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MONDAY, OCTOBER 1, 1866.

Shall the Power of the People to Make Laws be Maintained ?

THE great fundamental issue in our present political campaign is a constitutional one, and involves the question as to which of the great departments of the Government, the executive or the legislative, the work of reconstruction properly belongs. This must be determined before we can even enter upon a discussion of the rival plans of the President and of Congress. Indeed, when this constitutional question is settled, there is no discussion as to such rival plans possible, because to whichever department of the Government the work of reconstruction belongs, it belongs to it alore. If it be an executive work, it belongs solely to the President; if it be a legislative work, it belongs exclusively to Congress. There is no commingling of functions between these branches of the Government, so that if one neglects its duty the other can take it up and perform it. They are separate, distinct, independent.

By the Constitution all legislative functions in our Government are conterred exclusively upon Congress. The President signs laws after they are passed, or interposes his veto. but in no other manner does he have any connection, however remote, with the legislative branch, except that he is responsible to it for malfeasance in office, and liable to impeachment. The distinguishing feature of our Government is that nothing can be done by any of its officials except in accordance with law, and that no law can be made except by the people themselves through their Representatives in Congress. Nothing is left to any man's discretion-nothing to any man's arbitrary will. The law is the supreme and only authority. The Executive can do nothing but execute the laws. The moment he steps beyond or outside of them, and substitutes his own will or judgment, he becomes a usurper. He assumes a function which the people have reserved exclusively to themselves.

If the President does an act, adopts any policy, performs any duty, appoints any officer, he must do it in obedience to some law. The lav is his only possible authority or justification.

Now, let us apply these principles to the work of reconstruction, and see to which department of the Government it belongs. If it be an executive work, it must be so, as we have just seen, by virtue of some law. Let us bring what has already been done by President Johnson to this lest. Take, first, the appointment of Provisional Governors. Where is there any law creating such an office as this? The Constitution knows nothing of such an office. The statute-books may be searched in vain for a law creating such an office. It is an anomaly. It should be remembered that these Governors were not military officers, merely dewalled for the performance of some special duty, but were appointed to perform certain persons official functions, corresponding very to those of Territorial Govclosely Where, we again ask, is the law ernors. creating this office? There is none. The Executive created it, and the appointments were made without the advice and consent of the Senate. Now, the President has no more power under the Constitution and the laws to make an office, than he has to pass a statute. It he may create one office of his own will and pleasure, he may ten thousand. If he may make a Provisional Governor, who is to rule over a State, he may make a provisional dictator to rule over a dozen States, or a Provisional General to control the army, or a Provisional Admiral to lead the navy. There is no limit to this. If the President may create offices at will, he may make them by the thousand, and his power becomes practically unlimited. But let us go one step further in the work of reconstruction, so far as carried on by the President. The proclamation appointing William W. Holden Provisional Governor of North Carolina is the standard after which Provisional Governments were organized in all the revolted States. We find in this proclamation, among other things, first, authority conferred upon the Governor to prescribe "rules and regulations" for the assembling of a Convention; secondly, a regulation that the Convention shall be composed only of the "loyal people" of the State; thirdly, a prescription of the powers of said Convention when assembled; fourthly, a prescription of the qualifications of voters at the election for members of the Convention; and, fithly, power conferred upon the Convention, when assembled, or the Legislature which might thereafter assemble, to fix the qualifications ot electors and of persons eligible to office. Now the question again arises, if this was legitimate Executive work, where is the law in accordance with which it was done? Where is the statute authorizing the President to prescribe all these varied and important rules and regulations? They cover the ground usually embraced in enabling acts of Congress for the f rmation of States out of Territories. It the President was authorized to prescribe those rules and regulations, there must be some law for it. Where is it? It cannot be found. It was done without law. But a glance at the work itself shows that

prescribing of rules and regulations, or in other words of laws, for the formation of State governments. What is this but legislation, and that too of a very high and important order? It is not the mere passage of a statute, but it is the creation of a State government. There is no higher function than this known to Congress. There has never been, in the whole history of our Government, a subject of more importance to the people, nor one upon which their right to make the laws was

more emphatic. We thus see that the entire work of reconstruction is a legislative one, belonging. under the Constitution, solely to Congress. The President has no right to touch it in the least, until some law has been duly passed by virtue of which he may act. All that he has done has been done outside of the law, and has been a usurpation of the legislative functions of Congress Congress is the popular branch of the Government. It is the people speaking through their Representatives. Whatever trespasses upon Congress steps upon the people. The law-making power tal en out of the hands of Congress is the law-making power taken out of the hands of the people. It is the substitution of some one man's will for the will of the people. It is the one-man power trampling upon and defying the people. It is an assault upon the very citadel and heart of popular rights. It revolutionizes the Government, transforming it from a Government of laws to one of arbitrary power. It puts one man above the people. It gives us the essential principle of despotism in place of republican libe-tv.

It is the quick instinct of the people discovering this deep and vital issue which lends to our present canvass an excitement and a depth of feeling hitherto unparalleled. The integrity of Congress must be maintained, or the popular character of our Government is overthrown and lost forever.

The Base-Ball Epidemic.

WE all know that at irregular intervals dangerous epidemics sweep over countries, affecting more or less all the people. The East tells us of thousands infected, and it requires no historical knowledge to see it in our own land. As with physical maladies, so also with moral contagions. Philosophers say that crime is infectious, and that one example of a mighty offense against law causes others. And it is a moral epidemic which is now raging in our land. Good, quiet people may smile, but there is a fever which is in the brains and affecting the minds of thousands of American citizens. Strange to say, this disease is principally limited to the male sex, and seldom attacks those who have attained the age of thirty.

The prevailing mania is known as "baseball," and never was there a Juggernaut with more devoted followers than this god of physical sport. There seems to be a reckless abandon exhibited by its devotees, which savors of the mad ecstacy which the Pythoness continually lived in. All of the leading players have had their fingers broken, and some have every finger broken twice. The loss of a tooth or an eye is received with such slight interest that we might suppose that the member had offended, and been "plucked out." The number of these reckless devotees is legion. Every boy who has attained the mature age of six feels qualified to belon ; to a "club," and all the adjectives in the language are applied as titles to the organizations. The "Invulnerables," the "Invincibles," or the "Inwhatable," as Toodles has it, are all composed of young Americans whose lives have not witnessed a decade. Then, also, is mythology laid under contribution, and "Olympic" brought down to the level of a plain. The venerable gentleman who rushed out of his bath without making a toilet has a delicate compliment paid to his memory, and the "Eureka" appears on the base-ball board. "The youth who bore 'mid snow and ice" is not forgotten. and "Excelsior" is inscribed on the banner of another. As to all the American statesmen, the patriotism of the players compels some recognition of their merits, and "Washington," "Franklin," "Hamilton," and all the signers and all the Presidents are remembered. The fact is, the organizers of new clubs are driven to desperation to secure names, and if the fever continues much longer, they must resort to the expedient of the unfortunate fathers who, having exhausted their vocabulary, devised the scheme of duplicating names. We will have the "Washington Washington" and the "Eureka Eureka." But we are in hopes that before this dreadful pass is reached, the fever will have commenced to abate, and that

tional activity. But when it is four times a week, and sometimes more, it becomes a decided nuisance. We admire the game of base-ball. We admire the results, if indulged in moderately, and it is because we want to see young Americans have such a game always as a recreation, that we oppose the present excess. Unless it is remedied and the over-indulgence abated, we see that it will disappear, as did cricket. Our business men will lose patience, and refuse continual absence trom duty. At present it is positively losing money to both the employes and their employers. This state of affairs cannot continue, and as lovers of the sport, we call upon those who actively engage in it, "to draw it a little more mild," as the meek phitospher says, and "not run the thing into the ground."

"The Usurpation."

publish to-day, from the Atlantic WE Monthly, a powerful and remarkable review of President Johnson's recent and probable future course. It is aptly entitled "The Usurpation," and is supposed to be from the pen of Major-General Benjamin F. Butler, While we cannot agree with the writer in all of his arguments relative to dangers that he deems imminent, we must confess that some of the evils are actually threatening, which might cultimate in something serious to the country. It is the duty of every one, therefore, to be prepared for the worst, and by energetic action prevent the consummation of any scheme that savors of treason or would injure the interests of our country in any way. Read "Tae Usurpation."

LEGAL INTELLIGENCE.

Supreme Court in Equity-Judge Strong. The case of Levi Fenton vz. The Union Passenger Railway Company of Philadelohia, et al., was called this morning. About three weeks ago an application for an injunction was made, and the argument fixed to this morning. Judge Porter, W. J. McE roy, and C. Stuart Pat-terson, Esgs, appeared for the complainants; and John O'Byrne, E Spencer Miller, G. W. Biddle, Esgs., for the desendants.

Esqs., for the delendants. E. Spencer Miller, seq , said that an application

for an injunction requires careful consideration and preparation. It is a matter of importance to the nobe, as well as to ourse ves. It was on Friday last that I first saw the deposi-

It was on Friday last that I first saw the deposi-tions in this case, and incu only the proof of a por-tion or them I was to d that many other pages were to follow. We think that, in the ordinary rules which govern such applications, we ought to have an op, ortunity of looking at the affidavits and pre-paring colmer affidavits. The ordinary practice in this Court, when an affidavit comes in, is to give a little time for examination, and for filing affidavits

in opposition. We ask an opportunity to understand the question, We ask an opportunity to inderstand the question, in order to determine whether there is a nuisanco. We ask time to exam he these depositions carefully. Some affidavits were submitted to us this morning, and portions of them on Friday last. I had but twenty-four pages of Lem. Mr. O'Byrne-There are forty-seven pages alto-gother.

gother. The Court-This application was postponed week before last until to day, on account of my engagements

Mr. Miller-We do not ask for a long period ; we

The Court Let me say, at this moment, as I came into Court Let me say, at this moment, as I came into Court this morman I found addressed to me a paper, which I have not read. It is in reference to the case now pending before me, with some extracts it is right for me to receive such a paper I directed it to be filed in this case, and to be opened to the inspect on of the counsel of Loth sides, and to any person who desires to see it. Judge Porter - Fhis cill wis filed and served some-thing ike ten days ago. The detendants have had these ten days. I know it is a case of considerable

Court of Quarter Seastons—Allison, P. J.— This is the beginning of the October term of this Court, and empanelizing of the Juries occupied a greater portion of the morning season. Soon after the opening of the Court the jury seast were filled with able, intelligent looking jury men; and every-thing seemed to bid fair for a brisk, busy term. As is ordinary on such days, there were petitions from those sammoned on the different juries for exemp-tion from duty, and the reasons given were as vari-ous as they were numerous. there summoned on the different juries for exemp-tion from duty, and the reasons given were as vari-ous as they were numerous. Mr. George R. Orr was appointed foreman of the Grand Jury, and he received this distinction from the Court modestly and with good grage. Mr. Daniel Smith was partially excused from the Grand Jury upon the following plea:-He being President of the Pennsylvania F re Insurance Com-pany, his presence is absolutely necessary at the business meeting of the Company, which meeting takes place upon the first day of every month Application was made for the excuse of Mr. Daniel Schofield from service. It was pleaded that the subject of the application is foreman in a very large manufacturing establishment, having under his charge some seven hundred men; and his ab-ence from the establishment would necessarily cause a cossition of business, and entail a neary tose not only upon the firm. But also upon the many who earn their livelihood there. The Court replied that the law expressly forbade the Court to excuse any one from service upon a plea of mere inconvenience or toss in business, and refused to grant the appli-cation for the present. or ioss in bu-iness, and refused to grant the appli-ention for the present. The members of the jury having been sworn and affirmed, they received as able instruction from the Court, in which instruction the duties of Grand Ju-rors were plainly and jully explained. The business of the term is to be nothing unusual. It was men-troned that it was very likely there would be a num-ber of bills charging parties with murder. After the instruction, the jurors were ecorted to their foom by the officers of the Court, Messra. Vansant and Barber. Barbor. There being a number of those summoned on the Grand Jury absent, the Court ordered a fine of \$15 to be imposed upon each one failing to appear. Of the Fetit Jurors a number were excused from service. After the applications for exemption were concluded, 33 jurors were retained There being no business before the Court for transaction it adjourned at an early hour, until to-morrow morning at 10 o'clock. DARING ROBBERY. Seven Thousand Dollars Stolen from Broker's Office in Hartford, Conn. From the Hartford Times, September 29. A robbery, remarkable for its boldness, ha recently been committed in this city, the part culars of which have been withheld from th public for reasons satisfactory to the partiinterested. Two men, it is supposed, entered the sleepin apartment of Alfred S. Robinson, gold and stock broker, in the Marble Block, Central Row, and while he slept took his office and safe keys out of his pantaloons' pocket, and then proceede to the office, where they had no difficulty i runmaging to their heart's content. From the safe they abstracted Treasury note and coin to the amount of \$7000, leaving behin many valuable papers, which they were shrew enough to know could not be easily disposed o and having done this, returned to Mr. Robisnon house, and replaced the keys where they foun In the morning, on going to the office, he di covered the robbery, which was, of course, i great mystery to him. The sale was locked and he had the keys. His suspicions were excited, however, as to the guilty parties, and nformation was given at once to the Chief Police, who has the casegin hand. No arrest have yet been made. A Miraele - A Roman Catholic journal in Enland gravely prints a story of the life of "The Very Rev. Mother Maria di Mathias, founder o the Order of the Sisters of the Most Preciou Blood," whose death took place recently. In th course of this brief biography the reader is in formed that "the first time it became necessar for her to communicate with the eccle-iastica authorities on the subject of her intended inst tute-being unable to write, which she had neve been taught-she knelt down before the crucifi with her pen in her hand, and He who is th wisdom of God miraculously enabled her t form the letters and find the fitting expressions for conveying her meaning to the bishop. That letter has been religiously preserved." SPECIAL NOTICES. MUJAVIRO.-WE COPY THE FOLLOW ing meritorious notice of this most delicions perfume from Forney's Press;-MUJAVIRO. - This delicious new perfume for the handkerchier, is without a rival for delicacy, durability, and richness. In fact, of all perfumes the tragrant Mujaviro (of Russian origin) may be called the quintes sence. For sale by all the principal druggists. [7 14 6m4p " NEWSPAPER ADVERTISING .- JOY. **B** COE & CO , N. E. corner of FIFTH and CHES-NUT Streets, Philadelphia, and TRIBUNE BUILD-INGS, New York, are agents for the "TELEGRAPH." and for the Newspapers of the whole country. 720 6m4p JOX COE & CO. MISS ANNA E DICKINSON AT THE ACADEMY OF MUSIC. Thursday Evening, October 4. The First Great Lecture of the Season. Subject-"THE REJECTED STONE." Equal Justice, Rejected by the First Builders. must form the Corner-Stone of the New Republic. This is an entirely NEW LECTURE, and will be delivered for the FIRST TIME in this city. 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ere long it will be reduced to control. In 1854 the excitement over cricket first began to assume formidable dimensions, and in 1857 it was at its height. We all remember the way in which it took off small boys trom school, and enlisted even men in its ranks as victims. It overdid the game. The excitement rose in an hour, and utterly subsided; and instead of being a rational amount of healthy exercise, it was either a mapia or none at all. Within two years after the visit of the English eleven, there was not found a dozen cricket clubs in the whole country. Two years ago, base-ball commenced, and the course of the epidemic is the same as that of its predecessor. It is to-day being carried to such an excess, that unless there is something like reason in the exercise, the whole game will completely disappear. What was originally a healthy sport has grown to be a positive dissipation. We hear complaints from all our business men, because of the continual absence of young men in order that they may engage in the game. If it were once a week, it would be an excellent thing. It would give vigor to the frame, bouvancy to the spirits, and make the time it is in no proper sense Executive. It is the lost to them compensated for by the addi-

importance, and we have no cesire to size them up. I think it a very erroreous notion, if such they have, that the sabbath cou d occur within five days from to day The Court-I propose to grant a reasonable time

to examine the affidavits. I propose to let the de-fendants have until Thursday for that purpose. Mr. Miller-I would ask that your Honor would give us until Monday next.

The Court-I cannot agree to that. Mr. O'Byrns-We propose to file to-day a stock-holder's bill, which has been concurred in by the defendants. The President of the Company desires me to inform your Honor that, as far as he knows. all the managers of the road are ignorant of the The Court replied that he had no doubt of it.

The argument was then postponed to Thursday next

The following is a copy of the stockholders' till reterred to by Mr. O'Byrne :-To the Honorable Judges of said Court-Your ora-

tor complains and says :-- First. That he is a stockholder of the Union Passenger Railway Company of Philadelphia, one of the defendants herein, being the ho der of five shares of the capital stock of the said Company, and that he brings this bill as well for himself as

be origin this but with the first of the first as for such other stockholders in said Company as may desire to unite with him therein. Second, By an Act of the General Assembly of the Second, By an Act of the General Assembly of the to unite with him therein. Second, By an Act of the General Assembly desire to unite with him therein. Second, By an Act of the General Assembly of the Commonwealth of Permsylvania, approved the eighth day of April, 1864, and by its supp ements, the persons therein named, with their associates and successors, were duty created a body corporate, and have been duty organized, and are now acting as such under the name end title of the Union Passenger Bailway Company of Philadelphia with sil the powers and privileges by said Act and its Supplements, granted and conterred. Third. The said detendants have recently engaged in the business orrunning their cars and carrying Dassen-gers for hirs on and over their said railway in the city of Philadelphia, on the first day of the week, commonly called sunday, in violation of the laws of this Common-wealth, and propose to carry on and continue the said business on every Sunday hereafter. Fourt. The said detendants have, as your orator is informed and charges, coutracted with the United States, or some of the Executive Departments or officers therefol, to carry mails for the same in and through the said mails acts of Assembly, or on and over some of the said streets, and in pursuance therefol are carry-ing said mails and your orator the same in the said defendants have no lawid as bority undar the charter of the said science therefol are carry-ing asid mails and your orator charges that the said defendants have no lawid as bority undar the charter of the said commany, or any of the said acts of Assem-bly, or o any law whatsoever, to enser into or carry out any such contract Findants, the charter of the said universi acts of the de-hoders as may unite with sim in this bill, are in danger of tooing the viaue or his such their stock in said Com-pany, and being otherwise injured. Wherefore your o as a stocholder, and such other stock of boding the viaue or his such their stock in said Com-pany, and being otherwise injured.

Wherefore your o.stor needs and declared that the acts of availants in running their cars on the first and declared that it may be decreed and declared that the acts of a state of the sta 1 That it may be decreed and declared that the acts of the said decendants in running their cars on the first day of the week, commonly called summay, for hirs, and in entering into a contract for carrying the mails are unlawful, and that such contract is invalid and void.
2. That an injunction may be issued, restraining the defendants, their officers, conductors, and agents, from running or permitting to run any of their cars on the first day of the week commonly called Sunday, and from doing any act whatsoever under or by reason of any contract, or alleged contract, entred full by them, or any of them, for the carrying of the mails
3 such other and further relief as the case may re-quire, or to your honors shall seem meet. LEVI K ENTON.

United States District Court-Judges Cad walader and Grier - To-day this Court sat in order to commonce the business of the October term. The juries have not been empanel ed as yet. The morn-ing's session was taken up in the calling of the lists

District Court-Judge Stroud - William Painter & Co. vs. Gilbert Adams. Action to re-cover the amount of certain moneys paid by Painter & Co. for Adams for 100 shares of Egbert took and the difference in the shares of Egbert stock and the difference in the valuation of \$5000 in American gold, with an unsettled amount between them of \$6138. There was no defense, and the ver-dict was rendered for plaintiff for \$3088.61. James C. Finn vs. Willcox & Gibbs. An action on a book account. On trial.

on a book account. On trial, District Court-Judge Hare.-Conrad A. Krans vs. George Alkins & Co., defendants, and Bucknor, McCammon & Co., garnisbees. An attachment execution to recover modey in the hands of the garnisbees Versici for defendants. D. M. Robinson & Co. vs. Benjamin P. Wrigley. Defendant authorized plaintiffs to purchase certain stock on his account, which they did. He remsed to take the stock, and this action was brought to recover the amount they thus paid on defendant's recover the amount they thus paid on defendant's secount. Verdict for plaintiffs, \$13186. Waddington & Son vs. John K. Knorr, Ad-ministrator of Andrew K. Knorr. An action on book secount for goods sold and delivered. On trial,

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BY

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