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Limitation and Prescription

A Comparative Legal History

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Within both the Civil Law and the Common Law we find means of acquiring and losing rights, or freeing ourselves from obligations by the passage of time. The ratio thereof is twofold: (1) In the words of Oliver Wendell Holmes, Jr. »Sometimes it is said that, if a man neglects to enforce his rights, he cannot complain if, after a while, the law follows his example« and (2) A claim should not hang above the head of the debtor as if it were a Damocles' sword, or on the words of Best CJ »long dormant claims have more cruelty than justice in them.« This ratio is and has been felt strongly in every jurisdiction, but legislation, case law and jurisprudence but the specifications thereof show substantial dissimilarities, notably between the Common Law and the Civil Law, even thus that in recent times several Law Commissions reported about future modifications and other jurisdictions enacted new legislation. This book gives the necessary historical background on a comparative basis.

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