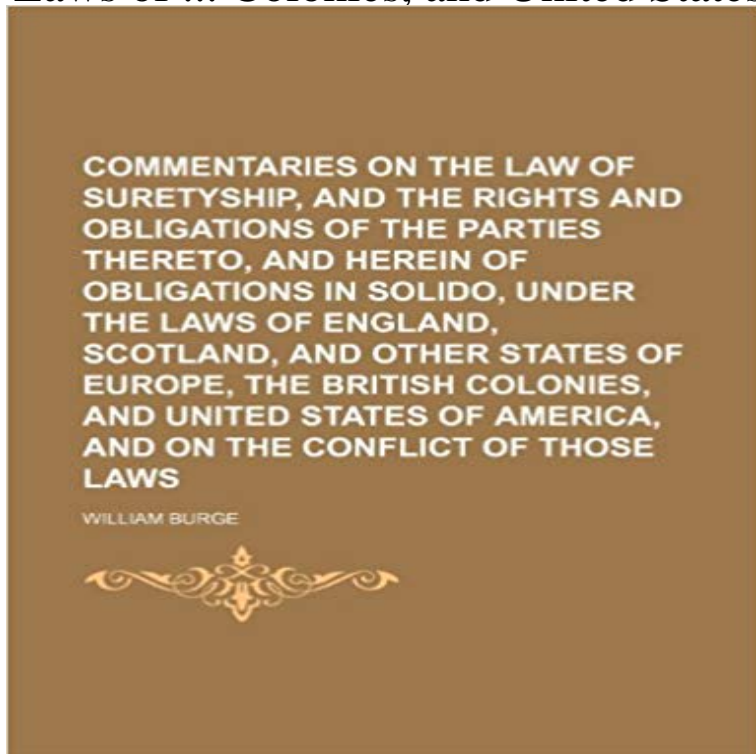


Commentaries on the Law of Suretyship, and the Rights and Obligations of the Parties Thereto, and Herein of Obligations in Solido, Under the Laws of ... Colonies, and United States of America, And



This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1847. Excerpt: ... CHAPTER V. APPLICATION OF BANKRUPTS ESTATE THE LAW WHICH GOVERNS. The preceding Chapters of this Book will have presented questions on which there is an essential difference between the Bankrupt laws of different countries. Two instances of that difference may be selected for the purpose of ascertaining the principles which should determine what law, in the conflict between these two opposite laws, ought to be adopted. By the law of England, a joint creditor is not permitted to resort to the separate estates of the partners until their separate creditors have received 20s. in the pound. In Scotland and the other States of Europe, the joint creditor has the right not only to resort to the joint estate, to the exclusion of the separate creditors of the co-partnership, but he may at the same time also resort to the separate estates of the partners. A. and B. carried on trade in co-partnership in Holland, and there they contracted a debt with C. They afterwards leave Holland and become domiciled in England, where they carry on trade, and where also they become bankrupts, and a fiat is issued against them. C. comes in under the fiat in England. He proves against the joint estate, and he also claims to prove against the separate estates of the partners. He insists that according to the lex loci A. and B. were liable singuli in solidum in respect of their debt to him, that his right to resort to the estate of each was incident to, and part of his contract, and ought to be recognised everywhere. He urges that effect is given to the preference or privilege attached to the debt, by the law of the country in which the debt was contracted, and was to be paid. The vendors lien on movables sold, and the

right to stop them in transitu for the
payment of the price are pri...

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