

- (2) when the exercise of the servitude has become impossible owing to *force majeure* ;
- (3) when the owner of the servient property gives conclusive evidence that the servitude has become practically useless ;
- (4) by the non-usage of the servitude for ten years.

F. 703, 705, 706. S. 734, 735, 736. M. 153.

*Illustrations: — (2) A servitude has been created on A's land, allowing B, C and D, the respective owners of three adjoining lands, to use a well situated on A's land. The well dries up for ever. The servitude is extinguished.*

*(3) A servitude has been created on A's land, situated along a watercourse, allowing B, the owner of an estate situated further inland, to dig a canal on A's land to bring the water of the stream to B's land. In consequence of an extraordinary rising of the stream, the course of the latter is altered and the canal dug on A's land becomes useless. The servitude is extinguished.*

150. — The extinction of a servitude created by contract or will cannot be set up against third persons unless mention of the extinction has been entered in the Land Register.

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*Illustration : — A, the owner of a dominant property, enjoys a right of way upon the adjoining land of B. But A does not use it from 2453 to 2465, and his right has been extinguished by non-usage. B is entitled to*

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But suppose A, on the 1st. November 2465, sells his property to C. No mention of the extinction of the servitude has been entered in the Land Register. When C purchases the property of A, he is entitled to believe, on examination of the Land Register, that this property enjoys a right of way upon the adjoining immovable. B, having been negligent, cannot oppose against C the extinction of the servitude.

151. — Servitudes in the nature of right of way or of right of water may be acquired by way of usucapion: that is to say when a servitude has been actually exercised during ten years openly and without interruption, the owner or lawful occupant of the dominant property is entitled to have the servitude registered for the benefit of his property.

F. 690, 691. G. 937. J. 283, 289, 291, 293.

*Illustration :* — A has, during ten years, openly and without interruption passed with his carts and his cattle over a waste land belonging to B, because it is much more convenient to him to use that way than any other one to reach the next public road. If B denies to A the right to cross his land any longer, A may claim that he has acquired a right of way through usucapion to the benefit of his land over that of B. If A has hired his land to C and C had passed over B's land as aforesaid, A may also claim the acquisition of the right of way through

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