and those who regard a constitution as an instrument which takes away power from an omnipotent legislature. There are, we believe, many things a State legislature cannot do, except they are expressly permitted, which, we may add, they never are. On the other hand, we do not wish to be understood as differing with Mr. McMurtrie and others, who, holding an opposite opinion on this first point, criticise some of the recent applications of this canon of constitutional interpretation. We believe, for instance, that in such cases as the regulation of prices, the legislature has the power, unless expressly prohibited.

The thought which we have tried to bring out in these papers, is that the canon of constitutional interpretation, which would confer on a legislature all power not expressly taken away from a legislature, is just as much a mistake as to say that all power not expressly granted is withheld. Rather from the extraordinary nature of some powers, it seems to us we are forced to regard them as withheld if they are not expressly granted; while other powers, whose exercise, however unwise, do not shock us as against all justice, or of which, to use a term of Chief Justice Marshall’s, it can be said they are not “legislative powers at all,” should rightly be considered as granted, if they are not expressly withheld. It may not be easy to draw the line, but we do not doubt that the cases which will arise in the next few years will prove that it is no more difficult than many applications of other principles which courts must make in the slow development of the law.

**BOOKS RECEIVED.**

[All legal works received before the first of the month will be reviewed in the issue of the following month. Books should be sent to Wm. Draper Lewis, Esq., 701 Drexel Building, Phila., Pa.]


