bequeath to each but a very small amount, merely to excite them to habits of industry and frugality, and no more."

His ruling purpose had no connexion with the poor of any one generation. His desire was to establish a foundation to exist for all time—a perpetuity.

He knew that to attain this purpose a succession of persons animated with a corresponding aim must be obtained, and that the legal capacities of voluntary associations, even if he could hope to find such to enter into his plans, were wholly unfitted for his design; nor did he hope to effectually combine such persons by any power or prayer of his own. Hence he selected as his devisees bodies corporate, endowed with the faculties of acquiring and holding property, having determinate ends and abiding agencies to be employed in accomplishing them. These were all requisite for the full attainment of the purposes he has declared.

He excludes, it is true, the municipal authorities from the particular management of the estate, or the application of its revenues.

But, the municipal officers are not his legatees. They are themselves but agents clothed with a temperary authority; nor do the officers perform their executive duties, except by the interposition of agents subordinate to their control and subject to their supervision. Had the testator confined himself to an unconditional donation of the general estate to the cities, for the use of public schools, it would scarcely have fallen under the personal management of the corporate authorities. They would probably have appointed boards or agencies, to whom powers, more or less general, would have been confided, and over whose conduct their supervision would have been more or less particular and exact. The knowledge of this probably induced the testator to describe the board which his experience and observation had marked as the most efficient and responsible. He defines their number, the manner of their appointment, the form of their accounts, the modes of their business, and urgently exacts that the great, and to his eyes sacred, interests of his charity should not be blended with the

vulgar and debauching concerns of daily corporate management. These directions must be regarded as subsidiary to the general objects of his will, and whether legal and practicable, or otherwise, can exert no influence over the question of its validity. Nor do we esteem the facts, that he has given his estate a name, regards it as a distinct entity, and couples with it language denoting perpetuity, important as evidence that the cities are not his legatees. A gift to a municipal corporation tends to create a perpetuity. Property thus held ceases to be the subject of donation, or of devise, of transfer by bankruptcy, or in the order of succession. The property of such a corporation is rarely the subject of sale, and practically it is out of commerce. McDonogh supposed that he could prohibit any alienation or division. We do not perceive, therefore, why he should have sought an incorporation of the general estate; nor do we understand that this forms a prominent portion of his scheme.

The will, through every part, discloses that the cities are the particular objects of his interest; and the poor of the cities of his providence and bounty. His will designates the cities, by their corporate name, as his legatees, in definite and legal language. His plan of administration is to be executed through agents, selected by their corporate authorities, and to the end of conveying to the poor of the cities, perpetually, the fruits of his property. We should violate authoritative rules of legal interpretation, were we to disinherit the cities under these circumstances, and to substitute for them "an ideal being" called the "general estate," having no legal capacity, nor juridicial character, and whose recognition, therefore, could have no result but to overturn the will of the testator. C. C., 1706; 1 Spence Eq. J., 529, 530; 5 Ann. R., 557.

Having thus determined that the legacy is to the cities by a universal title, and having extracted from the will the leading and controlling intention of the testator, the next inquiry is, whether a legacy given for such objects is valid?

The Roman jurisprudence, upon which that of Louisiana is founded, seems originally to have denied to cities a capacity