

References are to pages.

"NECESSARY AND PROPER" —

meaning of words defined by Hamilton, 365-367.
Marshall on construction of, 367-370.
true construction of, 370-374.

NEW HAMPSHIRE —

attitude toward First Continental Congress, 207.
action as to Declaration of Independence, 230.
first State Constitution of, 254.
ratifies Constitution of United States, 277.

NEW JERSEY —

attitude of, toward First Continental Congress, 207.
becomes a State, 223.
action as to Declaration of Independence, 230.
first State Constitution of, 254.
action of, on regulation of commerce by Congress, 264.
ratifies Constitution of the United States, 275.

NEW YORK —

peculiarity in origin of, 191.
not represented at passage of Constitution, 269.
attitude of, toward First Continental Congress, 207.
first State Constitution of, 254.
ratifies Constitution of the United States, 279.

NICHOLSON, SIR FRANCIS —

as governor of Virginia urges plan for loose union of colonies, 196,
197.

NINTH AMENDMENT —

quoted and discussed, 687-689.

"NISI PRIUS" —

courts of, when established, 127.

NOBILITY, NORMAN —

feudal status of, 118.

NOMINATIONS (see APPOINTMENTS).

NORTH CAROLINA —

attitude of, toward First Continental Congress, 205.
becomes a State, 223.
action as to Declaration of Independence, 230.
first State Constitution of, 255.
ratifies the Constitution of the United States, 280.
evidence from history of, as to ratification of Constitution by States,
284.

NORTH, LORD —

on jurisdiction of Parliament over American colonies, 185.
unfortunate policy of, 204.

References are to pages.

NORTHERN CITIZENS —

constitutional rights of, violated by Congress during civil war, 595.

NORTHWEST TERRITORY —

history of cession to United States by Virginia, 602-604.
deductions from deeds ceding, as to sovereign character of States,
604.
proposition of Madison relative to, 604, 605.

O.

OATH —

of President, when taken, 714.
quoted, 715.

OBSCENE MATTER —

carriage of through mails may how far be prohibited by Congress,
567-569.

OFFICES —

power of President to appoint to, 732-740.
to remove from, 732-734.
to create, 736-738.

OPINIONS —

of executive officers may be required by President, 718, 719.

ORDERS IN COUNCIL —

effect on action of Virginia as to grant of power to Congress, 260.

OWINGS v. SPEED —

on time when Constitution of United States took effect, 269.

P.

PAGUS —

nature of, 103, 111.

PAINS AND PENALTIES, BILLS OF —

described, 653.

PAPACY —

struggle of reformers with, 129.

PARDON —

power of, given to President, except in impeachment cases, 422, 719.

PARLIAMENT —

power of, to legislate for American colonies, 185.
first beginnings of, 123, 124.
development of, 125-128.
division into two houses, 126.
deposes kings, 128.

References are to pages.

- PARLIAMENT (continued) —
 made annual, 128.
 frequency of meeting of, established in 1688, 152.
 general description of, 159-162.
 period of life of, 162.
- PARLIAMENT, ENGLISH —
 power of in seventeenth century, 50.
 action on reform bill, 53.
- PARLIAMENT, MEMBERS OF —
 independence of, secured, 157.
- PASSENGERS —
 accommodation of white and black in separate coaches not unconstitutional within States, 857-859.
- PATENTS —
 though granted by Congress, States may forbid sale of articles to which applied, 551.
 see COPYRIGHTS AND PATENTS.
- PATERNALISM —
 as a government policy, 80.
 strong in ancient states, 80.
 in Plato's Republic, 81.
 in work of Sir Robert Filmer, 81.
 most vicious under democratic government, 82.
 bad results of, 82, 83.
- PATRIA POTESTAS —
 limitations on, 11, 12.
 views of Filmer upon, 18.
 limits to, 19, 20.
 earliest form of government, 36.
 extent of, in early times, 36.
 views of Filmer, Locke, Rousseau, 38.
 as basis of Body-politic, 54.
 impediment to growth of freedom, 133.
- PATRIARCHA —
 defined as system of paternal government, 81.
 criticised, 81.
- PATRONAGE —
 as agency of despotism, 51.
- PATRONAGE, ENGLISH —
 in hands of the monarchy, 170.
- PATTERSON —
 constitutional plan of, kept commerce distinct from taxing power, 521.

References are to pages.

- PATTERSON, JUDGE —
 opinion of, in Penhallow v. Doane's Administrator, on relation of States to Congress, 234, 235.
 plan of, for Constitution, 326, 327.
- "PAY THE DEBTS AND PROVIDE FOR THE COMMON DEFENSE AND GENERAL WELFARE" —
 meaning of clause discussed, 470-482.
 origin of power in first scheme of the Constitution, 487-489.
- PECK —
 impeachment of, 422.
- PECK v. FLETCHER (see FLETCHER v. PECK).
- PENDLETON, EDMUND —
 at Williamsburg Congress, 205.
 on preamble to Constitution of the United States, 292.
- PENHALLOW v. DOANE'S ADMINISTRATOR —
 opinion of Judge Patterson on relation of States to Congress, 234, 235.
 Judge Iredell in, on same, 235.
- PENNSYLVANIA —
 attitude toward First Continental Congress, 207.
 action as to Declaration of Independence, 230.
 first State Constitution of, 255.
 ratifies Constitution of United States, 275.
- "PERSONS" —
 may not be deprived of life, liberty, etc., without due process, 854.
- PETITION —
 right of unrestrained, established in 1689, 152.
- PETITION OF RIGHT —
 nature of, 67.
- PETITION, RIGHT OF —
 guaranteed by first amendment, 667.
- PHILADELPHIA CONVENTION —
 proposed by Annapolis convention, 264.
 called by Congress, 265.
 delegates to, how appointed, 266.
 Randolph and others on ratification of acts of convention, 266-268.
 Burgess on action of, 268.
 testimony of Hamilton and Madison as to nature of, 271, 272.
 conclusion as to nature of, 273.
 sends copy of Constitution to the several States, 274.
 status of States at time of, 300.
 membership of, 325.

References are to pages.

- PHILADELPHIA CONVENTION** (continued) —
 nature of work of, 325, 326.
 rival plans presented to, 326, 327.
 plan of Randolph presented to, 326.
 of Patterson, 327.
 treatment of revenue bills in, 448, 449.
 proposition in, regarding use of taxing power to pay debts and provide for general welfare, 471.
 Mason and Rutledge in, on defects in proposed tax mechanism, 506.
 debate and verdict of, on issue of bills of credit and on legal tender quality, 508-510.
 discussion in, on charter of banks, etc., 517, 518.
 action of, on commerce power, 521.
 debates of, on suspension of writ of *habeas corpus*, 644, 645.
 history of discussions in, on organization and functions of executive department, 699, 700.
- PHILIP II., OF SPAIN** —
 alliance with Mary, Queen of England, 139.
- PICKERING, JOHN** —
 impeachment of, 421.
- PINCKNEY** —
 on need for increase of congressional powers, 264.
 plan of, for Constitution, 326, 327.
 first draft of Constitution by, 298.
 propositions of, on export tax and on regulation of commerce, 334.
 provisions of, as to commerce power, 521, 522.
- PIRACY** —
 power to punish and define, 574.
 defined, 574.
- PITKIN** —
 on proposed union of American colonies, 197.
- PLATO** —
 paternalistic point of view of, 81.
- PLEBS, ROMAN** —
 position of, 92.
 history of, 95, 96.
 illustrate theory of representation, 95.
 legislative power, how measured by, 102, 103.
- PLYMOUTH COLONY** —
 declares against taxation without popular consent, see **MASSACHUSETTS**, 190.
- POLICE POWER** —
 of States, how affected by fourteenth amendment, 859, 860.

References are to pages.

- POLITICAL SCIENCE** —
 scope of, 1-4.
 fundamental problems of, 35.
 postulate of, 47.
 nature of, 48.
 a canon of, 49.
 discovery of American, as to sovereignty, 62.
 canons of as to extent of legislative interference, 83.
- POMEROY** —
 general position on the Constitution, 179.
- POPULATION** —
 how and why selected as basis of representation by Federal Convention, 333.
- PORTS** —
 of one State may not be favored by Congress at expense of another, 660.
 particular, of one State may be favored at expense of others in same State, 661.
- POSTAL POWER** —
 of Congress, discussed, 565-572.
 how far an exclusive power, 566, 567.
 post-roads, power to construct under, goes how far, 570-572.
- POST-OFFICE BILL** —
 not included under revenue bills, 451.
- POST-ROADS** —
 power of Congress to construct, 570.
 views of Madison and Monroe on "establishment of," 571.
 franchise to build, may not be taxed by States, 572.
 includes railways, 572.
 power over building of, applies only to use for postal purposes, 572.
- POWER** —
 distinguished from tyranny, 38.
 how related to right, 44.
 original holder of, according to Blackstone, 61.
 how involved in question of representation, 92.
- POWERS** (see **RESERVED POWERS**).
- PRATT, LORD CHIEF JUSTICE** —
 decision on royal prerogative, 175.
- PRESBYTERIAN CHURCH** —
 attitude toward James I., of England, 141.

References are to pages.

PRESIDENT OF THE UNITED STATES —

- relation of to legislation, 100.
- appointment and powers of, 320, 321.
- evidence from powers of, on nature of the Union, 322.
- when tried by Senate on impeachment, Chief Justice must preside, 409.
- provisions as to trial of, on impeachment, 409.
- for what subject to impeachment, 410, 411.
- penalty if impeached and convicted, 410, 411.
- power to call special session of Congress, 433, 434.
- responsibility to constituency, 444, 445.
- veto power vested in, why and how, 452-455.
- how exercises veto power, 455, 456.
- may not plunge country into war without at least tacit declaration by Congress, 577.
- to call out militia when needed, 581.
- commander-in-chief of militia, 581-584.
- must be governed by rules for regular forces, in controlling militia, 584.
- may not suspend writ of *habeas corpus*, 643-645.
- has no power to declare war or suppress rebellion, 645.
- hence has no authority over writ of *habeas corpus*, 646, 647.
- usurps power to suspend writ, 648, 649.
- executive power vested in, 693, 694.
- term of office, 694, 695.
- manner of electing, 695, 696.
- mode of electing, how and why changed by twelfth amendment, 701.
- number of electoral votes required for election of, 704.
- mode of election in case electoral colleges fail to make a choice, 704-707.
- unexpected working of system of electing, 708-710.
- needed reforms in system of electing, 710.
- qualifications for election as, 711.
- succeeded by Vice-President in case of "inability," 711, 712.
- "inability" consists of what, and is how determined, 712-714.
- compensation of, rules concerning, 714.
- takes oath of office, how and when, 714, 715.
- powers and duties of, 714-752.
- duties as commander-in-chief, 716-718.
- power over military forces, how limited by war power of Congress, 716-718.
- may ask for opinions of executive officers in writing, 718, 719.
- may grant pardons and reprieves, when, 719, 720.

References are to pages.

PRESIDENT OF THE UNITED STATES (continued) —

- may make treaties by and with advice and consent of Senate, 720-723.
- limitations on, in matter of making treaties, 724, 726.
- appointing power of, 732-740.
- power to remove officers, 734-736.
- can create offices and appoint to them, when, 736-738.
- power of, to fill vacancies, 740.
- duty to give Congress information and recommend measures, 743.
- power to adjourn Congress, 743, 744.
- duty to receive ambassadors, etc., 744-748.
- duty to see that laws are faithfully executed, 748.
- as agent of Congress in carrying into effect a declaration of war, 749.
- PRINCEPS —**
- functions of, 111.
- PRIVILEGE —**
- grant of, illegitimate exercise of government authority, 76.
- PRIVILEGES AND IMMUNITIES —**
- of citizens, clause relating to, bears how on commerce power of Congress, 530-532.
- defined by Justice Washington in *Corfield v. Coryell*, 532.
- Miller on, 532, 533.
- of citizens of each State guaranteed to citizens of every other, 627.
- defined by Justice Washington, 627, 628.
- corporations not citizens under clause relating to, 628.
- do not include right to practice law, 628.
- do not include certain property rights acquired by marriage, 628.
- of citizens, guaranteed, 851-854.
- defined, 855.
- PRIVY COUNCIL —**
- functions of, after Revolution of 1688, 152.
- PRIZE CASES —**
- on power to blockade ports of Confederacy, 588, 589.
- PRIZES —**
- fall within admiralty jurisdiction, 774.
- PROCEDURE —**
- becomes regular under Edward I., 128.
- required to be in English, 128.
- PROCEEDINGS —**
- of each House of Congress prescribed by itself, 456.
- PROCESS OF LAW, DUE —**
- necessary to deprive individual of life, liberty or property, 676.

References are to pages.

- PROPERTY —
 may not be taken from individual without due process, 676.
 not to be taken without just compensation, 677.
 origin and definition of, 4, 22.
 of man in self, 23, 25.
 basis of, 25-32.
 views of Spencer regarding landed, 30.
 Maine on origin of, 31.
 created chiefly by labor, 32, 33.
 security of private, how provided for by Magna Carta, 131.
- PROPRIETARY GOVERNMENT.—
 character of, in America, 192.
- PROTECTIVE DUTIES —
 theory of, 498.
 use of, shown to be unconstitutional, 498-500.
 nature of, 501.
 Cooley on, 501, 502.
- PROVINCIAL GOVERNMENT —
 character of, in America, 192.
- PUBLIC ACTS, RECORDS, ETC.—
 power of Congress to provide for use, proving of, etc., 624, 625.
- PURITANS —
 attitude toward king and dissenters, 141, 144.

Q.

- QUARANTINE —
 laws on, passed by States do not exercise power to regulate commerce, 535.
- QUEEN'S COUNSEL —
 how selected, 173.
- QUIA EMPTORES —
 principles of statute of, 126.
- QUORUM —
 in Congress, how constituted, 427, 428.
 meaning discussed and adjudicated by Supreme Court, 432, 433.

R.

- RAILROAD CO. v. BOSWORTH —
 on confiscation power of United States during civil war, 595.
- RAILWAYS —
 State tax on agents of interstate, is void, 544.
 operations of interstate, may not be taxed by States, 545.
 property of interstate, may be taxed by States, 545.

References are to pages.

- RALEIGH, SIR WALTER —
 discoveries of, 181.
- RANDOLPH —
 constitutional plan of, kept commerce distinct from taxing power, 521.
- RANDOLPH, JOHN —
 plan of, for Constitution, 327.
- RANDOLPH, PEYTON —
 at Williamsburg Congress, 205.
 delegate to Continental Congress, 205.
- RATES, RAILWAY —
 may be regulated by the States despite fourteenth amendment, 865-868.
- RATIFICATION OF CONSTITUTION —
 mode of, prescribed by Article VII of the Constitution, 349.
- RECESS —
 vacancies occurring in, how provided for, 740-742.
- RECOGNITION —
 of revolted portions of foreign countries, left to President, 745-748.
- RECONSTRUCTION ACTS —
 provisions of, 546.
 never passed upon by Supreme Court, 597.
 would never have been sanctioned by Supreme Court, 597.
 nominally passed under clause guaranteeing republican form of government, 638, 639.
- RECORDS (see PUBLIC ACTS, RECORDS, ETC.).
- RE-ELIGIBILITY —
 discussions on, of President in Philadelphia Convention, 697, 698.
 feeling concerning, of President, 715.
- REFORMATION —
 origin of, 132.
 peculiar conditions of, in England, 135.
 attitude of Henry VIII toward, 136.
 strengthened under Edward II., 139.
- REFORM BILL —
 effect of, 50.
 passage of, 50.
 origin and nature of, 153.
 supported by William IV., 154.

References are to pages.

RELIGION —

- attitude of author toward, 3.
- regulation of, by Congress forbidden by first amendment, 667.
- what is regulation of, 668.

RELIGIOUS FREEDOM —

- act for, drawn by Jefferson, 668.

REMOVAL —

- of criminal cases from State to Federal courts under fourteenth amendment, 872.

REMOVALS —

- from Federal offices to be made by whom, 734-736.

REPRESENTATION —

- modern method of government, 87.
- how correlated with power of taxation, 89.
- principles of, 91, 92.
- how may protect minority from majority, 93-95.
- reply of colonies to Great Britain regarding, 98.
- right of, secured to House of Commons, 127.
- system of, how now divorced from tax system, 504.

REPRESENTATIVES —

- prohibition on appointment to newly-created offices, 391.
- cannot hold office, 391.
- how often elected, 393.
- qualifications of, 394.
- how elected, 394.
- how apportioned, 395.
- number of, 396.
- first apportionment, effect of, 397.
- not subject to impeachment, 413, 414.
- to whom answerable, 415.
- may be expelled how and when, 428, 429.
- how paid, 437, 438.
- when privileged from arrest, 438-440.
- freedom of speech guaranteed to, 440, 441.
- may not hold office or be appointed to newly-created offices, 441-443.

REPRESENTATIVES, HOUSE OF —

- power of, how checked by Senate, 100.
- as representative of the people themselves, 319.
- mode of election of members of, adopted by Federal Constitution, 328.
- basis of representation in, chosen by Federal Convention, 332-337.
- members of, cannot be appointed to newly-created offices, 391.

References are to pages.

REPRESENTATIVES, HOUSE OF (continued) —

- members cannot hold office, 391.
- period of election of members, 393.
- members, by whom elected, 393, 394.
- qualifications of electors, 394.
- suffrage for, fixed by the States, 394.
- qualifications of members as to age, citizenship and residence, 394, 395.
- States powerless to fix qualifications for membership in, 395.
- members, how apportioned among States, 395, 396.
- size of, how determined, 396.
- vacancies in, how filled, 398.
- speaker, how elected, 399.
- power of impeachment belongs to, 399.
- power over own members, 415, 428, 429.
- articles of impeachment drawn by, 423.
- judge of qualifications of members, 426.
- quorum, how constituted, 427.
- must keep journal, 430.
- meaning of quorum in, 432, 433.
- adjournment of, 433, 434.
- power to punish intrusion on, 434-437.
- instances of exercise of this power, 435-437.
- members, how paid, 437, 438.
- members, when privileged from arrest, 438-440.
- freedom of speech in, 440, 441.
- right to make inquiries, how secured, 446.
- revenue bills must originate with, 446.
- prescribes own order of proceedings, 456.
- intended exercise of functions by, as to taxation, how transferred at present, 507.
- functions in electing President of the United States in contested cases, 706, 707.
- adjournment of, may be made by President, 743, 744.
- adjournment of, how regulated, 744.

REPRIEVES (see PARDONS).

REPUBLICAN FORM OF GOVERNMENT —

- provisions of Constitution guaranteeing, 634.
- originally proposed in Randolph's plan for a Constitution, 635.
- Madison on new provisions for guarantee of, 636.
- clause guaranteeing, not inconsistent with slavery, 637.
- clause not applicable to case of Texas, 685.
- reconstruction acts passed under clause guaranteeing, 638, 639.

References are to pages.

RESERVED POWERS —

- of States, recognized by Federal Convention, 281, 282.
 - apply to things and persons not *in transitu*, 534.
 - may not be used as pretext to regulate commerce, 539, 540.
- Brown v. State of Maryland*, as illustrating, 539, 540.
- of people, not infringed by enumeration of certain rights in Constitution (ninth amendment), 687.
- of people, are all those not delegated to United States by Constitution, 689.
- discussion of doctrine of, 689-692.
- Constitution on what are, of States, 821.

REVENUE —

- amount of, of Federal government and States, 83, 84.

REVENUE BILLS —

- must originate where, 446.
- history of legislative treatment of, 447-452.
- do not include post-office, mint, or land bills, 451.

REVOLUTION —

- as an ultimate political remedy, 41.
- as reserved right of peoples, 50.
- why easily checked in England, 172.
- reception of ambassadors from foreign countries in cases of, 745.

REVOLUTION, AMERICAN —

- assumptions of, 42, 47.
- issues involved in, 96-99.
- bearing of, on history of representation, 98, 99.

REVOLUTION, ENGLISH —

- assumptions of, 42, 47.
- issues involved in, 96.
- bearing of, on theory of representation, 96.

REVOLUTION, ENGLISH, OF 1688 —

- effect on constitutional monarchy, 150.
- principles established by, 152.

REVOLUTION, FRENCH —

- assumptions of, 42, 47.

REVOLUTION, FRENCH, OF 1848 —

- how instituted, 43.
- assumptions of, 47.

REX v. CREEVY —

- decision in, on freedom of legislative speech, 441.

References are to pages.

RHODE ISLAND —

- a charter government, 192, 193.
- accedes to call of for Continental Congress, 205.
- attitude toward First Continental Congress, 206.
- becomes a State, 223.
- action as to Declaration of Independence, 230.
- first State Constitution of, 255.
- not represented in Federal Convention, 269.
- ratifies Constitution of United States, 230.
- evidence from history of, as to ratification of Constitution by the States, 234.

RICHARD III, OF ENGLAND —

- overthrown at Bosworth, 129.

RIDLEY —

- work in English Reformation, 139.

RIGHT —

- derivation, 25.
- basis of law, 25.
- defined, 38.
- relation to power, 44.
- jural, as ideal standard, 56.

RIGHTS (see RESERVED RIGHTS).

RIVERS, NAVIGABLE —

- included in admiralty and maritime jurisdiction, 775, 776.

ROME —

- suffrage in, under republic of, 95, 96.
- delegation of powers to municipalities by, 102.
- work of, in giving jurisprudence to Aryan nations, 109.

ROSES, WARS OF —

- political effect of, 132.

ROUSSEAU —

- on duty of man to himself, 13.
- on social compact, 18.
- on expression of will of Body-politic, 46, 47.
- hypothesis of, as to rights of majorities, 48.

"RUMP PARLIAMENT" —

- dissolution of, 146.

RUTLEDGE —

- report of, in Federal Convention, on sundry powers to be granted to Congress, 335.
- in Federal Convention, on limitations on tax system, 506.