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THE HISTORY  
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THE HISTORY  
OF  
THE LAW OF PRESCRIPTION  
IN ENGLAND.

BEING THE YORKE PRIZE ESSAY OF THE UNIVERSITY OF  
CAMBRIDGE FOR 1890.

BY  
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AND McMAHON LAW SCHOLAR OF ST JOHN'S COLLEGE, CAMBRIDGE:  
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TO

HERBERT HARDY COZENS-HARDY, Esq., Q.C., M.P.

AS A SMALL TOKEN

OF ADMIRATION AND GRATITUDE,

THIS BOOK

IS BY KIND PERMISSION

DEDICATED

BY THE AUTHOR.

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## PREFACE.

**T**HE Yorke Prize in the University of Cambridge is offered annually for the best essay upon some branch of the Law of Property in various countries. This was the successful essay for 1890. The essay as sent in comprised a history of Limitation, since that is included in Prescription in the wider sense in which it is used by some writers. But, as I have explained, I do not consider that it properly is Prescription. This view is shared by the examiners, and that part has with their assent been omitted.

There is no book definitely upon Prescription in English Law; the information has to be collected from the various sources where it lies hid. The books I have found most useful have been Brooke's, Rolle's, Bacon's and Viner's Abridgments, Comyn's and Cruise's Digests, Coke upon Littleton and the Institutes, and the notes and references to the Year-books and reports therein contained. Two branches of the subject have been fully and ably dealt with by modern writers: that of Commons by Mr Joshua Williams, and that of Easements by Messrs Gale and Goddard in their well-known books. Accordingly, though it was necessary, for the sake of completeness, to say something about both Commons and Easements, I have treated both those subjects in a most cursory manner. But I have in both cases examined the original authorities for myself; and upon several points I have ventured to differ from Mr Goddard. I have followed the plan of quoting largely from the reports of cases partly because in many instances the subject-

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matter, or the mode of expression, has been of an interest sufficient to justify me, and partly because in expounding a legal principle a more accurate notion is generally conveyed by quoting the expressions of judges of eminence than by attempting to give the effect of decisions in words of one's own. The work has had to be done in a rather scrappy manner, with often short spells and long intervals. But I venture to hope that the various parts are sufficiently connected to make an intelligible whole.

T. A. H.

7 NEW SQUARE,  
LINCOLN'S INN,  
1891.



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