



**A Treatise on the Conflict of Laws; Or, Private
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Francis Wharton

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This historic book may have numerous typos and missing text. Purchasers can usually download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1872 edition. Excerpt: ... APPENDIX A. RECENT GERMAN THEORIES. § 979. Dr. Reinhold Sghmid, Professor of Law at Berne, in his late treatise on " The Supremacy of Law in Relation to the Liraits of Territory and Time" (Jena, 1863), gives a valuable exposition of the several German theories of the basis of private international law. From this exposition the following passages are translated. § 980. Our modern idea of the state attaches political sovereignty to a particular territory which is subjected to its exclusive dominion. As each sovereignty claims to possess this exclusive power within its own domain, so it can have no pretence to exercise any legislative authority in the domain of another. But it does not conflict with this principle, that states should consider their own subjects, though residing outside of their own territory, as continuously in certain limited relations bound by the laws i of their own land; this relating only to certain juridical results which attach at home to such foreign transactions. Nor do we take more than a nominal departure from the general principle of territoriality, when we hold that in all states foreign laws should occasionally be allowed to operate, since the latter laws derive their force, not from their own efficacy, but from the authority of the territorial sovereignty which for the particular case adopts them. § 981. The necessity of giving such occasional efficacy to foreign laws, appears in particular prominence in the relations of private law. Unless we should be content to live in entire national isolation, we must not only regard other states as endowed reciprocally with the same juridical prerogatives as our own, but each state must recognize in particular relations the efficacy of the legal...

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