTICLE 481 - Term for deliberating.

Any interested party may request the judicial authority to set a term within which the heir shall decide whether to accept or reject the inheritance. If the heir does not make his declaration within this time limit, he shall lose his right to accept.

ARTICLE 482 - Acceptance attacked for violence or fraud.

If the acceptance of the inheritance results from violence or fraud, it may be attacked.

The action is barred after five years from the day in which the violence ceased or the fraud was discovered.

ARTICLE 483 - Acceptance attacked on grounds of error.

A succession, the acceptance of which is made in error, cannot be attacked. However, if a will -- the existence of which was unknown at the time of the acceptance -- is found, the heir shall not be liable for the legacies contained in such will which are in excess of the value of the inheritance or which are to the prejudice of the share to which the heir is legally entitled. If the inherited property is not sufficient to satisfy such legacies, the legacies contained in any other will of the testator are also

proportionately abated. If some legatees have already been satisfied in full, action for recovery may be instituted against them.

The burden of proof for the value of the inheritance falls on the heir.

SECTION II

OF THE BENEFIT OF INVENTORY

ARTICLE 484 - Acceptance with benefit of inventory.

The acceptance with benefit of inventory is made through a declaration before a notary or before a clerk of the local magistrates court of the municipality where the succession is opened. The declaration shall be entered in the register of successions which is kept in the same local magistrates court.

Within a month from the entry, a copy of the declaration shall be transcribed by the clerk of the court and deposited in the office where immovables are registered, in the same place where the succession is opened.

The declaration shall be preceded or followed by the inventory, with the formalities required by the Code of Civil Procedure.

If the inventory has been taken before the declaration, the register shall also indicate the date on which the inventory was taken.

If the inventory was taken after the declaration, the public official who has recorded it shall, within a month, cause the notation of the date on which it was taken to be entered in the register.

ARTICLE 485 - Heir in possession of property.

When, for any reason, the heir is in possession of the property constituting the inheritance, he shall take an inventory within three months from the day of the opening of the succession or from the day in which he was notified thereof. If within this time he has begun but has not yet been able to complete the inventory, the local magistrates court of the place where the succession is opened may allow a longer period, which, however, shall not be in excess of three months, except under grave circumstances.

If this limit is reached without the completion of the inventory the heir shall be considered to have signified his simple acceptance.

After completion of the inventory, an heir who has not already made the declaration according to the first paragraph of Article 484, shall have a time limit of 40 days from the day of completion of inventory in which to accept or reject the inheritance.

After this period the heir shall be considered to have given notice of his simple acceptance.

ARTICLE 486 - Rights of the heir.

Within the time limits set forth in the preceding Article for the filing of the inventory and for the accepting or rejecting of the inheritance, the heir, in addition to the rights set forth in Article 460, may appear in court as defendant to represent the estate.

If the heir does not appear, the judicial authority shall appoint a curator for the purpose of representing the estate in court.

ARTICLE 487 - Heir who is not in possession of the property.

An heir who is not in possession of the property constituting the inheritance may declare his acceptance with benefit of inventory until the time limit set for acceptance expires.

After such declaration, and within three months thereafter, the heir shall take the inventory, except for the delay granted in accordance with Article 485; otherwise he shall be considered to have given notice of his simple acceptance of the inheritance.

When the inventory has not been preceded by such declaration of acceptance, such declaration shall be made within forty days following the completion of the inventory; otherwise the heir shall loose his right to accept the inheritance.

ARTICLE 488 - Declaration of acceptance in cases of time limits set by the judicial authority.

When an heir who is not in possession of the property, has been given a time limit according to Article 481, he shall also, within that time, take the inventory. If such heir makes his declaration and does not file an inventory, he shall be considered as having given notice of his simple acceptance of the inheritance.

The judicial authority may grant a delay.

ARTICLE 489 - Incapacitated persons.

Minors, interdicts and incapacitated persons shall not be deemed to have lost their rights to the benefit of inventory until a year from the day on which they have attained majority or from the day in which the interdiction or state of incapacity has ceased, in the event that in this period of time they have not complied with the provisions of this Section.

ARTICLE 490 - Effects of benefit of inventory.

The effects of the benefit of inventory consist in keeping the estate of the deceased separate from the estate of the heir.

Consequently:

1. The heir maintains towards the inheritance all the rights and all the obligations he had towards the deceased, except those which have been cancelled by reason of the death of the testator.

2. The heir is not liable for payment, in excess of the value of the property received by him, of debts owed by the estate or of legacies.

3. Creditors of the estate and legatees to be satisfied out of the estate are preferred to creditors of the heir. However, if the creditors of the estate intend to maintain such preference they are not exempted from requesting the separation of the property according to the provisions of the following Chapter, even when the heir is barred from the benefit of inventory or renounces the inheritance.

ARTICLE 491 - Heir's liability for administration.

An heir with benefit of inventory is not liable for the administration of the property constituting the estate, except for gross negligence.

ARTICLE 492 - Security.

If the creditors or other interested parties request it, the heir shall give adequate security for the value of the movable property included in the inventory, for the income and profit of the movables, and for the price of the movables in excess of the payment to lien holders.

ARTICLE 493 - Alienation -- without authorization -- of property constituting the inheritance.

The heir loses his right to the benefit of inventory if he

alienates or subjects to mortgage or encumbers the property constituting the estate or if he enters into transactions with reference to this property without authorization of the judicial authority and without observing the formalities set forth in the Code of Civil Procedure.

Such authorization is not necessary for transactions concerning movable property after five years from the time of the declaration of acceptance with benefit of inventory.

ARTICLE 494 - Omissions and inaccuracies in inventory.

An heir who, in bad faith, has omitted to declare, in the inventory, property belonging to the inheritance, or who has stated in the inventory liabilities which are non-existent, shall lose his right to the benefit of inventory.

ARTICLE 495 - Payments in satisfaction of creditors and legatees.

After one month from the date of entry as provided in Article 484, or, when the inventory follows the declaration, after one month from the date of notation as specified in the same Article, the heir -- when he does not choose to cause the liquidation of the estate in accordance with Article 503 -- shall pay the creditors and the legatees as their claims are presented, except when rights of priority exist.

When the assets of the estate have been exhausted, the unsatisfied creditors have the right to recover from any other legatee, to the extent of the value of the legacy, even if such legacy is specific property which belonged to the testator.

This right is barred three years from the date of the last payment, unless the claim has lapsed previously.

ARTICLE 496 - Accounting.

The heir is bound to account for his administration to the creditors and to the legatees, who may cause a time limit to be set for the heir to present such accounting.

ARTICLE 497 - Delay in rendering the accounts.

The heir cannot be compelled to satisfy claims out of his own property unless he has been summoned to present his accounts on a certain date and has not complied with such obligation.

After the liquidation of the account, he is liable for the payment out of his own property, but only to the extent of the value of such property.

ARTICLE 498 - Liquidation of inheritance in cases of actions against the heir by creditors.

If, within the period of time specified in Article 495, the heir has been notified of actions against him by the creditors or legatees of the estate, the heir shall not make any payment but shall cause the liquidation of the inheritance in the interest of all creditors and legatees.

For this purpose, within a month from the notification of the action, he shall -- through the medium of a notary in the place where the succession is opened -- invite all creditors and legatees to submit their claims within a period of time specified by the notary, and not under thirty days.

This invitation is sent by registered mail to the creditors and legatees whose domicile or residence is known, and it shall be published in the legal notices of the department.

ARTICLE 499 - Procedure for liquidation.

When the term for submission of the claim of creditors has expired, the heir, with the assistance of the notary, shall make provisions for the liquidation of the assets of the inheritance, by securing the authorization necessary for alienation. If the alienation concerns property which is subject to prior right or to mortgage, the prior rights shall not expire and the mortgages shall not be cancelled until the buyer deposits the price with the formalities required by the Judge, or until the buyer has caused the payment of the creditors in the order of priority set forth in the following paragraph.

The heir, with the assistance of the notary, draws up the order of preference. The creditors are placed in this list according to their respective rights of priority. Creditors have preference over legatees. The assets of the inheritance are divided pro rata among the creditors who do not have preference, according to their respective claims.

When, in order to satisfy the creditors, it is necessary also to include in the liquidation a legacy in kind, the person entitled to the legacy in kind has preference over the other legatees in the amounts which remain after the payment.

ARTICLE 500 - Time limit for liquidation.

The judicial authority, on request of any of the creditors or legatees, may set a time limit for the liquidation of the assets in the inheritance and for the drawing up of the order of priority by the heir.

ARTICLE 501 - Debts owed.

After completion of the order of priority, the notary shall send notice by registered mail to the creditors and legatees whose domicile or residence is known, and shall cause it to be published in the legal notices of the department.

When 30 days have elapsed from the date of such publications, and no objections have been made, the order of priority shall become final.

ARTICLE 502 - Payment to creditors and legatees.

When the order of priority has become final, or the judgment with respect to objections may no longer be appealed, the heir shall satisfy the creditors and legatees in accordance with such order of priority. This may be enforced against the heir.

The order of priority of conditional claims does not prevent the payment of creditors in a secondary position of priority, provided the latter gives security.

The creditors and legatees who have not submitted their claims have a cause of action against the heir only in the amounts which remain after payment of the creditors and legatees in their order of priority. Unless such claims have lapsed previously, this action is barred after three years from the day when the order of priority has become final, or from the day when the judgment with respect to objections to said order or priority may no longer be appealed.

ARTICLE 503 - Liquidation sought by the heir.

Even if the heir is not notified of actions against him by creditors or legatees, he may avail himself of the procedure of liquidation provided for in the preceding Article.

Any payment made to creditors with priority, or to mortgagors, does not prevent the heir from availing himself of this procedure.

ARTICLE 504 - Liquidation in the case of several heirs.

If there are several heirs with benefit of inventory, any one of them may initiate the liquidation; each of them, however, is bound to require the appearance of his co-heirs before the notary within the time limit specified for debts owed. In the liquidation proceedings the notary shall represent the co-heirs who are not present.

ARTICLE 505 - Loss of benefit of inventory.

If an heir who has been notified of action against him by the creditors or legatees fails to follow the provisions of Article 498 or does not proceed with the liquidation or with the filing of the order of priority within the time limit set forth in Article 500, he shall lose his right to the benefit of inventory.

An heir who, in the case foreseen by Article 503, makes payments after the invitation to the creditors to submit their claims and before the termination of the procedure of liquidation, or who does not observe the time limit specified according to Article 500, shall likewise lose his right to the benefit of inventory.

This loss does not occur when the payments have been made in favor of creditors with priorities or of mortgagors.

In all cases the loss of the benefit of inventory may be enforced only by the creditors of the deceased or by the legatees.

ARTICLE 506 - Procedure in action by individuals.

After the publication provided for in the third paragraph of Article 498, the creditors are barred from enforcing their claims against the heirs. The execution of the claims which have been already initiated, may be continued, and the sums left over after the payment of creditors with priority and of mortgagors, shall be distributed according to the order of priority established in Article 499.

However, the benefit of the time limit does not apply to claims for the payment of which a time limit was set whenever the claims are secured by property, the alienation of which, is not necessary for the purposes of the liquidation and whenever the security itself is sufficient to insure the satisfaction of the entire amount of the claims.

From the date when the invitation to the creditors is published, according to the third paragraph of Article 498, the computation of the interest on the obligations evidenced by handwritten memoranda, is suspended. The creditors, however, have a right to collect the interest on the sum which may remain after the liquidation.

ARTICLE 507 - Release of property to creditors and legatees.

Within a month from the expiration of the time limit for submitting the claims, the heir may release all the property constituting the inheritance, in favor of the creditors and

legatees, unless he has previously performed any act of liquidation.

For this purpose, the heir shall give notice to creditors and legatees whose residence or domicile is known, with the formalities set forth in Article 498. The heir shall enter the declaration of the release in the register of successions, make a notation on the margin of the transcription provided for by the second paragraph of Article 484, and file it in the office where the immovable property register of the district is located, and in the office where the registered movable property is located.

From the time of the entry of the declaration of release, any act performed by the heir regarding the disposition of the property constituting the inheritance is without effect with respect to the creditors and legatees.

The heir shall deliver the property to the curator appointed according to the provision of the following Article. After the delivery of the property he shall be free from all liability in connection with the debts included in the inheritance.

ARTICLE 508 - Appointment of curator.

After the entry of the declaration of release, the local magistrate of the place where the succession is opened, on request of the heir or of one of the creditors or legatees or even ex-officio, shall appoint a curator for the purposes of liquidation according to Article 498 et seq.

The decree appointing the curator shall be entered in the register of successions.

The assets which remain after the payment of the expenses of the curatorship and after the satisfaction of the creditors and legatees, placed in order of priority, shall belong to the heir, subject only to the action of the creditors or legatees who have not submitted their claims within the time set forth in the third paragraph of Article 502.

ARTICLE 509 - Liquidation on request of creditors and legatees.

If, after the expiration of the time limit set forth for submitting the claims, the heir acts in such manner as to lose the benefit of inventory, but none of the creditors or legatees enforce such loss against him, the local magistrate of the place where the succession is opened -- on request of any of the creditors or legatees -- after hearing the heir and those who have submitted their claims, may appoint a curator for the purpose

of proceeding with the liquidation of the inheritance according to the provision of Article 499 et seq.

After the appointment of a curator, actions based upon the loss of benefit of inventory may no longer be enforced.

The decree appointing the curator shall be entered in the register of successions; notation thereof shall be made on the margin of the transcription provided for by the second paragraph of Article 484, and it shall be entered in the office where the immovable property register of the district is kept.

The heir shall thereupon lose the administration of the property and shall be bound to deliver the property to the curator.

After the registration of the decree appointing a curator, acts performed by the heir regarding the disposition of the property constituting the inheritance are without effect with respect to the creditors or legatees.

ARTICLE 510 - Acceptance or inventory by one of the heirs.

All other heirs may avail themselves of the acceptance with benefit of inventory made by one heir, even though the inventory has been taken by an heir other than the one who made the acceptance.

ARTICLE 511 - Expenses.

The expenses incurred for the affixing of seals, for the inventory, and for any other cause deriving from the acceptance with benefit of inventory, are charged to the estate.

SECTION VI

OF THE SEPARATION OF THE PROPERTY OF THE SUCCESSION FROM THAT OF THE HEIR

ARTICLE 512 - Purpose of separation.

Separation of the property of the succession from that of the heir is for the purpose of assuring the payment, out of the property of the estate, of the creditors of the succession and legatees who have demanded the separation, in preference to the creditors of the heir.

The right to demand separation belongs also to the creditors or legatees whose claims are secured by additional guarantees.

This separation does not bar the creditors or legatees who have demanded it, from satisfying their claims from the personal property of the heir.

ARTICLE 513 - Separation enforceable against persons entitled to legacy in kind.

Creditors of the deceased have also a right to enforce a separation with respect to legacies of property in natura.

ARTICLE 514 - Relationship between creditors who requested the separation and those who did not request it.

Creditors and legatees who have exercised their rights in demanding separation, have a right to satisfy their claims out of the property which has been separated in preference to the creditors and legatees who did not demand it, whenever the value of that part of the estate which is not separated is in itself sufficient to satisfy the creditors and the legatees who did not exercise their right to demand the separation. With this exception, the creditors and the legatees who did not request the separation, may share alike with those who did request it; but if a portion of the estate was not separated, the value of this portion shall be added to the value of the property which was separated in order to determine the portion belonging to each of the creditors and legatees; that which remains is considered to belong in its entirety to the creditors and legatees who did not request separation.

When the right of separation is exercised by creditors and legatees, the creditors are preferred to the legatees. The same preference, in the case set forth in the preceding paragraph, is given to the creditors who did not request the separation over the legatees who did not request it.

In all cases the rights of priority remain unaffected.

ARTICLE 515 - End of separation.

An heir may avoid a separation or bring an end to it by paying the creditors and the legatees and by furnishing security for the payment of those whose rights are suspended by conditions, or subject to a time limit, or contested.

ARTICLE 516 - Time limit for the exercise of the right to request separation.

The right to request separation shall be exercised within three months from the opening of the succession.

ARTICLE 517 - Separation with respect to movables.

The right to demand a separation of movable property is exercised by petition to the court. Petition is made to the local magistrate of the place where the succession is opened, who shall order the taking of the inventory, if it has not been taken already, and who shall make the necessary provisions for conservation of the property.

With respect to the movables which have been already alienated by the heir, only the sum which has not already been paid to the heir is included in the property subject to separation.

ARTICLE 518 - Separation with respect to immovables.

With reference to immovables and other property which may be mortgaged, the right of separation is exercised by entering on each of the items of such property (in the immovable property register) a record of the claims and legacies. Such entry is made with the formalities required for the entry of mortgages; by indicating the name of the deceased, and that of the heir, if he is known, and by indicating that the entry itself indicates the separation of the property. Production of title deeds is not necessary for the entry.

Such entries made for the purpose of separation, even if made at different times, retain the date of the first entry and take precedence over any other entry or registration running against the heir or the legatees, even if the latter were made previously.

The provisions regarding mortgages are applicable to an entry made for the purpose of separation.

SECTION VII

OF THE RENUNCIATION OF SUCCESSIONS

ARTICLE 519 - Declaration of Renunciation.

The renunciation of a succession shall be made by declaration before a notary or before the clerk of the local court of the place where the succession is opened, and must be entered in the register of successions.

A renunciation made voluntarily in favor of all those to whom the share of the renouncing person would have devolved, is not effective until one of the parties has complied with the formalities set forth in the preceding paragraph.

ARTICLE 520 - Conditional or partial renunciation -- Renunciation with a time limit.

A conditional or partial renunciation of the inheritance, or a renunciation with a time limit, is null and void.

ARTICLE 521 - Retroactivity of renunciation.

Whoever renounces a succession is considered as never having been an heir.

The renouncing person, however, may keep the donation or claim the legacy up to the portion secured by law, except as provided by Articles 551 and 552.

ARTICLE 522 - Devolution of legal succession.

In legal successions, the portion of the inheritance of an heir who renounces the succession accrues to those who would have been his co-heirs, except for the right of representation and the provisions of the last paragraph of Article 571.

If the heir renouncing the succession has no co-heirs, the inheritance devolves upon those who would otherwise be the heirs.

ARTICLE 523 - Devolution in testamentary successions.

In testamentary successions, the portion of the inheritance of an heir renouncing the succession devolves upon the co-heirs according the Article 674, or devolves upon the legal heirs according to Article 677, unless the testator has provided for a substitute for the renouncing person, or unless the right of representation is being exercised.

ARTICLE 524 - Renunciation attacked by creditors.

If anyone, although with fraud, renounces a succession to the prejudice of his creditors, the latter can be authorized to accept it in the name of the renouncing heir and in his stead, for the sole purpose of satisfying their claims out of the property constituting the inheritance, up to the amount of such claims.

The creditors' claims are barred after five years from the renunciation.

ARTICLE 525 - The revocation of renunciation.

Until the rights of acceptance by the renouncing heirs are barred, they may always accept the inheritance without prejudice to the interests acquired by third parties in the property constituting the inheritance, unless the inheritance has already been acquired by another heir.

ARTICLE 526 - Renunciation attacked on grounds of violence or fraud.

The renunciation of the inheritance may be attacked only if it was induced by violence or fraud.

The action is barred after five years from the day on which the violence ceased or the fraud was discovered.

ARTICLE 527 - Removal of property constituting the inheritance.

Heirs who have withdrawn or concealed property belonging to the inheritance, lose their rights of renunciation and are considered simple heirs, in spite of the renunciation.

SECTION VIII

OF VACANT SUCCESSIONS

ARTICLE 528 - Appointment of curator.

When the heir has not accepted the inheritance and is not in possession of the property constituting it, the local magistrate of the place where the succession is opened, on request of the interested parties, or even ex officio, shall appoint a curator for the estate.

The decree appointing the curator shall be published by the clerk of the court in the legal announcements of the district and shall be entered in the register of successions.

ARTICLE 529 - Duties of curator.

The curator is bound to take an inventory of the inheritance, to exercise all rights and initiate all actions to protect the interests of the estate of the inheritance, to answer all demands made upon the estate, to administer the estate, to deposit liquidated funds of the estate and funds received in payment for sale of movable or immovables in a postal savings account or other banking institution designated by the local magistrate, and finally to account for his administration.

ARTICLE 530 - Payments of the debts of a succession.

The curator, with previous authorization of the local magistrate, may make provisions for the payment of the debts and legacies of a succession.

However, if any of the creditors or legatees oppose him, the

curator cannot proceed with any payment, but shall provide for the liquidation of the inheritance according to the provisions of Article 498 et seq.

ARTICLE 531 - Inventory, administration and rendering of the accounts.

The provisions of Chapter II, Section 5 of this title, regarding the inventory, the administration and the rendering of the accounts by the heir with benefit of inventory, are applicable to the curator of a vacant succession, except for the limitations on liability for error.

ARTICLE 532 - Cessation of curatorship due to acceptance of the inheritance.

The functions of the curator cease when the inheritance has been accepted.

SECTION IX

OF THE PETITION FOR INHERITANCE

ARTICLE 533 - Significance.

For the purpose of securing restitution of the property, an heir may petition for the acknowledgment of his qualifications as heir against anyone, with or without the title of heir, who is in possession of all or part of the property constituting the inheritance.

There is no statute of limitations for this action, but the effects of usucaption with respect to individual items of the property remain unaffected.

ARTICLE 534 - Liability of third parties.

An heir has a cause of action against all parties who have a cause of action against persons in possession of the inheritance under color of title as heir.

The rights acquired by third parties through agreements for a consideration -- provided such parties can prove to have contracted the agreement in good faith -- remain unaffected.

The provisions of the preceding paragraph are not applicable to movable and immovable property entered in the public registers, in the case of purchases made under color of title as heir or purchases made by the presumed heir, if such purchases have not been entered before the entry of the purchase by the true heir or legatee or before the entry of the judicial petition against the presumed heir.

ARTICLE 535 - Persons in possession of property constituting the inheritance.

The provisions regarding possession are applicable to the person in possession of the property constituting the inheritance with reference to restitution of the income, profits, expenses, improvements and accretions.

A person in possession of the property in good faith, who has alienated, also in good faith, an item belonging to the inheritance, is only bound to return to the heir the price received, or the corresponding value. If the price, or the equivalent, is still due, the heir has a right to it as against the person in possession.

A person who has acquired possession of the property constituting the inheritance, believing himself in good faith to be the heir, is considered the possessor in good faith.

The defense of good faith is of no avail if the error has been caused by gross negligence.

CHAPTER X

OF FORCED HEIRS

SECTION I

RIGHTS OF FORCED HEIRS

ARTICLE 536 - Forced Heirs.

The persons in whose favor the law reserves a share of the inheritance, or gives other rights in the succession, are the legitimate children, the legitimate ascendants, the natural children and the spouse.

Legitimated and adopted children are in the same position as legitimate children.

The law gives to descendants of legitimate or natural children who become heirs in the place of the legitimate children, the same rights as the legitimate or natural children.

ARTICLE 537 - Share reserved in favor of legitimate children.

The law reserves in favor of legitimate children one-half of the estate of the parent if the latter leaves only one child, and two-thirds if there are several children, except for the provisions of Articles 541 and 542 with respect to co-claimants.

ARTICLE 538 - Share reserved in favor of legitimate ascendants.

If the deceased does not leave legitimate children but leaves legitimate ascendants, one-third of the estate is reserved in their favor, except for the provisions of Articles 544, 545 and 546 with respect to co-claimants.

The provisions of Article 569 are applicable.

ARTICLE 539 - Share reserved in favor of natural children.

The law reserves to natural children, whose parentage is acknowledged or declared, one-third of the estate of the parent if he leaves one natural child, or one-half if there are several natural children, except for the provisions of Articles 541, 542, 543, 545 and 546 with respect to co-claimants.

ARTICLE 540 - Share reserved in favor of the spouse.

The law reserves to the surviving spouse the usufruct of two-thirds of the estate of the deceased, except for the provisions of Articles 542, 543, 544 and 546 with respect to co-claimants.

ARTICLE 541 - Provisions when the co-claimants include legitimate and natural children.

When the deceased leaves natural children in addition to legitimate children, the total share of the reserved portion is two-thirds of the estate. From this portion each natural child shall receive one-half of the share belonging to each of the legitimate children, provided the total share reserved to the latter be not less than one-third of the estate.

The legitimate children have the privilege of paying in cash or in immovable property which has been justly appraised, the portion belonging to the natural children.

ARTICLE 542 - Provisions when the co-claimants include legitimate children, spouse and natural children.

If the deceased leaves only one legitimate child in addition to the spouse, the portion of the estate reserved for the legitimate child is of one-third in fee simple. The usufruct of another third goes to the spouse. The legal title to one-half of the property the usufruct of which is reserved to the spouse, goes to the child, and the other half is part of the portion which may be disposed of by will.

When there are several children, the total amount of the

legal portion reserved to them and to the spouse is two-thirds of the estate. From this portion the spouse has the usufruct of a share equal to one-fourth of the estate. The remaining part of the reserved portion and the legal title to the property the usufruct of which has been reserved to the spouse, are divided between the children.

If, together with the spouse, there are legitimate and natural children, the total amount of the reserved portion is two-thirds of the estate. From this portion the spouse has the usufruct of a share equal to one-fourth of the estate of the deceased. The remaining part of the reserved portion is divided between the legitimate and the natural children in accordance with Article 541. The legal title to the property the usufruct of which has been reserved to the spouse, is divided in the same shares, but the legitimate children are entitled to a greater share of this portion if necessary in order to complete the minimum portion to which they are entitled according to the provision of Article 541.

ARTICLE 543 - Provisions when the co-claimants include the spouse and natural children.

When, together with the spouse there is only one natural child, the usufruct of five-twelfths of the estate of the deceased is reserved to the surviving spouse.

Fee simple in one-fourth of the estate and the legal title of one-fifth of the property the usufruct of which has been reserved to the spouse, goes to the natural child. The legal title to the remaining four-fifths of the property the usufruct of which has been assigned to the spouse, is part of the portion which may be disposed of by will.

When there are several natural children, the usufruct of one-third of the estate is reserved to the spouse and one-third in fee simple to the natural children. Legal title to one-half of the property the usufruct of which has been reserved to the spouse, goes to the children, and the other half is part of the portion which may be disposed of by will.

ARTICLE 544 - Provisions when the co-claimant include legitimate ascendants and spouse.

When the deceased leaves no legitimate children or natural children, but leaves legitimate ascendants and the spouse, the usufruct of five-twelfths of the estate is reserved to the latter and one-quarter in fee simple to the ascendants. The legal title to the property the usufruct of which has been reserved to the spouse, is part of the portion which may be disposed of by will.

ARTICLE 545 - Provisions when the co-claimants include legitimate ascendants and natural children.

When there are legitimate ascendants and natural children, the total portion reserved from the estate of the deceased is one-half if the deceased leaves only one natural child; or two-thirds if there are several natural children.

This portion is divided in such a manner that a share equal to the share of each one of the natural children is reserved to the ascendants or to the only surviving ascendant, provided, however, that this share is not less than one-sixth of the estate of the deceased.

ARTICLE 546 - Provisions when the co-claimants include ascendants, natural children and spouse.

If, together with the legitimate ascendants and the natural children, the deceased leaves also a spouse, the total reserved portion of the estate is two-thirds. From this portion, the usufruct of a share equal to one-third of the estate goes to the surviving spouse. A share equal to one-fifth of the estate goes to the natural child, if there is only one natural child, or a share equal to one-sixth if there are several natural children; the remaining portion goes to the natural children. The legal title to the property the usufruct of which has been reserved to the spouse, goes to the natural children if there are several of them; if there is only one natural child, he is entitled to the legal title to three-fifths, and the remaining portion may be disposed of by will.

ARTICLE 547 - Satisfaction of the interests of the spouse.

It is the privilege of the heir to satisfy the interest of the surviving spouse by the secured promise of a life annuity, or by setting aside the income and profits from immovable property, or by paying over the principal of the estate in an amount to be determined by mutual agreements, or, in the absence of mutual agreements, by the judicial authority, depending upon the special circumstances of each case.

Until satisfaction of the spouse's interest, the spouse retains the rights of usufruct in all the property of the estate.

ARTICLE 548 - When the spouse is barred from his legal portion.

The spouse is barred from his legal portion, in the cases provided for in Article 585.

ARTICLE 549 - Prohibition of burdens and conditions on the portion reserved to forced heirs.

The testator shall not impose burdens and conditions on the portions of the estate reserved to forced heirs, except when the provisions of TITLE FOUR of this book are applicable.

ARTICLE 550 - Request in excess of disposable portion.

When the testator bequeaths a usufruct or a life annuity, the value of which is in excess of the disposable portion, the forced heirs to whom legal title to such portion, or a part thereof, has been assigned, have a choice either of carrying out this provision of the will or of foregoing legal title to that portion. In the latter case, the legatee who acquires the portion foregone by the heir, does not acquire thereby the qualification of heir. The forced heirs are entitled to the same choice when the testator has bequeathed legal title of a portion in excess of the disposable portion.

If there are several forced heirs, an agreement among all of them is necessary in order to carry out the provision of the will.

The same rules apply even if the usufruct, the income, or the legal title, have been disposed of through donations.

ARTICLE 551 - Legacy in substitution of reserved portion.

If a forced heir has been bequeathed a legacy in substitution of the reserved portion, he may elect to renounce the legacy and accept the reserved portion.

If he prefers to take the legacy, he loses his right to request a supplementary amount if the value of the legacy is less than the value of the reserved portion, and he does not acquire the qualification of heir. This rule is not applicable when the testator has expressly given to the forced heir the privilege of requesting such supplementary portion.

The legacy in substitution of the reserved portion is charged against the portion which may not be disposed of by will. However, if the value of the legacy is in excess of the reserved portion pertaining to the forced heir, the legacy is charged against the portion which may be disposed of by will for the amount which is in excess.

ARTICLE 552 - Donations and legacies to be applied against reserved portion.

The forced heir who renounces the inheritance, may, except

in cases where representation is operative, retain the donations and keep the legacies made to him out of the disposable portion. However, if, in order to complete the reserved portion belonging to the heirs, it is necessary to proceed with the abatement of the testamentary provisions or the donations, the testator's bequests which would not be subject to abatement if the forced heir accepted the inheritance remain unaffected, and abatement is applied to the donations and the legacies made to the forced heir, unless it be expressly declared that the donations or legacies are intended to be over and above the reserved portion.

SECTION II

RECOVERY OF THE SHARE RESERVED TO FORCED HEIRS

ARTICLE 553 - Abatement of shares when the forced heirs are co-claimant with other legal heirs.

In the case of intestate succession whenever forced heirs are co-claimants with legal heirs the shares which would go to the latter are abated, proportionately, to the extent necessary to complete the share reserved to the forced heirs.

The forced heirs, however, shall apply amounts received by them through legacies or donations from the deceased, to the completion of such reserved share, in accordance with Article 564.

ARTICLE 554 - Abatement of testamentary provisions.

Testamentary provisions which are in excess of the share of the disposable portion of the deceased, are subject to abatement within the limits of the disposable portion.

ARTICLE 555 - Abatement of donations.

Donations, the value of which is in excess of the disposable portion of the estate of the deceased, are subject to abatement up to the limit of the disposable portion.

There is no abatement of donations until the value of the property disposed of by will has been exhausted.

ARTICLE 556 - Manner in which disposable portion is determined.

In order to determine the amount of the disposable portion of the estate, the value of all the property belonging to the deceased, minus the debts, is reduced to a sum total, at the time of his death. After this, for the purposes of evaluation, the donations and legacies are grouped together in order that their value may be determined according to Articles 747 and 750 and, on the basis of the amount thus reached, calculation is made of the portion or share of the estate which the deceased could dispose of.

ARTICLE 557 - Persons who may request abatement.

The abatement of donations and of bequests prejudicial to the reserved portion belonging to the heir, may only be requested by the heir, his heirs or any interested party.

The heirs may not renounce this right while the donor is living, either through an express declaration or by assent to the donation.

The donees and legatees may not request the abatement, nor profit by it. Neither may the creditors of the deceased request the abatement or profit by it, if a legal heir with the right to demand the abatement has accepted the inheritance with benefit of inventory.

ARTICLE 558 - Manner in which testamentary bequests are abated.

The abatement of testamentary bequests take place pro rata, with no distinction between heirs and legatees.

If the testator has declared that any one bequest shall prevail over others, then such bequest shall not be abated, except when the value of the other bequests is not sufficient to complete the share reserved to the forced heirs.

ARTICLE 559 - Manner in which donations are abated.

Donations are abated beginning with the last one and proceeding toward the first.

ARTICLE 560 - Abatement of donations or legacy consisting of immovables.

When the donation or legacy to be abated consists of immovables, the abatement takes place by separating from the immovables that portion necessary in order to complete the share reserved to the forced heirs, if such separation may be effected conveniently.

If such separation cannot be effected conveniently, and the legatee or donee has a share in the immovable itself in excess of one-fourth of the disposable portion, the immovable shall be left in the estate in its entirety, except for the right to receive the value of the disposable portion. If the share is not in excess of one-fourth thereof, the legatee or donee may keep the immovable in its entirety and pay the equivalent value to the legal heir, in cash.

A legatee or donee who is a forced heir, may retain the immovable in its entirety, provided the value of such immovable be not in excess of the disposable portion of the estate plus his share as forced heir.

ARTICLE 561 - Restitution of immovables.

The immovables which have been returned as a result of the abatement are free from any encumbrance or mortgage which may have been placed upon them by the legatee or donee, except for the provisions of No. 8 of Article 2652. The same provision is applicable to the movable property entered in the public register.

The income and profits are due from the date of the judicial petition for abatement.

ARTICLE 562 - When donee, whose donation is subject to abatement, is insolvent.

If a property which has been donated has perished through the fault of the donee or of any other person whose interest in such property is derived from the donee, or if the restitution of the donated property may not be demanded from a purchaser for value, and the donee is wholly or partly insolvent, then the value of the donation which was not recovered from the donee is deducted from the entire estate, but the rights arising from claims of forced heirs and previous donees against the insolvent donee remain uneffected.

ARTICLE 563 - Actions against persons having a cause of action - donees whose donation is subject to abatement.

If a donee whose donation is subject to abatement has alienated the donated immovable property to third parties, a forced heir, having previously obtained judgment of execution on the property of the donee, may demand the restitution of the immovable from the successive purchasers, in the same manner and in the same order as he could request it from donees.

The actions for restitution shall be instituted in the order in which the alienation took place, beginning with the last one. Request may also be made for restitution of the movable property which was the object of the donation, if acquired by a third party, except in the case of possession in good faith.

A third party who has acquired the property may relieve himself of the obligation of returning the donation by paying in cash the equivalent of the donation in its present condition.

ARTICLE 564 - Conditions necessary for the exercise of the right of action for abatement.

A forced heir who has not accepted the inheritance with benefit of inventory cannot request the abatement of the donations and legacies, unless such donations and legacies were made to co-heirs, and even though such co-heirs have renounced the inheritance. This provision is not applicable to an heir who has accepted with benefit of inventory and subsequently lost such benefit of inventory.

In all cases, a forced heir who makes a request for abatement of donations or testamentary bequests shall include in the reserved portion the donations and the legacies made to his ascendant, without exemption.

The exemption is not effective when it is prejudicial to previous donees.

All items which, according to the rules contained in Chapter II of TITLE FOUR of this Book, are exempt from collation are also exempt from being charged to the reserved portion by the forced heir.

TITLE TWO

OF INTESTATE (LEGAL) SUCCESSIONS

ARTICLE 565 - Categories in which intestate succession may fall.

In the case of intestate successions, the inheritance devolves upon legitimate descendants, legitimate ascendants, collaterals, natural parents, the spouse and the state, in the order and according to the rules contained in this TITLE.

CHAPTER I

OF SUCCESSION OF LEGITIMATE PARENTS

ARTICLE 566 - Succession falling to legitimate children.

The succession of the father and mother falls to the legitimate children in equal shares.

ARTICLE 567 - Succession falling to legitimated or adopted children.

Legitimated and adopted children are in the same position as the legitimate children.

Adopted children do not come into the succession of the parents of the adopting person.

ARTICLE 568 - Succession falling to parents.

The succession of a person who dies without leaving children, or brothers or sisters, or descendants of them, falls to the father and mother, in equal shares, or to the surviving parent.

ARTICLE 569 - Succession falling to ascendants.

Of the inheritance of a person who dies without leaving children, or parents or brothers or sisters, or descendants of them, one-half falls to the ascendant on the paternal side and one-half to the ascendants on the maternal side.

However, if the ascendants are not in equal degree, the inheritance devolves upon those closest to the deceased, regardless of paternal or maternal line.

ARTICLE 570 - Succession falling to brothers and sisters.

The inheritance of a person who dies without leaving children or parents or other ascendants, falls to the brothers and sisters in equal shares. Brothers and sisters of the half-blood take one-half of the share taken by brothers and sisters of the whole-blood.

ARTICLE 571 - Provisions when the co-claimants include parents or other ascendants and brothers and sisters.

If the parents, or one parent, of the deceased are co-claimants with brothers and sisters of the whole-blood, they all take part in the succession individually, provided that in all circumstances the share of such parents or parent is less than one-third of the estate.

If there are brothers and sisters of the half-blood, each one takes a share equal to one-half of the share taken by each of the parents or by each brother or sister of the whole-blood, except that in all cases one-third is reserved to the latter.

If both parents are unable or unwilling to participate in the succession, and there are other ascendants, the share which would have fallen to each one of the parents in the absence of the other, devolves upon such other ascendants, in the manner specified in Article 569.

ARTICLE 572 - Succession falling to other relatives.

The succession of a person who dies without leaving children, or parents or other ascendants, or brothers and sisters or descendants of them, is open in favor of the nearest relative or relatives, regardless of whether their relationship is through the paternal or maternal line.

The succession does not pass to those related beyond the sixth degree.

CHAPTER II

OF SUCCESSION FALLING TO NATURAL CHILDREN AND THEIR PARENTS

ARTICLE 573 - Succession falling to natural children.

The provisions relative to the succession of natural children are applicable when the relation of father and child has been acknowledged or declared judicially, except for the provisions of Article 580.

ARTICLE 574 - Provisions when the co-claimants include natural and legitimate children.

When natural children are co-claimants with legitimate children, the first take a share equal to one half of the share taken by the second, provided however, that the share of the legitimate children be not less than one-third of the estate.

The legitimate children, or their descendants, have the privilege of paying the portion belonging to the natural children, in cash or in justly appraised immovable property.

ARTICLE 575 - Provisions when the co-claimants include natural children with ascendants and the spouse of the parent.

When natural children are co-claimants with an ascendant or with the spouse of the parent of the deceased, the natural children take a share equal to two-thirds of the inheritance; when they are co-claimants with the ascendants and with the spouse of the parent of the deceased at the same time, they take the inheritance minus the one-fourth share belonging to the ascendant, and minus the one-third share belonging to the spouse.

ARTICLE 576 - Succession falling to natural children only.

Natural children inherit the whole of the estate, in the absence of legitimate descendants, ascendants, or spouse of the parents of the deceased.

ARTICLE 577 - Succession of natural children from the nearest legitimate ascendant of his parent.

A natural child becomes the heir of the nearest legitimate ascendant of his parent when the latter is unable or unwilling to accept the inheritance, provided such ascendant leaves no spouse or descendants, or ascendants, or brothers or sisters or descendants of them, or other legitimate relatives within the third degree.

ARTICLE 578 - Succession of parent from natural child.

If a natural child dies without leaving children or spouse, the inheritance devolves upon the parent who has acknowledged him or whose child he has been declared to be. If he has been acknowledged or declared to be the child of both parents, then each of the parents inherits one half of the estate.

If only one of the parents has legitimated the child, the other parent is not included in the succession.

ARTICLE 579 - Provisions when the co-claimants include the spouse and parents of the natural child.

If a natural child, who died without leaving children or parents, has a surviving spouse, one half of the inheritance devolves upon the latter.

If the deceased natural child leaves parents, two-thirds of the inheritance devolves upon the spouse and one-third on the parents.

ARTICLE 580 - Rights of natural children who have not or cannot be acknowledged.

When the relation of father and child is established in the manner indicated in Article 279, the natural children have a right to a life annuity the amount of which is determined on the basis of the size of the estate and of the number and qualifications of the heirs. In all cases, the annuity shall not exceed the amount of income deriving from the portion of the estate to which the natural children would be entitled if the relation of father and child had been acknowledged or declared.

CHAPTER III

OF SUCCESSIONS FALLING TO THE SPOUSE

ARTICLE 581 - Provisions when the co-claimants include the spouse and legitimate and natural children.

When the co-claimants include the spouse and legitimate

children, alone or together with natural children, the spouse is entitled to the usufruct of a share of the inheritance.

The share of the usufruct shall be equal to one half of the estate if the co-claimant is only one child; otherwise it shall be equal to one-third thereof.

The rights of the spouse may be satisfied in the manner indicated in Article 547.

ARTICLE 582 - Provisions when the co-claimants include the spouse and natural children, legitimate ascendants, brothers and sisters.

If the spouse and natural children are co-claimants, one-third of the inheritance devolves on the spouse.

If a spouse is co-claimant with a legitimate ascendant or with brothers or sisters, even of the half-blood, or with both of them, one half of the inheritance devolves in favor of such spouse. In this case, the other half of the inheritance devolves upon the ascendants and the brothers and sisters, according to the provisions of Article 471, except, in all cases, for the rights of the ascendants to one-quarter of the inheritance.

ARTICLE 583 - Provisions when the co-claimants include the spouse and other relatives.

If there are other relatives, within the fourth degree, who may inherit, three-quarters of the inheritance devolves upon the spouse.

The inheritance devolves upon the spouse in its entirety if there are no other relatives within the fourth degree who may inherit.

ARTICLE 584 - Succession of the putative spouse.

When the marriage has been declared null after the death of one of the spouses, the share belonging to the spouse according to the preceding provisions devolves upon the surviving spouse in good faith.

The latter, however, is excluded from the succession when the person whose inheritance is in question is bound by a valid marriage at the time of such death.

ARTICLE 585 - When the spouse is excluded from succession.

A spouse against whom judgment of separation from bed and

board has been rendered which may no longer be appealed, is exoluded from the succession. This exclusion is effective even when the separation from bed and board has been pronounced through the fault of both spouses.

CHAPTER IV

OF THE SUCCESSION OF THE STATE

ARTICLE 586 - Acquisition of the property by the state.

In the absence of other persons who may inherit, the inheritance devolves upon the state. Such acquisition becomes effective of full right without the necessity of acceptance, and renunciation is barred.

The state is not liable for the debts of the estate and for the legacies, beyond the value of the property acquired.

TITLE THREE

OF TESTAMENTARY SUCCESSIONS

CHAPTER I

GENERAL PROVISIONS

ARTICLE 587 - Nature of a will.

A will is a revocable act through which a person makes provisions concerning all or part of his possessions, for the period after his death.

Provisions, unconnected with the devolution of the estate, which may lawfully be included in a will are effective if included in a document drawn up and clothed with the same formality as a will, even if provisions relative to the devolution of the estate are lacking.

ARTICLE 588 - Provisions of a will contemplating capacity under universal or particular (singular) succession.

Testamentary provisions which provide for the disposal of all or an aliquot portion of the testator's property imply capacity and effect of universal succession, causing the recipient to assume the status of heir, notwithstanding expressions or designations used by the testator.

Other testamentary provisions imply capacity and effect of particular (singular) succession, causing the recipient to assume the status of legatee.

The indication of specific property or of specific items of property does not imply that a provision may not be intended to have the effect of universal succession, if it is clear that the testator intended to bequeath such property as a aliquot portion of his estate.

ARTICLE 589 - Joint or reciprocal will.

Two or more persons cannot make a will in the same document, whether in favor of a third party or by provisions intended to be reciprocal in effect.

ARTICLE 590 - Confirmation and voluntary carrying out of testamentary provisions which are null and void.

The nullity of a testamentary provision, regardless of the cause for such nullity, cannot be pleaded by a person who, while cognizant of the cause for such nullity, has confirmed the provision or has voluntarily carried it out after the death of the testator.

CHAPTER II

OF THE CAPACITY NECESSARY FOR DISPOSING BY WILL

ARTICLE 591 - Causes of incapacity.

All persons whose incapacity has not been established by law may dispose by will.

The following are incapable of disposing by will, to wit:

1. Those who have not reached eighteen years of age.
2. Those interdicted for mental unsoundness.
3. Those who, although not interdicted, prove to have been incapable of intention and volition, for any cause even if temporary, at the time when they made their will.

When the causes of incapacity specified in this Article are present, the will may be attacked by any interested party.

Such action is barred after five years from the day on which the testamentary provision was carried out.

CHAPTER III

OF THE CAPACITY TO RECEIVE BY WILL

ARTICLE 592 - Natural children who have been or may be acknowledged.

When the relation of father and child has been acknowledged or declared, natural children cannot, if there are legitimate descendants, receive by will more than they would have received if the rules of legal succession had been applied.

When the relation of father and child is established in the manner provided in Article 279, natural children who may be acknowledged cannot receive more than they could have received if the relation of father and child had been declared or acknowledged according to the preceding paragraph.

ARTICLE 593 - Natural children who cannot be acknowledged.

When the testator leaves legitimate children or their descendants, natural children who cannot be acknowledged, and whose relation of father and child is established in the manner provided in Article 279, may not receive by will per capita more than one half of the amount which the least favored of the legitimate children is to receive. The amount in excess is divided in the same proportion between the legitimate children and the children who cannot be acknowledged. Under no circumstance may the latter receive altogether more than one-third of the inheritance.

If the testator leaves a surviving spouse, children who cannot be acknowledged cannot receive more than one-third of the inheritance. The amount in excess devolves upon the spouse.

The legitimate descendants have the privilege of paying in cash, or in justly appraised immovable property, the portion belonging to the children who cannot be acknowledged.

The preceding provisions are also applicable to children who have not been acknowledged and whose acknowledgment would be permissable according to the provisions of Article 251 and the third paragraph of Article 252.

ARTICLE 594 - Annuity to natural children who cannot or have not been acknowledged.

Natural children who cannot be acknowledged, and those who have not been acknowledged when the circumstances exist that would make acknowledgment possible according to Article 279, are entitled to receive from the heirs or the legatees to whom

the disposable portion has been assigned, a life annuity within the limits established in Article 580, if the testator has made no provision in their favor. If the testator has made provision in their favor, they may renounce such provisions and request the annuity.

ARTICLE 595 - Spouse of a remarried person.

The spouse of a remarried person cannot receive through the will of the latter more than the amount devolving, out of the disposable portion, upon the least favored of the children of preceding marriages.

Donations received by the spouse shall be taken into account in order to determine the portion of the spouse.

Any excess over the amount provided in favor of the spouse, including donations, shall be divided in equal parts between the spouse and all the children of the testator.

ARTICLE 596 - Incapacity of the tutor and undertutor.

Bequests made by a person subject to tutorship in favor of the tutor, if made after the appointment of the tutor, or before the approval of his account, or before the termination of the action for the rendering of the account, are null and void, even though the testator died after the approval of the account. This provision is applicable also to the undertutor, if the will was made at the time when he was substituting for the tutor.

However, provisions made in favor of the tutor or the undertutor, who is also an ascendant, descendant, brother or sister, or spouse, of the testator, are effective.

ARTICLE 597 - Incapacity of the notary, witnesses and interpreter.

A disposition in favor of a notary, or of any other official who has received a nuncupative will, or in favor of any one of the witnesses or of an interpreter who has been present at the time of the will, is null and void.

ARTICLE 598 - Incapacity of a person who has written or received a mystic will.

Provisions in favor of a person who has written a mystic will are null and void, unless such provisions are confirmed in the handwriting of the testator himself, or in the document witnessing the delivery of the will.

Provisions in favor of the notary to whom a mystic will has been entrusted in an unsealed envelope are also null and void.

ARTICLE 599 - Intermediaries.

Bequests made in favor of incapable persons, as indicated in Articles 592, 593, 595, 596, 597 and 598, are null and void even if made in the name of intermediaries.

The father, mother, descendants and the spouse of the incapable person are considered intermediary, even if they are designated as joint heirs with the person affected by incapability.

ARTICLE 600 - Entities not recognized by the state.

Dispositions in favor of an entity which has not been recognized by the state are not effective if, within a year from the day on which the will becomes effective, a petition is not made to secure recognition.

Until such time as the entity is duly formed, the necessary measures for conservation may be instituted.

CHAPTER IV

GENERAL RULES ON THE FORM OF TESTAMENTS

SECTION 1

OF ORDINARY TESTAMENTS

ARTICLE 601 - Kinds of wills.

The ordinary kinds of wills are holographic testaments and testaments made through notarial act.

Testaments made through notarial act are either nuncupative (public) or mystic (secret).

ARTICLE 602 - Holographic wills.

A holographic will must be entirely written, dated and signed by the hand of the testator.

The signature must be placed at the end of the provisions of the will. The signature need not consist of the name and surname of the testator; it is valid when it unmistakably designates the testator.

The date must indicate day, month and year. Evidence of the correctness of the date is admitted only when the question of the

capacity of the testator, or the question of which one among several wills was dated first, or any other question where the time of the will is the basis for the decision, must be ruled upon.

ARTICLE 603 - Nuncupative wills.

A nuncupative will must be received by a notary in the presence of two witnesses.

The testator, in the presence of the witnesses, declares his last will to the notary, who reduces it to writing. The notary reads back the will to the testator in the presence of the witnesses. The carrying out of each of these formalities shall be mentioned in the will.

The will must indicate the place, the date when received, and the hour in which the signature was appended, and shall be signed by the testator, the witnesses and the notary.

If the testator is unable to affix his signature, or can do so only with great difficulty, he must declare the cause thereof and the notary shall call attention to this declaration before the reading of the document.

Provisions regarding wills of persons who are mute, deaf, or deaf and mute, are regulated by the laws concerning notarial acts of such persons. If the testator is also unable to read, the presence of four witnesses is required.

ARTICLE 604 - Mystic wills.

Mystic wills may be in the handwriting of the testator or of a third party. If made in the handwriting of the testator, his signature must appear at the end of the provisions of the will. If made, wholly or in part, in the handwriting of others, or if it is typescripted, the signature must appear on each half sheet, whether attached or not attached to other sheets.

A testator who can read but cannot write, or who was unable to affix his signature when he caused his last will to be reduced to writing, must also declare to the notary who received the will that he has read it, and must add to such declaration the reasons why he was unable to affix his signature; this shall be mentioned in the document witnessing the reception of the will.

Persons who cannot read or write cannot make a mystic will.

ARTICLE 605 - Formalities of mystic will.

The paper on which the provisions are written or the paper

used as an envelope, must bear a seal so affixed that the will cannot be opened or taken out without breaking the seal or altering it.

The testator, in the presence of two witnesses, gives personally to the notary the paper thus sealed or causes the paper to be sealed in the aforementioned manner in presence of the notary and witnesses, and declares that the paper contains his will. If the testator is mute, or deaf and mute, then he must make this declaration in writing, in the presence of witnesses, and he must also declare in writing that he has read the will, if such will has been reduced to writing by others.

The document witnessing the reception of the will is written on the paper used by the testator to write or enclose the will, or on another envelope provided by the notary and duly sealed by him. The document witnessing reception shall indicate the fact of reception, the declaration of the testator, the number and the type of seal, and the presence of the witnesses in all formalities.

The document must be signed by the testator, by the witnesses and by the notary.

If the testator is unable, as a result of any impediment, to sign the document witnessing the reception, the same provisions observed for nuncupative wills are applicable. The provisions of this paragraph shall be effected without interruption or turning aside to other acts.

ARTICLE 606 - Nullity of will suffering from defect in form.

In the case of holographic wills, the testament is void if it is not written entirely in the testator's handwriting, or if it lacks a signature. In the case of wills made through notarial act, the testament is void when it is not drawn up in writing by the notary, or if it lacks the declarations of the testator, or if it lacks the signature of the testator or of the notary.

A will which is affected by any other defect in form, may be annulled on request of any interested party. The action for annullment is barred after five years from the day on which the testamentary bequests have become effective.

ARTICLE 607 - Mystic wills valid as holographic wills.

Mystic wills lacking in some of the requirements essential to that type of will, may take effect as holographic wills when they have the requirements essential to the latter.

ARTICLE 608 - Withdrawal of mystic or holographic wills.

Mystic and holographic wills which have been deposited with a notary, may be withdrawn at any time by the testator from the notary himself.

The notary makes the official report of the return of the will to the testator; the official report is signed by the testator, two witnesses and the notary; and if the testator is unable to affix his signature this shall be mentioned.

When the will is deposited in a public records office, the official report is made up by the recorder of the records office and signed by the testator, the witnesses and the recorder himself.

A notation mentioning the return of the will is made on the margin or at the bottom of the document witnessing the delivery or deposit of the will.

SECTION II

OF SPECIAL TESTAMENTS

ARTICLE 609 - Contagious diseases, public calamity or disaster.

When the ordinary formalities are not available to the testator becuase he is where a disease considered contagious is prevalent, or because of public calamity or disaster, the will is valid if it is received in the presence of two witnesses over sixteen years of age, by a notary, by the local magistrate or the local justice of the peace, or by the mayor (podesta) or his deputy, or by a priest.

The will is prepared and signed by the person who receives it; it is also signed by the testator and the witnesses. If the testator or the witnesses are unable to affix their signature, the reason therefor shall be indicated.

ARTICLE 610 - Period of validity.

A will which has been received with the formalities indicated in the preceding Article loses its validity three months after the cessation of the cause which prevented the testator from availing himself of the ordinary formalities.

If the testator dies within that period of time, the will shall be deposited, as soon as possible, in the notarial archives of the place where it has been received.

ARTICLE 611 - Will made on board ship.

During a sea voyage, a will may be received aboard by the captain of the ship.

The will of the captain may be received by the second in command.

ARTICLE 612 - Formalities.

The kind of will specified in the preceding Article is made up in two originals, in the presence of two witnesses, and shall be signed by the testator, by the person who receives the will, and by the witnesses. If the testator or the witnesses are unable to affix their signatures, there must be an indication of the cause for such inability.

The will shall be kept among the ship's papers and a notation shall be made on the crew list and also on the ship's diary or on the log book.

ARTICLE 613 - Delivery.

If the ship touches at a foreign port where there is a consular authority, the captain is bound to deliver to such authority one of the originals of the will together with a copy of the notation made on the crew list and on the ship's diary or on the sea log.

Upon the ship's return to the kingdom, the two originals of the will, or the copy which has not been deposited during the trip, shall be delivered to the local maritime authority together with the copy of the above-mentioned notation.

A declaration of such delivery shall be made, and a notation thereof shall be made on the margin of the will.

ARTICLE 614 - Official report of delivery.

The local maritime or consular authority shall make an official report of the delivery of the will and send the report, together with the documents attached thereto, to the Navy Department or to the Department of Communications, depending on whether the will was received on board a ship of war or a merchant vessel. The Department shall order one of the originals of the will to be deposited in the archives and shall send the other original to the notarial archives of the place where the testator had his last domicile or residence.

ARTICLE 615 - Period of validity.

Wills made during a sea voyage, with the formalities set forth in Article 611 and following, lose their validity three months after the testator has landed in a place where he has an opportunity to comply with the ordinary formalities.

ARTICLE 616 - Wills made on board aircraft.

The provisions of Articles 611 to 615 are applicable to wills made on board an aircraft, during an air voyage.

The will may be received by the captain, in the presence of one or, if possible, two witnesses.

The functions pertaining to the maritime authorities according to Article 613 and 614 are to be performed by the air authorities.

A notation of the will shall be made on the ship's log.

ARTICLE 617 - Wills of persons attached to military forces or in similar capacity.

The wills of military personnel attached to the armed forces of the state, may be received by an officer, by a military chaplain, or by a Red Cross officer, in the presence of two witnesses. The will shall be signed by the testator, by the person who received it, and by the witnesses. If the testator or the witnesses are unable to affix their signature, mention shall be made of the cause for such inability.

The will shall be sent, at the earliest possible date, to the general headquarters, and shall be forwarded from there to the department having jurisdiction. Such department shall order the will to be deposited in the notarial archives of the place where the testator had his last domicile or residence.

ARTICLE 618 - Cases in which will is valid and period of validity.

The persons who may make a will with the special formalities set forth in the preceding Article are those who, while attached to military forces or mobilized services or participating in any way in war activities, find themselves in the theater of operations, or are prisoners of the enemy, or who are stationed or located outside of the kingdom or in places which have been out off from communication.

Such a will loses its validity three months after the return of the testator to a place where he has an opportunity to employ the ordinary forms.

ARTICLE 619 - Nullity.

Wills covered by this section are null if the testator's declaration is not reduced to writing, or if the signature of the person who is authorized to receive such will or the signature of the testator is lacking.

For other lack of formalities, the provisions of the second paragraph of Article 606 are observed.

SECTION III

OF PUBLICATION OF HOLOGRAPHIC TESTAMENTS AND OF MYSTIC WILLS

ARTICLE 620 - Publication of holographic testament.

Whoever is in possession of an holographic testament shall make delivery of it to a notary for the purpose of publication, as soon as apprised of the testator's death.

Any interested party may request that a time limit be set for such delivery, by the filing of a petition to the local magistrate of the judicial district when the succession is opened.

The notary, in the presence of two witnesses, shall proceed with the publication of the will by drawing up, with the formalities used for drawing up public instruments, an official report in which he describes the conditions in which the will is found, mentions its contents, and, if the will was delivered in a sealed envelope, relates the facts of its having been opened.

The official report is signed by the person who makes delivery of the will, by the witnesses, and by the notary.

There are attached to the above mentioned official report, the paper on which the will is written, duly certified on each half sheet by the notary and the witnesses, and an extract of the death certificate of the testator, or a copy of the decree ordering the opening of the instrument and witnessing the last will of the absentee or the judgment declaring the presumptive death of the absentee.

If the testator has deposited the will in care of a notary, the notary who received the will shall cause its publication.

After the publication, the holographic will becomes effective. Upon request of any interested party, the local magistrate, for justifiable reasons, may order that sentences or expressions unconnected with the devolution of the estate shall be stricken out and omitted in the required copies of the will, unless the judicial authority orders that the copies be rendered verbatim.

ARTICLE 621 - Publication of mystic wills.

Mystic wills shall be opened and published by the notary as soon as said notary is apprised of the testator's death.

Whoever considers himself to have an interest may, through the filing of a petition with the local magistrate of the judicial district where the succession is opened, request that a time limit be set for the opening and the publication of the will.

The provisions of the third paragraph of Article 620 are applicable.

ARTICLE 622 - Wills conveyed to local magistrate's courts.

The notary shall convey to the local magistrate's court of the jurisdiction where the succession is opened, a copy, on unstamped paper, of the official report provided in Articles 620 and 621 and of the nuncupative will.

ARTICLE 623 - Notice to heirs and legatees.

A notary who has received a nuncupative will, as soon as he is apprised of the testator's death, shall notify the heirs and legatees whose domicile or residences are known to him of the existence of the will, or, in the case of a holographic or mystic will, after the publication of the will.

CHAPTER V

OF THE INSTITUTION OF HEIR AND OF LEGACIES

SECTION I

GENERAL PROVISIONS

ARTICLE 624 - Violence, fraud, error.

Testamentary bequests which are the result of error, violence, or fraud, may be attacked by any interested party.

An error regarding the purpose of the testamentary bequest, whether it is an error of fact or of law, is cause for annulment if such purpose is implied in the will and was the sole motive of the testator in making the bequest.

The action is barred after five years from the day on which the fraud, violence, or error was discovered.

ARTICLE 625 - Erroneous designation of the heir or legatee, or of the object constituting the bequest.

If the identity of the heir or legatee has been erroneously designated, a bequest is nevertheless effective if the identity of the person whom the testator intended to mention is unequivocally clear from the text of the will or otherwise.

The bequest is also effective if the object of the provision was erroneously designated or described, providing no doubt exists as to what object the testator intended to refer.

ARTICLE 626 - Unlawful purpose of the provision.

An unlawful purpose shall cause a testamentary bequest to be null when such purpose is implied in the will and has been the sole motive which has induced the testator to make the bequest.

ARTICLE 627 - Provision for trustee to deliver testamentary bequests.

No cause of action is admitted to determine whether a provision in favor of a person mentioned in a will is only apparent and in reality concerns some other person, even if expressions contained in such will would indicate or lead to the presumption that it is a case of substitution.

However, if such person mentioned in the will has voluntarily carried out the requested delivery with which entrusted, by transferring the property to the one intended by the testator to receive it, such person may not sue for recovery, unless incapacitated.

The provisions of this Article are not applicable when the facts of the designation of the person or of the legacy are attacked, as in the case of intermediaries or substitutes for persons incapable of receiving the inheritance.

ARTICLE 628 - Provisions in favor of a person whose identity is uncertain.

Provisions made in favor of persons whose identity cannot be determined are void.

ARTICLE 629 - Provisions for spiritual benefits.

Dispositions made for spiritual benefits are valid when the property involved is specified, or when the amount to be used for such purposes can be determined.

Such provisions are considered as a burden to be set off against the heir or legatee, and the provisions of Article 648 are applicable.

The testator may appoint a person for the purpose of carrying out such provisions, even when no party is interested in its fulfillment.

ARTICLE 630 - Provisions in favor of the poor.

Provisions in favor of the poor and other similar provisions, when expressed in general terms, without specifying the use or the public institution for which intended, are considered to have been made in favor of the poor of the place in which the testator had his domicile at the time of death, and the property devolves upon the regional welfare organization.

The preceding provision is applicable also when the person, or the public institution, designated by the testator for the purpose of determining the use of the funds, is unable or unwilling to accept the task.

ARTICLE 631 - Provisions entrusted to the judgment of a third party.

Testamentary bequests which provide for the designation of the heir or legatee, or for the determination of the share of the inheritance, by a third party, are null.

However, provisions under a singular succession made in favor of a third party to be chosen by a person charged with the burden of carrying out the bequest, or by a third person among several designated by the testator or belonging to families or categories of people designated by the testator, are valid. Provisions under a singular succession in favor of one among several entities designated by the testator, are also valid.

If alternative persons are designated and it has not been established by whom such persons must be chosen, such choice shall be considered as having been left to the person charged with the burden of carrying out the bequest.

If the latter, or the above-mentioned third party, is unable or unwilling to make the choice, such choice shall be made by decree of the president of the Tribunal where the succession is opened, the pertinent information having been obtained.

ARTICLE 632 - Amount of legacy to be determined by judgment of third party.

A provision is null which leaves to the person charged with the carrying out of the bequest, or to a third party, the task of determining the object or the amount of the legacy according to his judgment.

Legacies made as remuneration for services rendered to the testator, are valid, even if there is no indication of the object or the quantity of such services.

SECTION II

OF CONDITIONAL TESTAMENTARY DISPOSITIONS - PROVISIONS DEPENDENT ON TIME LIMIT AND MANNER OF FULFILLMENT

ARTICLE 633 - Suspensive obligations and resolutory conditions.

Provisions under universal or singular succession may be made with suspensive or resolutory conditions.

ARTICLE 634 - Impossible or unlawful conditions.

Impossible conditions and conditions contrary to mandatory rules, public order, or morals, are considered non-existent in testamentary dispositions, except for the provisions of Article 626.

ARTICLE 635 - Reciprocal conditions.

Testamentary dispositions under universal or singular succession, made by the testator on condition that he may in turn be benefited by the will of the heir or legatee, are null.

ARTICLE 636 - Prohibition of marriage.

Conditions intended to prevent first or subsequent marriages are unlawful.

However, if legacies of usufruct, of use and occupation, of habitation, of pension, or of other benefit enjoyed for a definite period only have been granted for the period of celibacy or widowhood, they cannot be enjoyed except during such period.

ARTICLE 637 - Time limit.

A time limit which has been set for the beginning or cessation of the effects of a testamentary provision under universal succession is considered as non-existent.

ARTICLE 638 - Conditions not to do, or not to give.

If the testator has made provisions under condition that the heir or legatee refrain from doing or refrain from giving a thing for an unspecified length of time, such provisions are considered to have been made under resolutory conditions, unless a contrary intention of the testator is implied in the will.

ARTICLE 639 - Security in case of resolutive condition.

If a testamentary provision is subject to resolutory condition, the judicial authority may, when it sees fit, require an adequate security from the heir or legatee in favor of those upon whom the inheritance or the legacy would devolve if the conditions were fulfilled.

ARTICLE 640 - Security in case of legacy subject to suspensive condition or with a time limit.

If a person is left a legacy under suspensive condition or to be effective after a certain length of time, the person charged with carrying out the provision may be required to give adequate security to the legatee, unless the testator has provided otherwise.

The security may be required also from the legatee when the legacy is definitive.

ARTICLE 641 - Administration in case of suspensive condition or in case of failure to give security.

When the appointment of the heir has been made under suspensive condition, the bequest is entrusted to an administrator until such condition is fulfilled, or until it is certain that the condition cannot be fulfilled.

The same provision applies when the heir or legatee fails to comply with the obligation of giving security as provided in the two preceding Articles.

ARTICLE 642 - Persons entitled to administration.

A person who has been designated as an alternative recipient of the inheritance, or a co-heir, is entitled to the administration whenever the right of accretion between such person and the heir under condition, is operative.

If no person has been designated as an alternative recipient or if there are no co-heirs in whose favor the right of accretion may operate, the administration is entrusted to the person who is presumed to be the legal heir.

In all cases the judicial authority may provide otherwise for justifiable reasons.

ARTICLE 643 - Administration in case of an unborn heir.

The provision of the two preceding Articles are also applicable when the person designated as heir is the child of a specified living person, although such child is not yet conceived. The representation of the child to be born and the protection of its rights in the inheritance are entrusted to the potential parent, even when the administrator of the inheritance is a third person.

If the heir is a child already conceived, the administration is entrusted to the father or, in his absence, to the mother.

ARTICLE 644 - Obligations and duties of the administrators.

The provisions applicable to curators of vacant successions are applicable to the administrators mentioned in the preceding Article.

ARTICLE 645 - Suspensive condition without time limit depending on the determination of a person for its fulfillment.

When the condition attaching to the appointment as an heir or legatee is a suspensive one depending on the determination by another person for its fulfillment, and no time limit has been set for its fulfillment, the interested parties have access to the judicial authority for the purpose of establishing this time limit.

ARTICLE 646 - Retroactivity of conditions.

The fulfillment of conditions has retroactive effect; but the heir or legatee, in the case of a resolutory condition, is not bound to return the income and profits except from the day on which the condition has been fulfilled.

An action for restitution of income and profits is barred after five years.

ARTICLE 647 - Burdens.

Burdens may be attached to the appointment of an heir or to the acceptance of a legacy.

If the testator has not provided otherwise, the judicial authority, if it sees fit, may require the heir or the legatee charged with the burden, to give security.

Impossible or unlawful burdens are considered non-existent; however, if they constitute the sole ground for the provision, such provision is null.

ARTICLE 648 - Fulfillment of provisions constituting the burden.

Any interested party may act to fulfill the conditions constituting the burden. In case of failure to fulfill such conditions, the judicial authority may order the termination of the testamentary provision, if non-fulfillment of the conditions was foreseen by the testator, or if the fulfillment of the conditions was the sole ground for the provision.

SECTION III

OF LEGACIES

ARTICLE 649 - Acquisition of legacies.

Legacies are acquired without necessity of formal acceptance, except for the power of renunciation.

When the object of the legacy is a specific thing or right of the testator, the possession or the right vests in the legatee at the time of the testator's death.

However, the legatee is bound to request from the person charged with the carrying out of the legacy, the possession of the item which has been bequeathed, even if he has been expressly exempted from doing so by the testator.

ARTICLE 650 - Setting of a time limit for renunciation.

Any interested party may request the judicial authority to set a time limit within which the legatee shall declare whether he intends to avail himself of the power of renunciation. When this time limit has lapsed with no declaration on the part of the legatee, the right to renounce is lost.

ARTICLE 651 - Legacies of items belonging to other persons.

The legacy of an item belonging to the person charged with the carrying out of the provision or to a third party, is null, unless it appears from the will, or from another written declaration of the testator, that he knew that the item constituting the legacy belonged to such person or to a third party. In this case, the person charged with carrying out the provision is bound to acquire ownership of the item from the third party and transfer it to the legatee or pay the legatee its fair price.

However, if the item constituting the legacy was in possession of the testator at the time of his death, the legacy is valid even if the item belongs to another.

ARTICLE 652 - Legacy of an object belonging only in part to the testator.

If the testator owns only a portion of the object bequeathed, or a right therein, the legacy is valid only with respect to the part he owns or the right he enjoys, unless it appears that the testator intended the legacy to consist of the entire object, in which case the preceding Article is applicable.

ARTICLE 653 - Legacy of objects determined by nature.

A legacy of objects specified only by nature is valid even if the estate of the testator did not include objects of that nature at the time when the will was made and none were included in the estate at the time of death.

ARTICLE 654 - Legacy of an object not in the estate.

When the testator bequeaths any particular object, or an object specified only as to its nature, to be taken from his estate, the legacy is not effective if the object is not in the estate of the testator at the time of death.

If the object is found in the estate of the testator at the time of his death, but not in the specified quantity, the legacy is effective only for the quantity found therein.

ARTICLE 655 - Legacy of an object to be taken from a specified place.

The legacy of objects to be taken from a specified place is effective only if the objects are found in such a place, and for such part of the objects found therein; however, the legacy

is effective for the entire quantity when, at the time of death of the testator, the objects are not found, wholly or in part, because they have been temporarily removed from the place where they were usually kept.

ARTICLE 656 - Legacy of an object belonging to the legatee.

The legacy of an object which, at the time of the making of the will, was already owned by the legatee is null if the object is also found to be in his possession at the time of the opening of the succession.

If at the time of the opening of the succession, the object is found to be in possession of the testator, the legacy is valid, and it is also valid if at that time the object is found to be in possession of the person charged with carrying out the legacy, or of a third party, if it appears from the will that the legacy was made in anticipation of such a situation.

ARTICLE 657 - Legacy of object acquired by legatee.

If the legatee, after the making of the will, has acquired from the testator, for a consideration or gratuitously, the object constituting the legacy, such legacy is not effective, in accordance with Article 686.

If, after the making of the will, the object was gratuitously acquired by the legatee from the person charged with carrying out the provision, or from a third party, the legacy is not effective. But if the acquisition was made for a consideration, the legatee is entitled to collect the price thereof, when the circumstances indicated in Article 651 are present.

ARTICLE 658 - Legacy consisting of a claim or discharge from a debt.

A legacy consisting of a claim or a discharge from debt is effective only for that portion of the claim or debt existing at the time of death of the testator.

The heir is bound to give to the legatee only those deeds evidencing the claim included in the legacy which are found in the testator's control.

ARTICLE 659 - Legacy in favor of a creditor.

If the testator leaves a legacy to his creditor, without mentioning the debt, the legacy is not presumed to have been made in satisfaction of the claim of the legatee.

ARTICLE 660 - Legacy of support.

A legacy of support, regardless of in whose favor it is made, includes the necessaries indicated in Article 438, unless the testator has provided otherwise.

ARTICLE 661 - Legacy made in favor of one of the co-heirs.

A legacy made in favor of one of the co-heirs, and chargeable to the inheritance as a whole, is considered as a legacy involving the entire amount to which such favored co-heir is entitled (including the legal portion).

ARTICLE 662 - Heirs or legatees charged with the burden of carrying out a legacy.

The testator may charge the heirs, a legatee, or several legatees, with the burden of carrying out a legacy. In the absence of provisions by the testator, the heirs are bound to carry out the legacies.

The carrying out of such legacies is charged to each of the persons designated by the testator in proportion to such person's respective share of the inheritance or of his legacy, if the testator has not provided otherwise.

ARTICLE 663 - Burden of carrying out a legacy left to a sole heir.

If the obligation of carrying out a legacy has been left specifically to one of the heirs, he alone is bound to satisfy it.

When the object of the legacy is one belonging to a co-heir, the other co-heirs are bound to compensate such co-heir for the value of the object, in cash or with property of the estate, in proportion to the share inherited by each, provided it does not appear that this is contrary to the intention of the testator.

ARTICLE 664 - Fulfillment of legacies consisting of objects specified by nature only.

In legacies where the object is specified only as to its nature, the choice of such object is entrusted to the person charged with carrying out the legacy, unless the testator appointed the legatee or a third party for that purpose. The person charged with carrying out the legacy is bound to deliver objects not below average in quality; but if in the estate of the inheritance there is only one object of the nature specified, the aforementioned person does not have the power of choice and cannot be bound to deliver another object, unless the testator provided otherwise.

If the testator has left the choice to the legatee or to a third party, an object of average quality must be chosen; but if objects of the nature specified are found in the inheritance, the best may be selected.

If the third party is unable or unwilling to make the choice, this is made in accordance with the third paragraph of Article 631.

ARTICLE 665 - Choice in alternative legacies.

In alternative legacies the choice is entrusted to the person charged with carrying out the legacy, unless the testator left such choice to the legatee or to a third party.

ARTICLE 666 - Power of choice descending to the heir.

Both in legacies of objects specified by nature only and in alternative legacies, if the person charged with carrying out the legacy or the legatee entitled to make the choice has been unable to do so, the power of making such choice descends to his heir.

The choice is irrevocable.

ARTICLE 667 - Accessions to the object constituting the legacy.

The object of the legacy must be delivered to the legatee with all its accessories and in the same condition as it was at the time of the death of the testator.

If the object of the legacy is real property, structures built on such property are also included therein, whether or not they existed at the time when the will was made, except, in all cases, for the provisions of the second paragraph of Article 686. If the real property was increased through later acquisitions, the legatee is entitled to such acquisitions, provided they are contiguous to the estate and constitute an economic whole with the estate.

ARTICLE 668 - Fulfillment of the legacy.

If the object of a legacy is burdened with a servitude, with an annual rent (as under a grant of emphyteusis), with any other burden attached to the estate, or is subject to a land lease, such burden is carried by the legatee.

If the object of the legacy is bound as security merely for the payment of interest for contribution, or for other indebtedness of the inheritance, or even of a third party, the heir is bound to the payment of the annual interest or other

debt and to the payment of the principal, depending on the nature of the debt, unless the testator has provided otherwise.

ARTICLE 669 - Income and profits derived from the object constituting the legacy.

If the object of the legacy is interest bearing and belongs to the testator at the time of death, the income and profits or the interest derived from such object accrues to the legatee from the moment of the testator's death.

If the object is one belonging to the person charged with the carrying out of the provision, or to a third party, or if it is an object specified only as to its nature or quantity, the income and profits or the interest are due from the date of the judicial petition therefor, or from the date on which the fulfillment of the legacy has been agreed upon, unless the testator has provided otherwise.

ARTICLE 670 - Provisions when a legacy is to be fulfilled in installments.

If the object of a legacy is a sum of money or a certain quantity of other fungible thing, to be furnished in installments, the first installment is reckoned from the time of the death of the testator, and the legatees acquire the right to the whole amount of the portion due for the current period, even if the testator was living only at the beginning of such period. However, the legacy may not be acquired until after the termination of such period.

A legacy of support, however, may be acquired at the beginning of the period.

ARTICLE 671 - Legacies and burdens chargeable to legatee.

The legatee is bound to fulfill the provisions of the legacy and to carry out any other burden imposed upon him, within the limits of the value of the legacy.

ARTICLE 672 - Expenses for the fulfillment of legacies.

Expenses for the fulfillment of legacies are paid by the person charged with carrying out the legacy.

ARTICLE 673 - Cases in which object constituting the legacy perishes. Impossibility of delivery.

The legacy is not effective if the object of the legacy has completely perished during the life of the testator.

The liability of the person charged with carrying out the legacy ceases if, after the death of the testator, the delivery of such legacy has become impossible of being performed for a cause not attributable to him.

SECTION IV

OF THE RIGHT OF ACCRETION

ARTICLE 674 - Accretion operating between co-heirs.

When several universal heirs have been named in a will without specifying the share of each, or specifying only the aliquot shares, if one of the heirs is unable or unwilling to accept his share, it accrues to his co-heirs.

When an aliquot share descends to several heirs, the right of accretion operates in the same manner.

Accretion does not operate when it appears from the will that the testator intended otherwise.

In all cases the right of representation remains unaffected.

ARTICLE 675 - Accretion operating between legatees.

Accretion operates also between several legatees whose legacy consists of the same object, unless it appears from the will that the testator intended otherwise, and except for the right of representation.

ARTICLE 676 - Effects of accretion.

Acquisition through accretion operates automatically.

Co-heirs and legatees for whose benefit the accretion operates succeed the defaulting heir or legatee in all liabilities except those of a personal nature.

ARTICLE 677 - When accretion does not operate.

If accretion does not operate, the portion of a defaulting heir devolves upon the legal heirs and the portion of a defaulting legatee devolves upon the person charged with carrying out the legacy.

The legal heirs and the person charged with carrying out the legacy succeed to all the liabilities of the defaulting heir or legatee, respectively, unless such liabilities are of a personal nature.

The preceding provisions are applicable also in the case of a resolutory condition in a testamentary provision when there is failure to perform the condition constituting the burden.

ARTICLE 678 - Accretion in the legacy of usufruct.

When a legacy consisting of a usufruct is left to several persons in such a manner that the right of accretion exists between them, accretion takes place in the case of the default of one of such persons, even after acquisition of possession of the property on which the usufruct is based.

If the right of accretion does not exist, the share of the defaulting legatee is consolidated with the property.

SECTION V

OF THE REVOCATION OF TESTAMENTARY DISPOSITIONS

ARTICLE 679 - Testator's power of revocation.

The testator cannot renounce his power to revoke or change testamentary provisions; any clause or condition to the contrary is without effect.

ARTICLE 680 - Express revocation.

Express revocation can be made only by a new will, or by a document received by a notary in the presence of two witnesses, in which the testator personally declares that he revokes, wholly or in part, prior testamentary dispositions.

ARTICLE 681 - Revocation of revocation.

The total or partial revocation of a will may in turn be revoked with the same formalities provided in the preceding Article. In such case, the dispositions which had been revoked are reinstated.

ARTICLE 682 - Subsequent will.

Subsequent wills which do not expressly revoke prior ones, cause the annulment only of such dispositions contained in prior wills as are incompatible with the subsequent dispositions.

ARTICLE 683 - When subsequent will is ineffective.

A revocation made by a subsequent will remains wholly in force, even when this new will is without effect by reason of

the death of the heir or legatee before the testator's death, by reason of the incapacity or unworthiness of the heirs or legatees, or by reason of their refusal to accept the inheritance or legacy.

ARTICLE 684 - Destruction of holographic will.

A holographic will which has been wholly or in part destroyed, mutilated, or obliterated, is considered to be wholly or partially revoked, unless it can be proved that it was destroyed, mutilated or obliterated by a person other than the testator, or that the testator had not intended to revoke it.

ARTICLE 685 - Effects of withdrawal of mystic will.

Withdrawal of a mystic will by the testator from the hands of the notary or from the office of the reporter of archives where it was deposited, does not imply revocation of the will when the same document may be effective as an holographic will.

ARTICLE 686 - Alienation and transformation of the object constituting the legacy.

An alienation made by the testator of all or part of the property constituting the legacy, even if made by a sale with reservations of right of recovery, causes that part of the legacy which has been alienated to be revoked, even when such alienation is void for causes other than a defect in consent, or recovery of the object by the testator.

The same effects are caused if the testator transformed the object of the legacy into other property which has lost its previous form and identity.

Proof that the testator intended otherwise is admissible.

ARTICLE 687 - Revocation for subsequent appearance of children.

In the case of universal or particular succession, provisions of a will made by a person who, at the time of the making thereof, did not have, or was not aware of having, children or descendants, are revoked automatically in the event of existence or subsequent appearance of a child or other legitimate descendant of the testator, even though the child be posthumus, legitimated or adopted, or in the event of acknowledgment of a natural child.

The revocation takes place even if the child has been conceived at the time of the making of the will, or if, in the

case of a natural legitimated child, the child was acknowledged by the testator before the will and was subsequently legitimated. The revocation is not operative when the testator has foreseen the contingency of the subsequent existence of children or their descendants.

If the children or descendants do not take part in the succession, and representation is not operative, the provisions are effective.

CHAPTER VI

OF SUBSTITUTIONS

SECTION I

OF ORDINARY SUBSTITUTIONS

ARTICLE 688 - Cases of ordinary substitutions.

The testator may designate a substitute for the appointed heir, in the event that the latter be unable or unwilling to accept the inheritance. If the testator has foreseen and provided for only one such contingency, he is presumed to have provided for the contingency not mentioned, unless it appears from the will that he intended otherwise.

ARTICLE 689 - Substitution of several persons. Reciprocal substitutions.

One person may be substituted for several persons and several persons may be substituted for one person. Substitution may also operate on a reciprocal basis among the co-heirs. If the latter inherit in unequal shares, the allotment of the shares as fixed when they were first called to the inheritance, is presumed to be maintained in the substitution.

If it is provided that, in case of substitution, an additional person is called to participate in the inheritance together with the heirs, the extra share is contributed to by all persons partaking in the substitution.

ARTICLE 690 - Duties of substitutes.

The substitutes must fulfill the obligations imposed on the heirs, unless the testator intended otherwise, or unless the obligations are of a personal nature.

ARTICLE 691 - Ordinary substitution of legacies.

The provisions of this section are also applicable to legacies.

SECTION II

OF SUBSTITUTIONS DERIVING FROM FIDEI COMMISSA

ARTICLE 692 - Limitations.

Provisions with which the testator obligates his child, upon death, to preserve or return all or part of the disposable portion of the estate to all the children born or to be born of the appointed heir, or to a public entity, are valid.

Provisions with which the testator obligates his brother or his sister to preserve or return the property bequeathed to them to all their children born or to be born, or to a public entity, are also valid.

In all other cases the substitution is null and void.

Provisions by which the testator forbids the heir from disposing of the property of the inheritance through acts inter vivos or causa mortis are also null and void.

ARTICLE 693 - Rights and obligations of the appointed heir.

The appointed heir has the enjoyment and unrestricted management of the property comprised in the substitution and may enforce all causes of action related thereto. He may furthermore take any measure for the improvement of the utilization of the property.

Provisions regarding the usufructuary extend to the appointed heir, when applicable.

If the appointed heir fails to observe his obligations, the judicial authority may appoint an administrator for the property, even ex officio.

ARTICLE 694 - Alienation of the property.

The judicial authority may authorize the alienation of the property comprised in the substitution when an evident advantage is derived therefrom, and may make provisions for the reinvestment of the proceeds.

The placing of mortgages on the property for the purpose of securing credits to be used for improvements and alterations of the real estate included in the property, may also be authorized by the judicial authority, with the necessary safeguards.

ARTICLE 695 - Rights pertaining to personal creditors of the appointed heir.

Personal creditors of the appointed heir may execute their claims only on the income derived from the property included in the substitution.

ARTICLE 696 - Devolution of the property on the person designated as substitute.

The inheritance devolves on the person designated as substitute upon the death of the appointed heir.

If the substitution operates in favor of the children of the person designated as substitute, and the latter dies without leaving any children, the property devolves upon the legitimate or testamentary heirs of the substitute.

If the substitution operates in favor of a public entity which is terminated prior to the death of the person appointed as heir, such person acquires the definitive ownership of the property.

If the appointed heir dies prior to the death of the testator, or if he is excluded from the inheritance by incapacity, unworthiness or renunciation, the inheritance devolves on the person designated as substitute, and is effective from the time of the death of the testator.

ARTICLE 697 - Substitution as applied to legacies fidei commissae.

The provisions of this section are applicable to legacies also.

ARTICLE 698 - Successive enjoyment of usufruct.

Provisions whereby a usufruct, an income, or an annuity, are bequeathed to several persons successively, are effective only in favor of the persons who have first claim to their enjoyment at the time of the death of the testator.

ARTICLE 699 - Gifts upon marriage, charitable bequests and similar bequests.

The following testamentary provisions made in favor of persons to be selected within a specified group, or among the descendants of specified families, are valid, to wit:

1. Those intended to be satisfied in installments, whether

in perpetuity or within a time limit, of specified amounts to be used as gifts upon marriage or birth.

2. Premiums intended to promote advancement in a trade or profession.

3. Charitable bequests.

4. Provisions intended to promote other objectives of public utility.

Such annuities may be collected in accordance with the provisions regulating incomes.

CHAPTER VII

OF TESTAMENTARY EXECUTORS

ARTICLE 700 - Privilege of appointment and substitution.

The testator may appoint one or more testamentary executors, and one or more persons in substitution thereof in case some or all testamentary executors are unable or unwilling to accept the appointment.

If several executors have been appointed, they shall all be bound to act jointly in this capacity, unless the testator has divided their functions, or in the event of an urgent necessity for the conservation of property, or in order to safeguard a right related to the inheritance.

The testator may authorize the executor to substitute others for himself in case of such executor's inability to continue in office.

ARTICLE 701 - Capacity to be appointed as testamentary executor.

Persons lacking full capacity to obligate themselves may not be appointed testamentary executors.

Heirs or legatees may also be appointed testamentary executors.

ARTICLE 702 - Acceptance or rejection of the appointment.

The acceptance or rejection of the appointment as executor shall appear in a declaration made at the local magistrate's court of the jurisdiction where the succession has been opened, and a notation of such acceptance or rejection shall be entered in the register of successions.

Acceptance cannot be subject to conditions or time limits.

The judicial authority, upon petition of any interested party, may assign a time limit to the executor to signify acceptance, at the expiration of which the executor shall be considered as having rejected the appointment.

ARTICLE 703 - Functions of executors.

Testamentary executors shall see that the last dispositions of the deceased are faithfully executed.

For such purpose, unless the testator intended otherwise, the executor shall administer the whole of the estate of the succession by taking possession of the property thereof.

This possession cannot continue beyond one year from the declaration of acceptance, unless the judicial authority, after hearing the heirs, grants a longer period for reasons of evident necessity; such period however shall never exceed another year.

Testamentary executors shall administer the estate with the diligence of a pater familias and may perform all acts necessary for its management. When the necessity arises to alienate property of the succession, executors shall request authorization therefor from the judicial authority, which shall make adequate provisions after hearing the heirs.

No act of the executor shall interfere with the right of the appointed heir to renounce the inheritance, or to accept it with benefit of inventory.

ARTICLE 704 - Representation in court.

All actions relative to the succession shall be instituted against the executor also, for as long as the latter's administration lasts. The executor has the power to appear in suits by the heir and may exercise all actions connected with his office.

ARTICLE 705 - Affixing of seals. Inventory.

If juridical persons, minors, interdicted or absent persons are designated as heirs, the executor shall cause the seals to be affixed on the estate (the estate is thereby taken into public custody).

In such cases, the executor shall cause an inventory of the

property of the succession to be made in the presence of the heirs, previously notifying such heirs or their representatives to attend the taking of the inventory.

ARTICLE 706 - Partitions made by the executors.

The testator may provide that an executor who is not an heir or legatee proceed with the partition of the property of the inheritance among the heirs. In this case the provisions of Article 733 are applicable.

The testamentary executor shall hear the heirs prior to the partition.

ARTICLE 707 - Delivery of the property to the heirs.

The executor is bound to deliver to the heirs, on their request, property which is not necessary to the exercise of the executor's functions. The executor cannot refuse such delivery on the grounds of performance of obligation in accordance with the wishes of the testator, or on the grounds of conditional legacies or legacies with a time limit, if the heir can prove to have satisfied such obligations and offers adequate security for the fulfillment of such obligations, legacies and burdens.

ARTICLE 708 - Disagreement among executors.

If executors who are bound to act jointly in their capacity do not agree regarding the performance of an act related to their office, the judicial authority will make adequate provisions, after hearing the heirs, if necessary.

ARTICLE 709 - Account of administration.

The executor is bound to render an account of his administration when it expires, and, if the administration extends beyond one year from the death of the testator, thereafter.

The executor is liable to the heirs and legatees for damages incurred through his negligence. If there are several executors, they shall all be responsible jointly for their administration.

The testator may not exempt the executors from the obligation to account for their administration or from the responsibility of their administration.

ARTICLE 710 - Dismissal of testamentary executor.

The judicial authority, upon petition of any interested

party, may dismiss from office an executor for serious irregularities in the fulfillment of his obligations, for ineptitude, or for actions tending to impair the trust bestowed on him.

The judicial authority shall hear the executor prior to making a decision on this matter, and may make all necessary investigations.

ARTICLE 711 - Compensation.

The office of executor is without compensation. The testator however may provide for a compensation to be charged to the inheritance.

ARTICLE 712 - Expenses.

Expenses sustained by executors in connection with the exercise of their offices are charged to the inheritance.

TITLE FOUR

OF THE PARTITION OF SUCCESSIONS

CHAPTER I

GENERAL PROVISIONS

ARTICLE 713 - Right to demand partition.

Co-heirs may demand partition at all times.

However, when the appointed heirs, or some of them, are minors, the testator may order in his will that no partition be made until one year from the attainment of majority of the last born child.

The testator may also order in his will that no partition be made of the inheritance, or of any of the property therein, for a period not exceeding five years from the date of his death.

In both cases, however, the judicial authority may, for grave reasons, upon request of one or more of the co-heirs, grant permission to make partition without delay and after a shorter period than that established by the testator.

ARTICLE 714 - Heirs enjoying separately part of the property of the inheritance.

Partition may be demanded also when one or more co-heirs have enjoyed separately part of the property of the inheritance,

unless usucaption has become operative by reason of exclusive possession.

ARTICLE 715 - Circumstances barring partition.

If one of the heirs is a conceived child, partition cannot be made before the birth of said child. Likewise partition cannot be made during the pendency of a suit regarding legitimacy, or regarding natural descendants of a person who would qualify as an heir through a favorable judgment, nor while the administrative proceedings for acknowledgment provided in the fourth paragraph of Article 252 are in progress, nor during the proceedings for acknowledgment of the person appointed as heir.

The judicial authority, however, may grant permission to make the partition by taking the all due precautions.

The provision of the preceding paragraph is applicable even if there are children among the heirs who may be born but are not yet conceived.

If children who may be born but are not yet conceived are appointed as heirs for a portion which is not specified, the judicial authority may turn over to the co-heirs the whole or part of the property of the inheritance, according to circumstances and by taking the necessary precautions to safeguard the interest of after-born children.

ARTICLE 716 - Partition of property constituting the family estate.

The property constituting the family estate cannot be included in the partition until all children have attained majority, except in the case provided for in the second paragraph of Article 715.

ARTICLE 717 - Suspension of partition ordered by the judicial authority.

The judicial authority, on request of one of the co-heirs, may suspend, for a period not exceeding five years, the partition of the inheritance, or of some of the property of the inheritance, when the immediate carrying out of such partition would seriously prejudice the estate.

ARTICLE 718 - Right to claim property in kind.

Each of the co-heirs may demand his portion in kind of the movable and immovable property of the inheritance, except for the provisions of the following Articles.

ARTICLE 719 - Sale of property to satisfy debts of the inheritance.

If the co-heirs who are entitled to more than one half of the succession agree that the sale is necessary in order to satisfy the debts and charges of the succession, the movables shall be sold at public auction. If necessary, the immovables, the alienation of which is the least prejudicial to the interest of the co-heirs, shall also be sold at public auction.

If all parties concerned agree, the sale may take place between the co-heirs and without advertisements, unless legatees or creditors oppose it.

ARTICLE 720 - Indivisible immovables.

When the inheritance includes immovables which cannot be conveniently divided, or when a prejudice to the public economy or health would be the consequences of dividing it, and partition of the estate cannot be accomplished without such division, such immovables shall preferably be included, as a whole, in the portion of one of the co-heirs having a major claim, charging such heir for the excess of his share. The immovable may be included, as a whole, in the portion of several co-heirs, if such co-heirs make a joint request for same. If none of the co-heirs agrees to this, the immovable shall be sold at public auction.

ARTICLE 721 - Sale of immovables.

All terms and conditions relative to the sale of immovables shall be established by the judicial authority whenever such terms and conditions are not agreed upon by the co-heirs.

ARTICLE 722 - Property which, in the interest of natural production, is indivisible.

The provisions of the two preceding Articles are applicable even when the inheritance includes property which is declared indivisible by law in the interest of national production, unless special laws provide otherwise.

ARTICLE 723 - Settlement of accounts.

If a sale of the movables or of the immovables of an estate has taken place, after such sale the heirs shall proceed with the relevant settlement of accounts, the collection of the assets and liabilities of the succession, the allotment of the portions, and the cash equalizations and reimbursements which the heirs owe to each other.

ARTICLE 724 - Collation and set off.

Co-heirs who are bound to collate according to the second Chapter of this Title, shall return all the property received by them through donation.

Each of the co-heirs must set off against his share the sums due from him to the estate and the sums due to other co-heirs, in accordance with their relationship to the property held in common.

ARTICLE 725 - Assets drawn from the estate by an heir.

If the property which was donated is not returned in kind, or if the portion of an heir is liable to charges for debts according to the second paragraph of the preceding Article, the other heirs may draw property from the estate of the inheritance in proportion to their respective shares.

Such deductions from the estate shall consist, as far as possible, of property of the same nature as the property which was not returned in kind.

ARTICLE 726 - Evaluation and formation of portions.

After the making of deductions, the evaluation of the residuum of the estate is ascertained according to the marketable value of the individual items in the estate.

Following such evaluation, formation is made of as many portions as there are heirs, or of as many portions as there are stirpes among which the inheritance is to be divided, according to their share.

ARTICLE 727 - Provisions regulating the formation of portions.

Each portion of the property which has been evaluated shall include a quantity of movables, immovables and claims of an equal nature and quality, in proportion to the amounts of each portion, except for the provisions of Articles 720 and 722.

However, the breaking up of libraries, galleries and collection having historical, scientific or artistic importance shall be avoided, if possible.

ARTICLE 728 - Equalization in money.

Differences in value of shares of property are compensated for by an equivalent in money.

ARTICLE 729 - Assignment or attribution of portions.

Equal portions are assigned to the heirs by drawing lots; unequal portions shall be allotted to the heirs. However, equal fractions of property to be divided between heirs having unequal portions, may be assigned by drawing lots.

ARTICLE 730 - Proceedings carried out before a notary.

The proceedings indicated in the preceding Article shall be carried out before such notary as the co-heirs agree upon. If the co-heirs fail to agree, the appointment of such notary is made by decree of the local magistrate of the place where the succession is opened.

All disputes arising in the course of the proceedings are reserved and brought together before the competent judicial authority, which shall make disposition thereof in one judgment.

ARTICLE 731 - Subdivision of the property in each stirpe.

The provisions regulating partition of the entire estate are applicable to the partition among the members of each stirpe.

ARTICLE 732 - Right of priority.

Co-heirs who wish to alienate their share of the estate, or part of it, shall give notification of the proposed alienation to each co-heir and shall indicate the price; the co-heirs have a right of priority. This right must be exercised within two months from the last notification. In the absence of notification, the co-heirs have the right to recover such alienated property from the purchaser or from any successive party whose interest derives from such purchaser for as long as the co-ownership of the inheritance lasts.

If several heirs intend to exercise their rights of recovery, the share is divided in equal parts among the heirs.

ARTICLE 733 - Provisions for partition given by testator.

If the testator made special provisions for the formation of shares, such provisions are binding on the heir unless the actual value of the property fails to correspond with the shares established by the testator.

The testator may order by his will that partition be made according to the evaluation made by a person designated by

said testator, provided such person is not an heir or legatee. The plan of partition presented by the person is not binding on the heirs if the judicial authority, on request of any of the heirs if the judicial authority, on request of any of the heirs, recognizes a contrary intention of the testator, or an obvious injustice.

ARTICLE 734 - Partition made by testator.

The testator may partition the property among the heirs, also including in such partition any portion which is not disposable.

If all of the property left by the testator at the time of death is not included in such partition, such property as was not included is disposed of according to law, unless the testator intended otherwise.

ARTICLE 735 - Failure to mention forced or appointed heirs and encroachment on reserved portion.

A partition in which the testator has failed to include any of the forced or appointed heirs is null.

Co-heirs whose reserved portion has been encroached upon have a cause of action for reduction against the other co-heirs.

ARTICLE 736 - Delivery of documents.

The documents relative to the property and to the rights assigned to each of the heirs shall be delivered to such heirs after the partition.

The documents relative to an item of property which is divided remain with the party having the largest share of such property, with the obligation to transmit these documents to the co-heirs who may be interested, at any time, on their request. If the property is divided in equal parts, said documents, and the document relative to the inheritance as a whole, are entrusted to a person to be chosen for that purpose by all interested parties; such person has the obligation to transmit the documents to any of such parties, upon request thereof. If the choice of such person is not agreed upon, he shall be appointed by decree of the local magistrate of the place where the succession is opened, upon petition of any interested party and after hearing the other parties.

CHAPTER II

OF COLLATIONS

ARTICLE 737 - Collation applying to legitimate children.

Children or other descendants, even with benefit of inventory,

participating in the inheritance with their brothers, sisters, or descendants, shall return to the co-heir all the property received from the deceased through donation, either directly or indirectly, unless the donor or the testator provided otherwise.

Children or other descendants may not retain donations beyond the share of the disposable portion, even if expressly exempted from the obligation to return such donations.

ARTICLE 738 - Collation applying to legitimate and natural children.

Legitimate children are bound to collate jointly with natural children.

Natural children are bound to collate jointly with legitimate children.

Natural children, notwithstanding any dispensation by the testator, may not receive from the inheritance more than provided in Article 592, including what is received through donation; nor may they retain donations beyond the limits indicated in Article 592 even when, by reason of renunciation or for other cause, they are not participants in the succession. The provisions of Article 599 are applicable.

ARTICLE 739 - Donations to descendants or to the spouse of an heir.

If the spouses have been the joint recipients or a donation and one spouse is the descendant of the donor, only the portion donated to the latter is subject to collation.

ARTICLE 740 - Donation to the ascendant of the heir.

A descendant who inherits through representation shall return all that which was donated to him, even in case of renunciation by the descendant of his inheritance.

The third paragraph of Article 738 is applicable to the descendants of a natural child inheriting through representation, even when the donation is made to his ascendants.

ARTICLE 741 - Collation due for dowry and other contributions.

Collation is due for what has been expended by the deceased to settle a dowry or to make other contributions to descendants on the occasion of marriage, to obtain employment or to set up an establishment, to pay premiums on life insurance where the descendants are the beneficiaries, or to pay debts.

If the person who settled such dowry, paid it to the husband with insufficient security, the daughter who has received such dowry is obligated to convey the right of action against the property of the husband.

ARTICLE 742 - Expenditures for which collation not due.

Expenses of support, education, or illness are not subject to collation nor are the ordinary expenses for clothing or wedding.

Expenses for the trousseau and for professional and artistic instruction are subject to collation only when considerably in excess of the ordinary, taking into consideration the financial circumstances of the deceased.

The largess contemplated in the second paragraph of Article 770 is not subject to collation.

ARTICLE 743 - Partnership with the heir.

No collation is due for what has been received by reason of a partnership contracted without fraud between the deceased and one of the heirs thereof, provided the conditions regulating such partnership were stipulated in a dated document.

ARTICLE 744 - Loss or destruction of object constituting donation.

Property which has been lost or destroyed without the fault of the donee is not subject to collation.

ARTICLE 745 - Profits and income.

Profits derived from the property, and income derived from the amounts subject to collation, are due only from the date of the opening of the succession.

ARTICLE 746 - Collation of immovables.

A donee who makes collation of an immovable has the choice of making the collation in kind or of deducting its value from his portion.

If the immovable has been alienated or mortgaged, the collation is made only through deduction.

ARTICLE 747 - Collation through deduction.

Collation through deduction is based on the value of the immovable at the time of opening of the succession.

ARTICLE 748 - Improvements, expenses and deteriorations.

In all cases, the donee must be reimbursed for expenses incurred in improving the estate in proportion to the increase of value of the estate from the time of opening of the succession.

The donee must also be reimbursed for the extra expenses incurred, without his fault, for the preservation of the property.

On the other hand, the donee is accountable for the deterioration resulting from his negligence which has diminished the value of the immovable.

A co-heir who collates an immovable in kind may retain possession thereof until reimbursed for the sums due him for expenses and improvements.

ARTICLE 749 - Improvements and deteriorations of an alienated immovable.

If the immovable was alienated by the donee, the improvements and deteriorations caused by the purchaser shall be computed according to the provisions of the preceding Article.

ARTICLE 750 - Collation of movables.

Movables are collated by deducting the value thereof as of the date of opening of the succession.

In the case of an object which cannot be used without becoming consumed, if the donee has already consumed such object, the value is determined in accordance with the market value thereof at the date of opening of the succession.

In the case of objects which deteriorate through use, the value is determined by the condition in which such objects are found at the date of opening of the succession.

The value of government securities, of other securities listed on the exchange, and of wares and merchandise the current price of which is included in price lists, is determined on the basis of the exchange quotations and price lists at the date of opening of the succession.

ARTICLE 751 - Collation of money.

The collations of sums of money donated is made by deducting from the inheritance an amount of money equal to the legal value of the currency donated, or of any currency which is legally

substituted at the time of opening of the succession. If such donated money is not sufficient, and the donee is unwilling to collate a different kind of money or securities, deduction is made of movable or immovable property in the inheritance in proportion to the respective shares.

CHAPTER III

OF THE PAYMENT OF DEBTS

ARTICLE 752 - Debts of the inheritance shared among the heirs.

The co-heirs share in the payment of debts and burdens of the inheritance in proportion to their respective shares, unless the testator provided otherwise.

ARTICLE 753 - Immovables charged with periodical payments which are redeemable.

When an immovable carries a recorded charge for the performance of periodical payments of a redeemable obligation, the co-heirs may request that these immovables be freed or discharged before proceeding to the formation of the portions. If one of the co-heirs objects, the judicial authority shall decide. If the co-heirs partition the inheritance in the condition in which it happens to be found, the encumbered immovable shall be valued on the same basis as the other immovable property in the estate, and an amount equal to the value of the capital necessary for payments, in accordance with the provisions relative to such redemption, shall be deducted unless a special agreement specifies the capital to be used for said discharge.

Only the heir in whose portion the immovable happens to fall, is liable for such performance, with the obligation to give warranty to the co-heir.

ARTICLE 754 - Payment of debts and reimbursement.

The heirs are personally liable to the creditors for the payment of debts and burdens of the inheritance in proportion to their share, and are liable for the entire amount due for encumbrances. Co-heirs who have made payments beyond their share, may be reimbursed by the other co-heirs only within the limits of their respective obligation in accordance with Article 752, even though such co-heirs have become subrogated to the rights of creditors.

A co-heir retains the privilege to request payment of personal claims secured by liens, in the same manner as any other

creditor, after deduction of the share for which he is liable as co-heir.

ARTICLE 755 - Share of secured debts not paid by co-heirs.

The share of a secured debt of an insolvent co-heir is divided among all the other co-heirs proportionately.

ARTICLE 756 - Exemption of legatees from the payment of debts.

Legatees are not liable for the payment of debts of the inheritance except for actions based on liens of creditors against the object constituting the legacy, and except for the exercise of the right of separation. However, the legatees who have discharged the obligation with which the property was encumbered, are substituted for the creditors in their claims against the heirs.

CHAPTER IV

OF THE EFFECTS OF PARTITION AND OF THE WARRANTY OF THE PORTIONS

ARTICLE 757 - Right of heirs to their portions.

Co-heirs are considered the only and immediate successors in the property constituting their portion, or assigned to them in the succession, even through purchase of such property at public auction, and they are considered as never having had possession of other property of the inheritance.

ARTICLE 758 - Warranties as between co-heirs.

The co-heirs remain bound to warrant one to another the property falling to each of their shares against disturbance and eviction proceeding from a cause previous to the partition.

The warranty is not required if it has been excepted by a particular clause of the document of partition, or if the eviction has resulted from the fault of the co-heir.

ARTICLE 759 - Evicted co-heirs.

If one of the co-heirs suffers eviction, the loss which the eviction has caused, calculated at the time of such eviction, shall be divided among all the co-heirs for the purposes of the warranty provided by the preceding Article; such division shall be made in proportion to the value of the property assigned to each of the heirs at the time of the eviction and shall take into account the condition in which such property happens to be found at the time of the partition.

If one of the co-heirs is insolvent, the portion for which he is bound must be divided equally between the one who suffered eviction and the other co-heirs who are solvent.

ARTICLE 760 - Unenforceable claims.

The warranty of the heirs does not apply to the debtor of a claim assigned to one of the co-heirs, when said debtor is insolvent, provided such insolvency develops after the partition is made.

The warranty of the solvency of a heir charged with the payment of an annuity cannot be enforced after the lapse of five years from the partition.

CHAPTER V

OF THE ANNULMENT AND RESCISSION OF PARTITION

ARTICLE 761 - Annulment for violance or fraud.

A partition may be annulled when it is caused by violence or fraud.

The action is barred after five years from the day in which the violence ceased or the fraud was discovered.

ARTICLE 762 - Omission of effects of inheritance.

The omission from the partition of one or more effects belonging to the succession is not ground for annulment but only for a supplementary partition.

ARTICLE 765 - Rescission on grounds of damage.

Partition may be rescinded if any of the co-heirs gives proof of having suffered damage from such partition in an amount greater than one quarter of the value of the property of the estate.

An action for rescission is also permitted when, in the partition made by the testator, the value of the property assigned to one of the co-heirs is less than one quarter of the value of the portion to which such co-heir is entitled.

The action is barred after two years from the time of partition.

ARTICLE 764 - Rescission on grounds other than partition.

An action for rescission is also permitted on the basis of any other act which results in the termination of co-ownership of the co-heirs over the property of the inheritance.

An action for rescission is not permitted to set aside compromises made to put an end to disputes arising in consequence of partition, or to set aside documents having the same effect although no dispute on the subject had yet commenced.

ARTICLE 765 - Sale of rights in the succession to co-heirs.

An action for rescission is not permitted to set aside the sale of rights in the succession by one or more of the co-heirs to another co-heir, provided such sale be without fraud and at the risk of the buyer.

ARTICLE 766 - Evaluation of the property.

Evaluation of the property according to its value and condition at the time of partition is made in order to determine whether or not damage has occurred.

ARTICLE 767 - Privilege of co-heirs to give supplementary portion.

Co-heirs may terminate the action for rescission commenced against them and avoid a new partition by giving the supplementary share of the heriditary portion, in money or in kind, to the plaintiff, and to the other co-heirs, who associated themselves with such plaintiff.

ARTICLE 768 - Alienation of hereditary portion.

A co-heir who has alienated his portion, or a part thereof, is no longer permitted to bring an action for rescission for fraud or violence if the alienation made by him followed the discovery of the fraud or the cessation of the violence. The co-heir does not lose his right to bring an action for rescission if the alienation was limited to property readily subject to deterioration or of very small value in proportion to his share.

TITLE FIVE

OF DONATIONS

CHAPTER I

GENERAL PROVISIONS

ARTICLE 769 - Definition.

A donation is a contract by which one party, in a spirit of

largess, benefits another party by giving to the latter, one of his rights or by assuming an obligation to him.

ARTICLE 770 - Remunerative donations.

A gratuity based on gratitude, or in view of the marriage of the donee, or for specific remuneration, is a donation.

A gratuity which is customary to recompense services rendered, or which is in any way in accordance with usage, does not constitute a donation.

ARTICLE 771 - Donation of future effects.

A donation is effective only as to property owned by the donor. If the donation consists of future acquired property, it shall be null, unless it concerns the fruits of the donated property which are not as yet severed from such property.

If the object of a donation is an aggregation of objects and the donor reserves to himself the right of enjoyment thereof by retaining them, all the things which are successively added to such objects are considered included in the donation, unless the instrument of donation indicates a different intention.

ARTICLE 772 - Donations consisting of periodical payments.

Donations consisting of periodical payments terminate with the death of the donor, unless the instrument of donation indicates a different intention.

ARTICLE 773 - Donation to several donees.

A donation made jointly to several donees is considered to have been made in equal shares among the donees, unless the instrument of donation indicates a different intention.

A clause by which the donor provides that, if one of the donees is unable or unwilling to accept his share, such share should accrue to another donee, is valid.

CHAPTER II

OF THE CAPACITY NECESSARY FOR DISPOSING OR RECEIVING BY DONATION

ARTICLE 774 - Capacity to donate.

Persons who do not have full capacity to dispose of their property cannot make donations. However, donations made by

minors and incapacitated persons in their marriage contracts according to Articles 165 and 166, are valid.

The preceding provisions are also applicable to emancipated minors who are authorized to carry on a commercial enterprise.

ARTICLE 775 - Donations made by persons incapable of forming an intention or exercising volition.

Donations made by persons who, although not interdicted, have been determined incapable of intention or volition, for any reason, even transitory, at the time when the donation was made, may be annulled on request of the donor or donors, or of any other interested party.

The action is barred after five years from the day on which the donation was made.

ARTICLE 776 - Donations made by incapacitated persons.

Donations made by incapacitated persons may be annulled if made after the action to declare such incapacity has been instituted, but before judgment thereof.

The curator of a person incapacitated for prodigality may request the annulment of any donation made prior to six months from the commencement of the action for a declaration of incapacity.

ARTICLE 777 - Donations made by representatives of incapacitated persons.

Fathers and tutors cannot make donations on behalf of incapacitated persons whom the represent.

A gratuity in favor of the descendants of interdicted or incapacitated persons on the occasion of wedding is allowed if the necessary formalities are complied with.

ARTICLE 778 - Power of attorney for donation.

A mandate giving to third parties the power to designate the person of the donee or to determine the object of the donation, is null.

However, donations made in favor of a person to be chosen by a third party among several designated by the donor, or to be chosen among several persons belonging to a specified group, or in favor of one among several juridical persons indicated by the donor, are valid.

Likewise, donations of objects to be chosen by a third party from among several objects indicated by the donor or within the value established by the donor, are valid.

ARTICLE 779 - Donation in favor of tutor or undertutor.

Donations in favor of a person who has been the tutor or undertutor of the donor, are null if made prior to the approval of the account or before the termination of the action regarding such account. The provisions of Article 599 are applicable.

ARTICLE 780 - Donation to a natural child who cannot be acknowledged.

Donations made by parents to their natural children are null if the relation of father and child cannot be acknowledged or declared.

Such nullity does not extend to the contributions made by the parents, within the limits of their social and economic circumstances, on occasions of marriage, or for the establishment of the child in some profession.

The nullity may be pleaded by the donor, his legitimate descendants, or the spouse.

The provisions of Article 599 are applicable.

ARTICLE 781 - Donations between spouses.

Spouses cannot bestow a gratuity on one another during the marriage, except for what is customary.

CHAPTER III

OF FORMALITIES AND EFFECTS OF DONATIONS

ARTICLE 782 - Formalities concerning donations.

Donations shall be made by public document, under penalty of nullity. If the object of the donation consists of movables, the donation is only valid for such movables as are specified in the instrument of donation, with the indication of the value thereof, or in a separate memorandum signed by the donor, the donee and notary.

Acceptance may be made in the same document or through a subsequent public document. In this case the donation is completed from the time when the donor has received notice of the acceptance.

Declarations of either the donor or the donee concerning donations may be revoked by him prior to the completion of the donation.

If the donation is made to a juridical person, the donor cannot revoke his declaration after he has been notified of the petition which has been directed to the governmental authorities to obtain authorization to accept the donation. The declaration may be revoked after one year from notice of said petition, when such authorization is not forthcoming.

ARTICLE 783 - Donation of objects of small value.

Donations of movable property of small value are valid even without public document, provided the transfer of property has taken place.

The low value of the object must also be considered in view of the economic circumstances of the donor.

ARTICLE 784 - Donations to unborn donee.

Donations may also be made in favor of a conceived child or in favor of the unconceived children of a specified person living at the time of the donation.

The acceptance of donations in favor of children to be born but not yet conceived is regulated by the provisions of Articles 320 and 321.

Administration of the property which has been donated is entrusted to the donor or his heirs unless the donor has provided otherwise. The heirs may be required to give adequate security. The income and profits which have fallen due prior to the birth of the donee are reserved to the donee if the donation is made in favor of a child already conceived.

If the donation is made in favor of a child not yet conceived, the income and profits are reserved to the donor until the time of birth of the donee.

ARTICLE 785 - Donations in consideration of marriage.

A donation made in consideration of a specified future marriage, whether such donation is made by the spouses to each other or by third parties in favor of one or both spouses or in favor of the children to be born of such marriage, is completed without the necessity of acceptance, but do not become effective until the marriage takes place.

The annulment of the marriage causes such donation to be null. However, the rights acquired by third parties in good

faith from the day of the marriage to the time when an appeal can no longer be taken from the judgment declaring the nullity of the marriage, remain unaffected. A spouse who acted in good faith is not bound to return the income and profits received prior to the petition for annulment of the marriage.

Donations made in favor of children not yet born remain valid with respect to the children for whom the effects of putative marriage operate.

ARTICLE 786 - Donations to unrecognized entities.

Donations in favor of an entity legally unrecognized are not effective if the donor is not given notice of the petition to obtain recognition within a year after such donation. Notification produces the effect indicated in the last paragraph of Article 782.

The income and profits which have fallen due prior to recognition are reserved to the donee, unless the donor has provided otherwise.

ARTICLE 787 - Error in the motive of donations.

Donations may be attacked on grounds of error in the motive, whether the error be one of fact or of law, when such motive is evidenced in the act of donation and has been the sole factor which caused the donor to bestow the gratuity.

ARTICLE 788 - Unlawful motive.

An unlawful motive causes a donation to be null when the instrument of donation evidences such motive as the only one causing the donor to bestow the gratuity.

ARTICLE 789 - Non-fulfillment or delay in carrying out the donation.

In case of non-fulfillment or delay in carrying out the donation, the donor is liable only in case of fraud or gross negligence.

ARTICLE 790 - Rights reserved to dispose of specified objects.

If the donor has reserved to himself the power to make other disposition of any object included in the donation or of a definite sum from the property donated, and dies without having exercised such power, the power cannot be exercised by the heirs of the donor.

ARTICLE 791 - Stipulation for reversion to donor.

The donor may stipulate a right to the return the object given, either in case of his surviving the donee alone, or in case of his surviving the donee and his descendants.

If the donation indicates a general intention of reversion, this has reference to the prior death not only of the donee but of his descendants also.

Reversion may only operate in favor of the donor. Any agreement to make it effective in favor of third parties, is considered as not having been written.

ARTICLE 792 - Effects of stipulation for reversion.

The effect of reversion is the cancellation of all alienations of the property donated, and causes such property to return to the donor free and clear of all encumbrances and liens, except when the donee is a husband gives a lien guaranteeing the dowry or other matrimonial agreement and his other property is not sufficient security, and the donation is made by the same marriage contract as gives rise to such lien.

An agreement is valid which provides that reversion shall not affect the reserved portion belonging to the surviving spouse (as forced heir) in the estate of the donee, including in such estate the donated property.

ARTICLE 793 - Charges imposed upon donation.

Donations may be charged with obligations.

The donee is bound to fulfill obligations within the limits of the value of the donated property.

Any interested party may act to fulfill the obligation, even during the life of the donor.

Cancellation of the donation for non-performance of the obligation, if provided for in the act of donation, may be requested by the donor or his heirs.

ARTICLE 794 - Unlawful or impossible burden.

Unlawful or impossible burdens are considered as not having been written. However, they cause the donation to be null if such burden constituted the sole motive for the donation.

ARTICLE 795 - Prohibition of substitution.

Substitutions are not permitted in donations except in the cases and within the limits established for testamentary dispositions.

The nullity of substitution does not cause nullity of the donation.

ARTICLE 796 - Usufruct reserved.

The donor may reserve the usufruct of the donated property to himself, or to another person or persons after his death, but not successively.

ARTICLE 797 - Warranty against eviction.

The donor is bound to warrant the donee against eviction from the donated property in the following cases:

1. If the warranty is expressly given.
2. If the eviction is caused by fraud or by the personal act of the donor.
3. Donations imposing obligations on the donee, or remunerative donations; in these cases the warranty must cover the obligation or the quantity of services received by the donor.

ARTICLE 798 - Liability for defects in the donated object.

Except for special agreements, the warranty of the donor does not extend to defects in the donated object, except in the case of fraud on the part of the donor.

ARTICLE 799 - Confirmation and voluntary carrying out of donations which are null.

The nullity of a donation, regardless of the cause for such nullity cannot be pleaded by the heirs or other persons whose rights derive from the donor, when such persons, being cognizant of the cause for nullity, have confirmed or have voluntarily carried out the provisions of the donation after the death of the donor.

CHAPTER IV

OF REVOCATION OF DONATIONS

ARTICLE 800 - Grounds for revocation.

Donations may be revoked on grounds of ingratitude or the subsequent appearance of children.

ARTICLE 801 - Revocation for ingratitude.

A request for revocation on grounds of ingratitude may be advanced only if the donee has committed one of the acts set forth in numbers one, two and three of Article 463, if he is guilty of causing serious injury to the donor, if he has willfully caused great damage to the estate thereof, or if he has unduly refused support to the donor as set forth in Articles 433, 435 and 436.

ARTICLE 802 - Time limits and valid period for action.

A request for revocation on grounds of ingratitude shall be submitted by the donor or his heirs, against the donee or his heirs, within one year from the date on which the donor became cognizant of the cause for such revocation.

If the donee is guilty of willful homicide of the donor, or if he fraudulently prevents the donor from revoking the donation, the time limit for instituting the pertinent action is one year from the date on which the heirs became cognizant of the cause for revocation.

ARTICLE 803 - Revocation based on subsequent appearance of children.

A donation made by a person who did not have or was ignorant of having children or legitimate descendants at the time of the donation, may be revoked as a result of the subsequent appearance or existence of a child or legitimate descendants of the donor. Moreover such a donation may be revoked by reason of the acknowledgment of a natural child made within two years from the time of the donation, unless it can be proved that the donor knew of the existence of the child at the time of the donation.

Revocation may be requested even if the child of the donor was already conceived at the time of the donation.

ARTICLE 804 - Time limit for action.

The action for revocation based on the subsequent appearance of children must be instituted within five years from the date of birth of the last child or legitimate descendant, or five years from the day on which notice was received of the existence of the child or descendant, or five years from the date of acknowledgment of the natural child.

The donor may not institute or prosecute such action after the death of the child or the descendant.

ARTICLE 805 - Irrevocable donations.

Remunerative donations and donations made in consideration of a specified marriage cannot be revoked on grounds of ingratitude or on the basis of subsequent appearance of children.

ARTICLE 806 - Previous renunciation of the power of revocation not admitted.

A previous renunciation of the power to revoke the donation on grounds of ingratitude or subsequent appearance of children is not valid.

ARTICLE 807 - Effects of revocation.

Following a revocation on grounds of ingratitude or subsequent appearance of children, the donee shall return the property in kind, if it is still in existence, and also the income and profits derived from such property from the date of the request.

If the donee has alienated the property, he is bound to return its value, taking into consideration the value at the time of the request and the income and profits derived from the date of such request.

ARTICLE 808 - Effects with respect to third parties.

A revocation on grounds of ingratitude or subsequent appearance of children does not prejudice third parties who have acquired rights prior to the request, except for the effect of the recording of such request.

A donee who, prior to the recording of the request for revocation, has established rights in rem for the benefit of third parties, which diminish the value of the property, shall indemnify the donor for the diminution suffered in the property.

ARTICLE 809 - Provisions regarding donations applicable to other instruments of gratuity.

A gratuity, even when evidenced by documents other than those provided for by Article 769, is subject to the same provisions regulating the revocation of donations on grounds of ingratitude or subsequent appearance of children, and is also subject to the provisions regulating abatement of donations to complete the portion due to forced heirs.

This provision is not applicable to a gratuity provided for in the second paragraph of Article 770 nor to a gratuity which is not subject to collation according to Article 742.

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