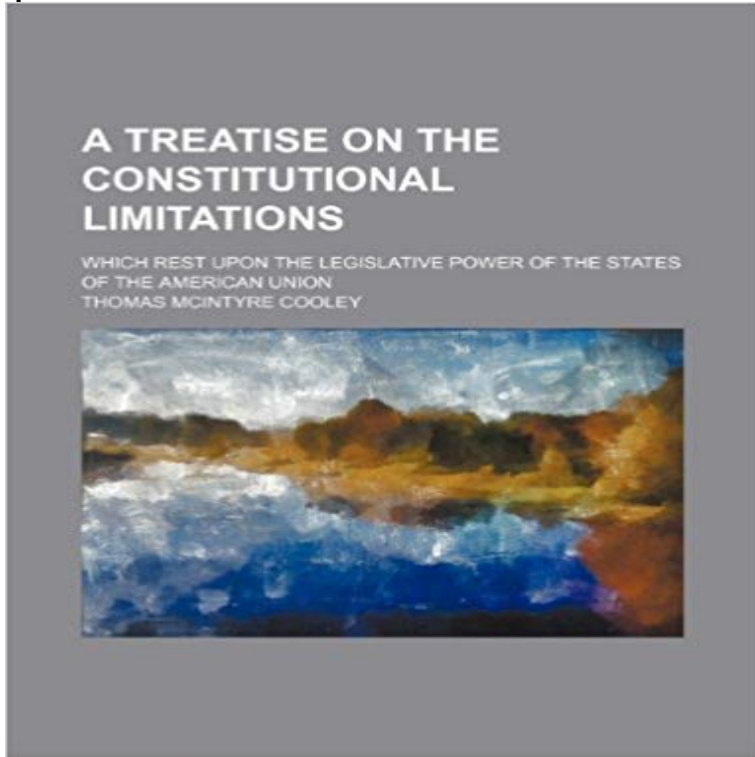


# A treatise on the constitutional limitations; which rest upon the legislative power of the States of the American Union



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. 1868 Excerpt: ...was held to be a bar. *State v. Norvell*, 2 Yerg. 24. So, if the error was in the judgment, and not in the prior proceedings, if the judgment is reversed, the prisoner must be discharged. *Lowenberg v. People*, 27 N. Y. 336. But it is competent for the legislature to provide that, on reversing the erroneous judgment in such a case, the court, if the prior proceedings are regular, shall remand the case for the proper sentence. *McKee v. People*, 32 N. Y. 239. *State v. Cooper*, 1 Green. 360; *Commonwealth v. Roby*, 12 Pick. 504; *People v. McGowen*, 17 Wend. 386; *Price v. State*, 19 Ohio, 423; *State v. Benham*, 7 Conn. 414. *Campbell v. State*, 9 Yerg. 333; *State v. Kittle*, 2 Tyler, 471; *Morris v. State*, 8 S. & M. 762; *Esmon v. State*, 1 Swan, 14; *Guenther v. People*, 24 N. Y. 100. 4 See *Barker v. People*, 3 Cow. 686. See this case, on the subject of cruel and unusual punishments generally. See also *Done v. People*, 5 Parker, By Magna Charta a freeman was not to be amerced for a small fault, but according to the degree of the fault, and for a great crime in proportion to the heinousness of it, saving to him his contenment; and after the same manner a merchant, saving to him his merchandise. And a villein was to be amerced after the same manner, saving to him his wainage. The merciful spirit of these provisions addresses itself to the criminal courts of the American States through the provisions of their constitutions. It has been decided by the Supreme Court of Connecticut that it was not competent, in the punishment of a common-law offence, to inflict fine and imprisonment without limitation. The precedent it was said, cited by counsel contending for the opposite doctrine, of a

punishment for a libel published against the Lord Chancellor Bacon, was deprived of all force ...

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