sovereign authority. This precaution was taken, as we have seen, also in Louisiana. If she has granted to her metropolis an unrestricted license to acquire and to hold property, we must conclude there were sufficient motives to justify the act.

Our next inquiry will be, whether the testator is authorized to define the use and destination of his legacy? We have seen that donations to the cities of the Roman empire followed immediately upon the senatus consultum which allowed them to take, and that the destination of such donations to public uses was declared. Domat says, "One can bequeath or devise to a city or other corporation whatsoever, ecclesiastical or lay, and appropriate the gift to some lawful and honorable purpose, or for public works, for feeding the poor, or for other objects of piety or benevolence."—Domat, Lois Civiles, b. 4, tit. 2, § 2.

The city of New Orleans holds its public squares, hospitals, levees, cemeteries and libraries by such dedications. This court says, (New Orleans vs. U. S., 10 Peters, 662,) "That property may be dedicated to public use is a well established principle of the common law. It is founded in public convenience, and has been sanctioned by the experience of ages. Indeed, without such a principle it would be difficult, if not impracticable, for society in a state of advanced civilization to enjoy those advantages which belong to its condition and which are essential to its accommodation."

The Supreme Court of Louisiana in a number of cases have applied the principle contained in these citations with confidence. Pontalba vs. New Orleans, 3 An., 662; Will of Mary, 2 Rob., 440; Duke of Rich. vs. Mylne, 17 Lous., 312; Maryland and Louisiana vs. Roselius, M.SS.

The code of Louisiana provides that donations made for the benefit of an hospital of the poor of the community, or of establishments of public utility, shall be accepted by the administrators of such establishments. (C. C., 1536.) It may be very true this article relates merely to the formal manner by which donations, inter vivos, for such objects may be perfected; but it will be observed that the requirement of the French code of a government license for the gift is dispensed with in the frame of

this article, and a strong implication arises from its terms in favor of the validity of such gifts. An acceptance of such donations in a will is unnecessary. Nor, do we see any ground for inferring a prohibition of donations by will, which are lawful inter vivos, in the absence of any prohibitive article in the code. We are of the opinion, therefore, that the testator might declare the uses to which he destined his legacy to the cities; and the destination, being for purposes within the range of the powers and duties of its public authorities, is valid.

We shall now examine the question whether the conditions annexed to this legacy—the prohibition to alienate—or to divide the estate—or to separate in its management the interest of the cities—or their care and control—or to deviate from the testator's scheme, invalidate the bequest.

The appellees contend that the performance of these conditions is impossible; they are contrary to public policy; introduce tenures at variance with the laws, and would result in mischief to the State. That the conditions are of the essence of the gift, and the will would not conform to the dispositions of the testator if they should be erased or disregarded. They insist that the appellees take by virtue of the law, but the devisees claim under a will. That if they cannot exhibit a clear and valid devise of the property, the legal right of the heir should not be defeated. That this court cannot, under the guise of judicial construction, sanction an instrument from which the main prescriptions of the testator are obliterated.

The argument on this point against the cities possesses great logical force. It is admitted that illegal or immoral conditions will vitiate a contract; (C. C., 2026,) but the code provides that "in all dispositions inter vivos and mortis causa, impossible conditions, those which are contrary to the laws or to morals, are reputed not written." The authorities cited establish that, under the word "conditions," the various modes of appropriation, use, and destination attached to this legacy are included. Merlin says, "conditions take different names according to their object; they are called in turn charges, destinations, motives, designations, terms. But although the conditions, charges, des-