

Index

- Acts of Assembly, 64–5
 Adams, Abigail, 190
 Adams, John, 82, 106, 144, 183, 233, 236,
 239, 243–4, 254
 African Americans, 8, 154, 158, 221, 266
 and history and memory, 136, 150, 153,
 155
 Alfred the Great, 77
 Laws of King Alfred, 115–16, 122
 American Philosophical Society, 171, 221
 Historical and Literary Committee, 162,
 173, 175–8
 American Revolution, 4, 7, 25, 30, 39, 64,
 81, 105, 111, 146, 182, 189, 191–2,
 227, 229
 ancient constitution, 13, 18, 23, 69, 76, 116,
 239
 Andros, Edmund, 49, 56
 Anglicization, 6, 45
 Anglo-Saxon, history and Jefferson's interest
 in, 76, 99, 115, 122, 242, 269–70
 archive, 5–6, 48, 58, 82, 162, 175–6, 246
 Arendt, Hannah, 154, 161, 235
 Atkinson, Roger, 68
 Aubrey, John, 47
- Bacon, Francis, 18–19, 46, 93
 Bacon, Matthew, 116
 Bacon, Nathaniel, 5
 Bacon's Rebellion, 39, 52
 barbarism, theories of, 166–7, 257, 269,
 271
 Barlow, Joel, 211
- Bartram, William, 172, 177
 Baxter, John, 239
 Beccaria, 117–18
 Bede, 252
 Benjamin, Walter, 157
 Beverley, Major Robert, 51
 Beverley, Robert, 38, 48, 51, 53, 59, 63–4
History and Present State of Virginia, 39,
 52, 59
 Beverley, William, 64
 Bingham, Anne Willing, 167
 Blackstone, William, 74, 76, 78–9, 93–4,
 96–101, 108, 115–16, 127, 228, 241,
 244
Blackwell v. Wilkinson, 72
 Bland, Richard, 5, 48, 68
 Board of Trade, 35–6, 50
 Bolingbroke, 1st Viscount (Henry St. John),
 255, 262
 Boston, 82
 Bracton, Henry de, 15, 116–17, 122
 Brady, John, 240
 Braxton, Carter, 84, 106
 Breckinridge, James, 265
 Britain, 200
 British Constitution, 38, 44, 49, 61–2, 76,
 116, 239, 241–3, 245
 Brooke, Sir Robert, 247
 Buffon, Comte de (George-Louis Leclerc),
 134, 146–50, 162–6, 170
 Burk, Jon, 233
 Burnet, Gilbert, 252
 Burnet, Thomas, 147

- Burr, Aaron, 230
 Byrd, William, 36, 38, 40–1, 48, 60, 63, 66
 History of the Dividing Line, 36, 59
 Secret History of the Dividing Line, 36
- Cabell, Joseph, 235
Calvin's Case, 12, 49, 96
 Care, Henry, 123
 Carr, Peter, 138, 256, 260, 267
 Carter, Landon, 45, 67–8, 84
 Cartwright, John, 3, 270
 Catesby, Mark, 149
 Cavell, Stanley, 27, 137, 160–1
 Chancellor, office of, 17–18, 56, 88, 93, 104, 108
 Chancery, jurisdiction of, 17–18, 21, 56, 60, 62, 88, 93–4, 107, 124, 231, 247
 Charles II, 65
Cherokee Nation v. Georgia, 228
 Cherokee tribe, 219, 228
 Choctaw tribe, 172
 Church of England, 110, 119
 Cicero, 170, 172, 243
 civic identity, 2, 4, 8, 27, 33–4, 37, 39, 42, 56, 63, 69, 85–6, 99, 106, 115, 183, 262
 civil history, 4, 6, 44, 53, 56, 59–60, 114, 133, 135, 137, 139, 142, 145, 147, 151, 156, 164, 166, 169, 175, 237, 250, 256, 258, 261, 268
 Claiborne, William, 226, 230
 Clark, George Rogers, 210
 Coke, Sir Edward, 12–16, 19, 21, 47, 49, 70, 87, 93, 96–7, 100, 116–17, Seeas read in Virginia, 12, 40, 66, 72, 75
 political conflicts, 17, 46
 Colden, Cadwallader, 171, 177
 College of William and Mary, 58, 66, 101, 110
 colonialism, 5, 30, 187
 common law, 12, 17, 21, 23, 62, 68, 70–2, 101, 117, 180, 227, 247–8, 269
 antiquity of, 13–16, 18, 22, 76–7
 in relation to ecclesiastical law, 74, 121–2
 in relation to equity, 20, 23–4, 78, 90, 92
 reception of in North America, 10, 41, 43–5, 50, 55, 60, 62, 69, 71, 81, 84, 97, 102, 106, 108, 110, 188, 226, 229
 Common Pleas, Court of, 12
 commonplace book, 46–7, 114, 116, 119, 256
 of Sir John Randolph and Benjamin Harrison, 45
 Thomas Jefferson's equity commonplace book, 78–9, 89, 92
 Thomas Jefferson's legal commonplace book, 70, 73, 89, 121, 244, 252, 269
 Thomas Jefferson's literary commonplace book, 40, 115, 255
 Condillac, Etienne Bonnot de, 174
 Condorcet, marquis de (Marie-Jean-Antoine-Nicolas de Caritat), 191–3
 Cooper, Thomas, 252, 267
 Council of Nicea, 120
 Court of Session, 79, 89–90, 92, 94
 Coxe, Trench, 199
 Creek (Muscogee) tribe, 172
 Crevecoeur, Hector St. John de, 146, 159–60
 Crown, power of, 12, 18, 22, 36, 49–50, 52, 56, 62, 68–9, 71, 85, 87–8, 103, 106, 113, 229, 248
 Culpeper, Sir Thomas, 54–5
 custom, 16, 20, 23–4, 26, 42, 44, 49, 57–8, 61, 75, 83, 92, 94, 136, 145, 151, 257, 269
- Dalrymple, John, 76
 Davenant, Charles, 35
 Declaration of Independence, 4, 48, 80, 83, 99, 103, 168, 201, 230, 273
 Declaration of Sentiments, 274
 degeneracy, theories of, 52, 54, 134, 146, 148, 150, 152, 162, 166
 Delaware tribe. *See* Lenni-Lenape people
 democracy, 30, 113, 127, 185, 207, 209, 211, 240, 242–3
 Jeffersonian democracy, 8, 136, 158, 182–3, 222
 Democratic-Republican societies, 182
 Demosthenes, 124, 170, 172
 Dewey, John, 274
 Du Ponceau, Peter Stephen, 171, 173, 175–9, 227, 229
 Du Pont de Nemours, Pierre Samuel, 203
 Duane, William, 210, 215, 227, 234
 Dunmore, 4th Earl of (John Murray), 85, 95, 106, 170
 Dürer, Albrecht, 263
 ecclesiastical law, 15, 43–4, 74–5, 119, 121, 125, 245, 252

- Edward I, 93, 240
 Effingham, 5th Baron of (Francis Howard), 56
 Elizabeth I, 18
 Ellesmere, Lord (Sir Thomas Egerton), 17, 93
 empire, 2, 4, 6, 9, 30, 34, 42, 53, 116, 132, 136, 162, 185, 187, 189, 207–8, 215, 220–1, 225, 229, 232, 275
 British Empire, 12, 37, 39, 41, 48, 51–3, 56–7, 68, 75, 81, 87, 90, 95, 97–8
 theories of, 97, 140, 169, 188, 223–4, 228
 England, 11–12, 15, 39, 43, 47, 49–50, 52, 55, 60–1, 67, 72, 74, 76–7, 88, 91, 93, 95, 100, 108, 119, 125, 195, 239–40, 245, 249
 English Civil War, 36, 250
 Enlightenment, 119, 163, 171, 174, 192, 202
 French Enlightenment, 190
 Scottish Enlightenment, 89, 91, 103, 139, 158, 190
 Epictetus, 261
 Epicurus, 261
 Eppes, John Wayles, 198
 equity, 17, 79, 173, 177
 definition of, 16–17, 19–20, 23–4, 80, 88, 92–4, 127, 130
 in philosophy and social theory, 81, 89, 92, 127, 129, 156, 172
 jurisdiction, 43, 55, 78–9, 88, 90, 92–3, 98, 100–3, 111, 123–6, 231, 247
 practice and procedure, 43, 60, 78, 92, 104
 Erasmus, Desiderius, 70, 252, 263
 Eusebius, 252
 expansion, 4, 30, 33, 49, 59, 105, 107, 167, 178, 184–5, 187–8, 207–9, 212, 218, 222, 224–6, 228–9, 242, 257

 Finch, Heneage, 1st Earl of Nottingham, 93
 Fitzguh, William, 63
 Fortescue, Sir John, 22, 76–7
 Fortescue-Aland, John, 22, 76, 78, 269
 Foucault, Michel, 8, 40, 145, 185
 France, 181, 186, 189, 194, 200, 213, 226, 237, 273
 Franklin, Benjamin, 82
 French Revolution, 183, 213

 Gallatin, Albert, 175, 177–8, 199, 227
 Gassendi, Pierre, 261
 General Assembly, 5, 67, 82, 107, 109, 111, 129

 General Court
 of Virginia, 38, 43–4, 46–7, 50–1, 55–7, 59, 61, 69, 72–3, 75, 80, 107, 113
 Gibbon, Edward, 252
 Glanville, 15, 116
 Glorious Revolution, 3–4, 22, 35, 50, 52, 63, 93, 270
Godwin v. Luman, 74, 121
 Goltzius, Hendrick, 263
 Gooch, William, 60, 65
 Governor's Council, 38, 44, 63, 66–7, 113
 Grotius, Hugo, 139

 Hale, Sir Matthew, 23, 76, 122
 Hamilton, Alexander, 4, 181, 204, 207, 220, 264
 Handsome Lake, 219, 257
 Harrison, Benjamin, 45
 Harrison, William Henry, 210, 220
 Hawkins, Benjamin, 175, 218
 Hawles, Sir John, 123
 Heckewelder, John, 175–8
 Hemings, Sally, 168
 Hening, William Waller
 The Statutes at Large, 52, 64, 233, 264
 Henry, Patrick, 43, 66
 historical consciousness, 1, 26–7, 51, 62, 69, 164, 220
 historical practice, 9–10, 28, 34, 59, 75, 162–3, 165, 169, 177, 274, 276
 historical records, 3, 5–6, 8, 13, 23, 38–9, 41, 47–8, 51, 53, 56–8, 63, 75, 81–2, 169, 176, 233–4, 238, 241, 247, 264–5
 historical representation, 4–5, 7, 9, 38, 48, 194, 233–4, 238, 262–3
 historiography, 2, 22, 25–6, 115, 169, 171, 183, 238, 245
 history
 and law, 9, 29, 45, 89, 91, 112, 166, 231, 266
 politics of, 27, 37, 39, 48, 51–2, 105, 116, 129, 135, 146, 156, 162, 219, 239, 274–6
 Hobbes, Thomas, 19–21, 24, 139
 Holt, Sir John, 71
 Houard, David, 122
 House of Burgesses, 38, 47, 51, 54, 58, 60, 64, 67, 80, 85
Howell v. Netherland, 73, 96
 Hulme, Obadiah, 71, 76
 Humboldt, Alexander von, 221

- Hume, David, 103, 172, 190, 201, 239, 241–3, 247, 249
- Ideologues*, 212–13
- Inns of Court, 38
- Iroquois Confederacy, 169, 171, 177
- Isaac, Rhys, 42
- Jackson, Andrew, 228, 230
- James I, 12, 17–18, 249
- Jamestown, 5, 56
- Jay Treaty, 205
- Jefferson, Thomas, 3, 40, 49, 72, 85
 and African Americans, 151–4, 266
 and Native Americans, 31, 150, 162–3, 165–6, 168–70, 173, 206–7, 215–20, 225, 229, 257–8, 269, 271
 and slavery, 31, 73, 96, 105, 109, 129, 150–2, 157, 159–61, 165, 204, 214, 265, 273, 275
 collections, 5, 163, 233, 264
 ecclesiology and religious history, 120, 122, 250–8, 260–1, 263, 266
 in national politics, 181, 184, 186, 199, 209, 216, 226, 230, 232, 236, 251, 258, 273
 intellectual life, 10–11, 13, 25, 27, 32, 82–3, 87–8, 98, 100, 104, 107, 112–13, 116–18, 123, 134–5, 141, 165, 180, 186–8, 193, 197, 204, 206, 210, 213, 215, 226, 231, 233–5, 239, 244, 250, 262, 266, 273–4
 legal career of, 69, 71, 73, 78, 92, 96, 118, 121, 128
Notes on the State of Virginia, 10, 59, 105, 111, 130, 132, 136, 143, 146–7, 152, 157, 160–1, 169, 190, 193, 195, 206, 254, 266
 on commerce, 187, 200–2, 204–5, 210, 212, 217–20, 228
 on gender and sexuality, 150, 166–8
 on language, 137, 139, 143–4, 162, 173, 176, 227, 266, 269
 on money, 193–6
 on parliamentary procedure, 238, 244–5, 247, 272
 on property and natural right, 130, 189–90, 210, 212
 on race, 30–1, 136, 151–6, 270
 proposals for law reform, 9, 110–11, 117, 167
 proposals for Virginia constitution, 10, 107, 109, 128, 130, 151, 187, 190, 237–8
- Jeffreys, Herbert, 51
- Jerome, 120, 252, 263–4
- Jesus Christ, 254, 256, 258–60
- John I, 242
- Johnson v. M'Intosh*, 228
- Jones, John, 123
- jurisdictional authority, 23, 43, 48, 50, 55, 60, 93, 95
- jurisdictional conflict, 12, 17, 21, 48, 60, 75, 93
- Kafka, Franz, 276
- Kames, Lord (Henry Home), 79–80, 89–92, 94, 100, 102–3, 118, 125
- Keith, Sir William, 61
- Kercheval, Samuel, 10, 237
- King's Bench, Court of, 12, 15, 17–18, 21, 46–7, 70, 88, 94–5
- law
 English, 38, 62, 72, 95–6
 histories of, 29, 50, 62, 67, 79, 106, 275
 ideas about, 14, 40, 42, 45, 65–6, 81, 86, 91, 114, 132, 137, 161, 189, 193, 226, 276
 in Virginia, 110–11
 jurisdiction, 98, 226
- Law, Thomas, 138–9
- Laws of the Assembly, 5
- Laws of Virginia, 52, 63, 65, 67, 264
- Lee, Richard Henry, 107
- Lee, Thomas Ludwell, 110
- legal history, 3–4, 13, 21, 30, 38–9, 47, 51, 65, 68–9, 79–80, 82, 96, 110, 115–16, 134, 136, 150–1, 222, 247, 264
- legal humanism, 2, 12, 32, 54, 69, 104, 112, 164, 193
- legal theory, 3, 8, 11–12, 56, 83, 93, 95, 100, 218, 223
- Lenni-Lenape people, 177
- Lewis and Clark Expedition, 174, 264
- liberalism, 30, 185, 187
- libraries (personal), 39–40, 43, 64–5
- Lincoln, Abraham, 274
- Littleton, Thomas, 15, 20, 40, 47, 66, 117, 122
- Livingston, Edward, 229, 231
- Livy, 256
- Locke, John, 24, 104, 119, 126, 129, 140–1, 174, 196, 213, 222, 224

Index

281

- Logan (Mingo war leader), 170
 London, 35, 37–9, 41, 45, 51–2, 55, 58, 60,
 62–3, 65, 71, 88
 Louis XVI, 181
 Louisiana Purchase, 176, 199, 216, 230
- Madison, James, 3, 10, 33, 128, 130, 133,
 182, 184, 187, 199, 204, 207–9, 216,
 227, 237
 Magna Carta, 15, 57, 122, 242
 Mansfield, 1st Earl of (William Murray), 71,
 78, 94–5, 127
 manuscripts, 4–6, 18, 33, 39, 41–2, 59, 65, 124
 Marbois, François, 133
 Marshall, John, 3, 228
 Maryland, 64
 Mason, George, 41, 85–6, 105, 107,
 110
 Massachusetts, 36, 233
 Mastodon (American, *mammot
 americanum*), 148–9, 165
 Mathew, Thomas, 5
 Mazzei, Philip, 78, 94, 125
 memory, 11, 45–6, 54, 75, 116, 129, 137–9,
 144, 155, 176, 250, 260, 272–3
 Mercer, John, 43, 64
 Michaux, André, 175
 Middle Temple, 38
 Middleton, Conyers, 252–3
 Milligan, Joseph, 213
 Milton, John, 120, 252
 Missouri Compromise, 265
 Montesquieu, Baron de (Charles-Louis de
 Secondat), 112–14, 147–8, 209, 212, 215
 Monticello, 8, 101, 168, 214, 233–4, 252,
 263–4, 272
 Moore, Clement Clark, 251
 Mosheim, Johann-Lorenz von, 252–3
- Native Americans, 8, 53, 98, 105, 154,
 162–5, 167–71, 173, 178, 206–7, 215,
 217–21, 229, 257–8, 264, 268, 271
 and history and memory, 136, 162–3,
 175–6, 217, 219–20, 225, 257
 histories of, 52, 54, 58–9
 languages, 176–7, 179
 possession of land, 31, 53, 85, 183, 186,
 188, 218, 222, 224, 228–9
 natural history, 53, 112, 114, 132–5, 145–7,
 149, 151–2, 156, 160, 162–3, 165, 171,
 252
- natural jurisprudence, 73, 126, 128, 134,
 139–40, 158, 222–3, 266
 natural law, 17, 20, 23, 44, 95, 112, 125–6,
 134, 139–41, 148, 159, 161, 196, 198,
 203, 224
 Navigation Acts, 36, 55
 New England, 146, 187, 236
 Dominion of New England, 35, 49
 New Orleans, 187, 225, 230–2
 New York, 82
 Nicholson, Francis, 39, 52, 57, 64
 Norman Conquest, ideas about, 13, 15–16,
 21–2, 108, 115, 242, 249, 270
 North Carolina, 36
 Northwest Ordinance, 226, 231
 Northwest Territory, 220
- Origen, 120, 252
- Page v. Pendleton*, 125
 Paine, Thomas, 84, 106, 251
 Paris, 128, 144, 167–8, 200, 256,
 263
 Parks, William, 64
 Parliament, 12, 16, 19, 23, 50, 55–6, 61,
 68–9, 76, 80, 87, 95, 97–9, 101, 103,
 238, 240, 242, 245–6, 248–9
 Pendleton, Edmund, 109
 Pennsylvania, 36, 61, 106, 176
 Petyt, William, 240
 Philadelphia, 99, 173, 175, 211
 Physiocracy, 203
 Pocock, J.G.A., 23, 26, 166, 171, 275
 political economy, 31, 35, 174, 184, 186,
 188, 192–3, 199–200, 202, 212, 215,
 218, 220, 265
 political participation, 6, 10, 22, 33, 40, 47,
 57, 77, 83, 111, 114, 128, 156, 173, 185,
 187, 191, 207, 214–15, 225, 234–5,
 237, 250
 Poplar Forest, 272
 Powhatan Confederacy, 53, 59
praemunire, 17
 prerogative, 18, 21, 23, 39, 44, 48–9, 75,
 88, 93, 120, 172, 250
 Priestley, Joseph, 253
 print culture, 184, 212, 218, 222
 Privy Council, 38, 51, 61, 87–8, 93, 103,
 107
 Pufendorf, Samuel, 139
 Purvis, John, 51

- Quesnay, François, 203
 Raffles, Constantine Samuel, 175, 177
 Randolph, Edmund, 46, 226
 Randolph, Peyton, 5, 45
 Randolph, Sir John, 5, 45–7, 62–3, 65
 Rapin-Thoyras, Paul de, 240
 Raymond, Sir Thomas, 70
 Raynal, Guillaume Thomas François, 71,
 134, 140, 146, 170
 recollection, 2, 11, 115, 142, 154–5, 160,
 162, 257, 275–6
 republicanism, 30, 133, 139, 168, 173,
 184–5, 188, 204–5, 207, 209, 216, 225
 Roman Catholic Church, 14
 Roman Empire, 14, 252
 Roman law, 44, 77, 96, 222–3, 226, 231,
 247, 261
 Rousseau, Jean-Jacques, 184
 Saint-Domingue, 192
 Salamanca, school of, 188, 223
 Salkeld, William, 70
 Sancho, Ignatius, 153
 Sarpi, Paulo, 252
 savagery, theories of, 166, 171, 223
 Say, Jean-Baptiste, 213
 Scotland, 79, 91, 93, 96, 100
 Selden, John, 22–3
 Seneca tribe, 219, 257
 Shaftesbury, 3rd Earl of (Anthony Ashley
 Cooper), 119
 Shays Rebellion, 190
 Short, William, 261
 Sidney, Algernon, 24
 Skipwith, Thomas, 142
 slavery, 5, 8, 31, 36, 41, 49, 53, 58, 64, 71–3,
 95, 108, 150–1, 153, 157–9, 192, 215,
 265, 273
Smith v. Brown & Cooper, 71
 Smith, Adam, 91, 103, 126, 140, 142–3,
 179, 191, 202–3
Somerset v. Stewart, 71, 95
 Sophocles, 124
 sovereignty, 3, 13, 18, 20, 24, 37, 40, 50,
 62, 76, 80, 86–7, 89, 93, 98, 103, 114,
 120, 130, 169, 180, 182, 184, 186,
 188, 198, 208, 223, 229, 231, 235, 242
 Spain, 194, 200
 Spanish conquest, 223–4
 Spelman, Henry, 21, 76, 240, 245, 252
 Spotswood, Alexander, 60
 Star Chamber, 18, 56
 Stith, William, 62
 Tacitus, 243, 256
 Taylor, John, 236
 Ticknor, George, 233
 tobacco, 36, 54
 Tracy, Destutt de, 186, 192, 210–14
 Treaty of Paris, 125
 Tucker, St. George, 117
 Tully, James, 4, 129, 161, 216, 223
 Turgot, Anne Robert Jacques, 192
 Tyler, John, 235
 United States Constitution, 10, 37, 72, 128,
 206, 208, 226–8, 249
 University of Virginia, 175, 234, 265,
 268–9, 273
 Virginia, 5–6, 38, 53, 59, 63, 68, 71, 73, 82,
 85, 110, 113–14, 134, 170, 233, 237,
 252, 264, 272
 and slavery, 39, 72, 96, 151, 158
 as British colony, 35–6, 41–2, 44–5, 50,
 54, 56, 62, 65–6, 69, 234
 as state, 78, 80, 85, 116, 119, 266
 natural history of, 135
 Virginia and Kentucky Resolutions, 182
 Virginia Company, 5
 Vitoria, Francisco de, 223–5
 Volney, Constantin-François de, 175, 186,
 202–3
 Waldo, John, 144
 Walwyn, William, 123
 War of 1812, 176, 199
 Washington, George, 8, 82, 86, 238
 West, William, 100
 Wheatley, Phyllis, 153
 Whiskey Rebellion, 182
 William III, 35
 William the Conqueror, 240
 Williamsburg, 43, 63, 65
 Wistar, Caspar, 175–6
 Wittgenstein, Ludwig, 145, 160
Worcester v. Georgia, 228
 Wythe, George, 65, 70, 74–5, 82, 107,
 109–10, 124–5, 152, 244, 252