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ACTION BY USUFRUCTUARY.

In the case of *Abercromby* v. *Chabot* (*ante*, p. 136; 7 Q.L.R. 371), attention is directed to a change of practice since the Code, in the matter of suits by usufructuaries.

The question was whether a usufructuary, who did not allege that she had made an inventory, or that she was in possession of the estate subject to her usufruct, could maintain an action against a debtor to the estate. Chief Justice Meredith observed: "Whilst at the Montreal bar, I brought numerous actions for usufructuaries, and testamentary executors, without alleging, in any case, the giving of security, or the making of an inventory, and although many of the actions so brought were vigorously contested by eminent counsel, on other grounds, so far as I can recollect, no objection was ever urged as to the want of the allegations to which I have adverted." The Chief Justice added, however, that whatever may have been the law before the Code, Art. 463 now removes all doubt, and that at present "a usufructuary who does not even allege either that she is in possession of her usufruct, or that she has made an inventory, cannot by action collect and so 'enjoy' the debts due to the estate."

So, also, Mr. Justice Casault, who dissented in *Abercromby* v. *Chabot*, remarked, "J'avoue que, pendant les 23 ans que j'ai pratiqué au barreau, quoique j'ai eu l'occasion de prendre un bon nombre d'actions pour des usufruitiers et de défendre à plusieurs, je n'ai jamais vu de déclaration où l'usufruitier alléguait qu'il avait fait inventaire." His Honor differed, however, from the majority of the Court as to the necessity for such allegation at present, and thought the practice was established the other way. He adds; "je n'en ai pas plus vu depuis que je suis juge; et cette cause est la première où à ma connaissance, l'on a soulevé cette question. J'ai pris communication des déclarations dans toutes les actions par des usufruitiers que j'ai pu découvrir au greffe de cette cour, et je n'ai trouvé dans aucune l'allégation de l'inventaire par eux des biens sujets à leur usufruit."

FLOGGING AS A PUNISHMENT FOR CRIMES OF VIOLENCE.

The *Law Times* of London calls attention to a recent parliamentary return showing the total number of cases in which flogging has been administered under the Act 26 & 27 Vict. c. 44. *The Times* says: "As no explanation has been offered of the enactment to which the return relates, it will not be amiss to recall its provisions. It was passed, as will be remembered, at the height of the garroting panic, and it is said to have had considerable influence in putting a stop to that offence. It is termed 'An Act for the further security of the persons of her Majesty's subjects from personal violence.' After reciting two previous enactments—24 & 25 Vict. c. 96, s. 43, and 24 & 25 Vict. c. 100, s. 21—against similar offences, namely, armed assaults with intent to rob, and attempts to strangle, and stating that the punishment awarded by these sections is insufficiently deterrent, the Act provides that, where any person is convicted under those sections, the court may, in addition to the prescribed punishment, order the offender to be whipped. The whipping, however, is to take place in private, and only male offenders are to be so punished. On the other hand, the punishment may be inflicted twice, or even three times, and there is no limitation as to age, except that, if the delinquent be under sixteen, the number of strokes is limited to twenty-five. In the case of older offenders, the strokes at each whipping may not exceed fifty, and no whipping is to take place after six months from the passing of the sentence. The number of persons who have suffered corporal punishment under these provisions is certainly less than might be expected. In more than eighteen years only 302 adult offenders have been flogged even once, and in four cases alone has the punishment been repeated. No case is to be found in the records of the Home Office where it has been administered a third time. It will of course be said that the rarity of the punishment is caused by the rarity of the offence, and that the Act promptly extirpated the offences aimed at. Assuming this, the return would give considerable support to those who regard corporal punishment as the panacea for all crimes of violence."