nre was coquettishly incased in a heavy green silk under jupe, with over dress of magnificent Brussels lace and white tulle drapped with pink roses—décolletée and short sleeved, showing to much advantage her richness in creamy white shoulders and arms. A complete set of diamonds and miraculously small white satin slippers.

Miss A——e R——r, an heiress, which the war has little affected except favorably, the lapse of years developing the dark-eyed *pensionaire* of the Ursulines Convent into a blooming girl of eighteen. Her majestic appearance comported well with her blue silk dress and tulle panier strewn with flowers. From her ear hung splendid drops of lozenge shaped opals encircled with brilliant diamonds, and her neck was imprisoned in a massive gold necklace artistically chased. Truly, she was admirable, one of the queens of this assemblage of beauty.

Mrs. T. F. F——r was attired magnificently in a jupe of cherry-colored silk, panier of point d'Alencon, bertha of same over a corsage décolletée; diamonds and white roses in the hair, diamond ear-drops, costly bracelets, slippers of cherry-colored satin.

The whilom Miss L. T——s, belle of Esplanade street, now Mrs. J——n P——k, of Royal street, wore a rich mauve and white colored silk, panier and wings of white tulle, dotted with Parma violets and daisies; coiffure of the same flowers—one of the most tasteful costumes we have seen for a long while.

The three cousins, Misses B—d, (what glorious memories this name kindles in the breast of war-worn soldiers! spreading like a meteor from rank to rank, at Shiloh and on the retreat from Corinth, and making Charleston impregnable against the most formidable armada the world has ever seen; a name like that of Sir Launcelot du Lac, the most chivalrous of the Knights of the Round Table, Miss D——te, (a pet name,) the daughter, a paragon in form and mien, and Miss H—e, the niece, a blonde beauty, both attired in white tarlan, symbolical of their youth, beauty and purity, and Miss G——le, in pink silk over jupe of pink tarletan, pink roses in the hair, and pink satin slippers.

Mrs. H——ll, sister of the latter, wore a rich white silk *robe en train*, white slippers, and head dress of roses.

Mrs. E——t M——r, a young bride, wore a fine white moire jupe, corsage of same, bertha of tulle, trimmed with foliage, foliage in the hair, and a *parure* of diamonds.

Miss M——a R——x, of Bourbon street. A *chatain* displayed her elegant and lithe form in a toilette Pompadour of white tarletan, dotted with blue, *bretelles* of blue silk, trimmed with lace and catching the skirt at the sides, coiffure of roses.

Miss C——e S——z wore a grey chinée dress, with roses in the hair.

Mamame A——e C——e, a very handsome brunette, was much admired in a blue silk, long peplum of white lace, and brilliant set of diamonds.

Miss D——e D——e, was never more handsome, her dark eyes wickedly inviting flirtation. This sprightly young lady of Hospital street, had simply but tastefully selected a white tarletan dress, draped with white satin and clusters of golden balls, coiffure of sprays of flowers and golden balls, and white satin shoes.

Mrs. N——e D——l, a blooming young bride, wore her bridal dress.

Miss G——s, wore a white moire and diadem of roses, while her sister—another young bride—Mme. D——r, was noticeable for her graceful motions. She wore a pink silk covered with tulle.

Mme. E——d M——y, of Esplanade street, whose presence is ever remarkable for the richness of her toilets, her grace and amiability, was on this night splendidly attired in a pink silk under-dress, an over-dress of fine white tulle, draped with garlands of pink roses, a coiffure of roses similar to those of the garlands, and a gorgeous, complete parure of diamonds.

We can only slightly remember the display made by the following ladies: Miss E——a D——lle, a brunotte and a beauty—white silk dress corsage of tulle, décolletée, a coquettish band of tulle caressing the milk-white neck. Her sister, Miss J——e, attired similarly; hair arranged with roses. The youthful black-eyed beauty T——e Y——s, white tarletan and Scotch plaid scarf—an admirable contrast; myosotis in the hair. Miss Z——e, a handsome blonde, was very prettily dressed and wore wild flowers of the fields in her hair. The two petite brunette beauties, B——ys, Miss C—e, with a short white muslin dress and Scotch plaid belt; braid hair, entwined with *fleurs des champs* and forming a diadem at the front; hair falling at the back and Miss R—s, her sister, with straw-colored alpacca, trimmed with cherry-colored velvet; garland of red marsh lillies.

Mrs. A——t V——s—A peach colored moire antique, very rich. Bertha of *point d'Alencon*, agraffes of pearls, long diamond ear-rings; head dress consisting of three gold *passes*, or bands, attached with diamond agraffe. This toilet was superb as the lady herself.

Miss M——n, of Planche street—White alpaca, trimmed with white satin, guimpe of tulle over a corsage décolleté, and a magnificent necklace and parure of pearls. Coiffure of clusters of jasmine.

Miss B——r, a bright and lovely girl of scarce sixteen summers, was decidedly one of the most beautiful and lively ladies of the assemblage. Her attire of white and cherry—innocence and ardent love—exquisitely comported with her soft, subdued complexion and sparkling eyes. A delightfully cut *robe courte* of white tarletan, with designs in piping, or *biais*, of cherry colored satin, forming a false tunic; *passes* of scarlet velvet in the hair.

Miss D——d, of St. Martin, we believe, wore a white dress trimmed with blue satin; coiffure of blue and white flowers.

To sum up this year's production of the Mistick Krewe, it can be said that it was inferior in nothing to what it has hitherto given to its friends, and superior to some of its former representations. That the affair was at the Opera House, instead of the Varieties, was a matter of congratulation to all parties, because the accommodations were not only much larger, but much more convenient. The attendance was of course larger than ever before, for there were more seats to be filled.

Vale, then to the Mistick Krewe for another year, when they shall again appear to show to the people of New Orleans what a club can do when it attempts to cater to the pleasure of its friends. Long may the Krewe wave, and may we be on hand every year to see it wave.

THE PIANO WAR.—In our advertising columns will be found the first lucid statements we have seen in regard to the question, which for some reason has been enveloped in uncertainty, what piano was decided at the Paris Exposition to be the best in the world. Mr. Blackmar's card shows from the official reports, 1st, that there were four gold medals given, all of equal value, although one exhibitor (whose name was second on the list,) claims that his medal was the first one. 2d. That the cross of the Legion of Honor was awarded to the Chickering piano alone, to testify that it is superior to all others. 3d. That not only the members of the jury on pianos considered the above facts as fully established, but the most eminent pianists and composers enthusiastically congratulated the Messrs. Chickering on their well merited success in receiving from the very highest authority in the world the recognition of the decided superiority of their pianos to all others.

GOODS BELOW COST.—We direct the attention of our lady readers this morning to the announcement of Messrs. Braselman & Co., relative to their superior facilities for disposing of all goods below market prices. The imparting of such agreeable intelligence to the fair sex will, we are satisfied, not only be received with pleasure, but also rebound as the instrument which adds a new incentive towards the many attractions that their house has long ago possessed in point of economy to its patrons.

THE GREAT LOTTERY CASE.

Louisiana Lottery Company vs. Alabama Mutual Aid Association, Dave C. Johnston, et als.

DECISION OF JUDGE LEAUMONT.

No. 243—Louisiana State Lottery Company vs. Alabama Mutual Aid Association, Dave C. Johnston et als.

On account of an order of injunction issued by the Sixth District Court for the parish of Orleans, which is contrary to the orders of this court before which the matter is pending, a brief history of the facts of this case becomes necessary.

The petition of the plaintiff in this case, addressed to this court on the 2d of January, 1869, respectfully represents in substance that by virtue of an act of the Legislature of August 17th, 1868, entitled "an act to increase the revenues of the State, to authorize the incorporation and establishment of the Louisiana State Lottery Company, and to repeal certain acts now in force," and having complied with all the necessary prerequisites, it has been and is now an incorporated body bearing the above name, and is granted for and during the space of twenty-five years to begin from the 1st of January, 1869, the *sole and exclusive* privilege of establishing a lottery or series of lotteries, and selling and disposing of lottery tickets, etc. Said act further provides a penalty of not more than five nor less than one thousand dollars for any person or persons who shall, after the 1st of January, 1869, infringe upon or violate the sole and exclusive rights of the above corporation by selling or offering to sell any lottery tickets, etc., except those of the above corporation.

The petition further represents that the Alabama Mutual Aid Association, chartered by the laws of Alabama and domiciliated in that State, but represented in this State by one Dave C. Johnston, as principal agent, and other persons as sub-agents, has in violation of the above-named act, and by a direct and illegal infringement upon the rights of plaintiff, sold lottery tickets other than those of petitioner in this case, and will proceed to sell, unless restrained by a writ of injunction. That petition having been duly sworn to by Chas. T. Howard, president of the above-named corporation, and a proper bond given, this court on that very day issued a writ of injunction prohibiting said Dave C. Johnston and his sub-agents from selling or offering to sell lottery tickets of any kind except those of petitioner.

On the 7th day of January, 1869, plaintiff filed another petition, which this court considers to be an original petition, from the fact that this court required a new bond, and granted a new order of injunction. That petition may be considered as an incidental one, because its fate depends upon that of the original one. If the original one be dismissed, the second one will be dismissed; if the first one hold good, the second one must hold good, too.

That second petition states in substance that the plaintiff is afraid that the defendant's agents and sub-agents, without a shadow of right under the act of August 17th, 1868, or under any previous existing laws (for they were all repealed by this law), would apply to another district court for the parish of Orleans by suit for legal process, in order to vex, annoy, harass, injure your petitioner and stop the legitimate business of plaintiff and temporarily, at least, deprive him of the rights acquired under and given him exclusively by this act; and that in order to protect his just rights a further order of injunction became absolutely necessary. Another bond having been given and the petition being duly sworn to, this court issued another writ of injunction preventing and forbidding the defendant, his agents and sub-agents from bringing any suit, for the purpose of obtaining any process by which the rights of the plaintiff in this case might be in any way or in the slightest degree impaired, destroyed or suspended, before any other district court for the parish of Orleans. It was an order that this court had a right to issue, did issue, and shall again issue, if the facts of the case warrant such an order, for the protection of any party that will trust his rights to this court; for, though that writ of injunction be and is incidental to the main one, yet, in the scope of its action, it was an original one, in this, that it prevented the defendants, against whom it was issued, from doing a thing that he was not prevented from doing in the mind of any one, if the articles of the Code of Practice, relative to injunctions, mean anything, or have any force of law; that this court had an unquestionable right to issue that order of injunction, whether it was legally or illegally issued, is a question which this court alone, in its original jurisdiction, and the Supreme Court, in its appellate jurisdiction, have a right to determine.

No other district court for the parish of Orleans can, with any dignity to itself, or with any respect to the court which has issued that order, decide such a question, unless it tramples under foot the sacred and elementary principles of law and stir up the arbitrary will of its judge against the settled doctrines of the law and the unquestionable respect due to judicial orders, for, as well said by a French author—even if applicable to this court, in the opinion of another judge, "d'un magistrat ignorant c'est la role qu'on salue"—(of an ignorant judge 'tis to the insignia of office that we bow.)

A third petition, bearing date January 25th, 1869, was filed by plaintiff in this case, alleging that notwithstanding the two orders already issued by this court, he was apprehensive and afraid that the attorney general, in the name of the State of Louisiana, would proceed to bring suit and take out legal process from another court to annoy, harass and injure plaintiff in his business and suspend his rights under the act of 17th August, 1868, by the unavoidable delays of the law, though the plaintiff, in this case, had complied with all and singular the requirements of the charter incorporating it under the name and style of the Louisiana State Lottery Company, and prayed this court by such order as it deemed proper to protect it from all further injury.

That petition being duly sworn to and a new bond given, the court issued another order of injunction prohibiting the attorney general or anybody else, in behalf or in the name of the State of Louisiana, from bringing before any other court of this parish any suit to obtain legal process by which this plaintiff's right might in the slightest degree be injured, except before this court, and empowered and ordered the plaintiff in this case, upon the legal presumption (*omnia presumitur recta esse acta*, that an act of the Legislature, duly authenticated, must be presumed to be constitutional and to have its full effect until declared void or unconstitutional by a competent tribunal,) to act as specified and prayed for in his original and supplemental or incidental petitions in selling lottery tickets, any order of any district court for the parish of Orleans to the contrary notwithstanding.

And on the 30th day of January, 1869, on motion of counsel for plaintiff and upon suggesting to the court that the defendant, D. C. Johnston had obtained an order of injunction from the Sixth District Court, and thereby violated the order of this court, and in further protection of the rights of plaintiff, the court ordered the sheriff of this parish to see that the plaintiff in this case be not disturbed or molested in any of his rights under this act, even if there should be an order of another court to that effect. On the 5th January, 1869, the counsel for defendants in this case appeared before this court and took a rule to quash the injunction issued on the 2d of January, under Art. 307 of the Code of Practice, by giving bond. This the court refused to do, for the obvious reasons that for the purposes of that rule the act must be presumed constitutional, and as such it conceded the fact that the plaintiff had the sole and exclusive right of selling lottery tickets. Now, sparing that right for the purpose of that rule, as very well said by the Supreme Court in the case of Knobe vs. Ternott, 14 A. R., they were entitled to the continued and uninterrupted (not even for the 100th part of a second) enjoyment of that right, and the depriving the plaintiff of that right for the smallest period of time imaginable would work an irreparable injury—that is an injury which no money could compensate.

On the 12th and on the 30th of January, 1869, the counsel for defendants took two rules, both containing the same grounds, to quash the first two injunctions issued in this case on the 2d and 7th of January, 1869, upon the following grounds, and that is the matter which this court is called upon to decide:

That said injunction here issued on account of a right claimed by plaintiff, under and by virtue of an act of the General Assembly of the State, bearing date August 17, 1868, entitled "An act to increase the revenues of the State, and to authorize the incorporation and establishment of the Louisiana State Lottery Company, and to repeal certain acts now in force," which said act is unconstitutional, for the following reasons: That the title of said act is false; that it does not express its objects, as required by article 114 of the Constitution of the State of Louisiana; that said title is not consistent with the body of said act; that said act is destructive of equality and uniformity of taxation throughout the State; that it exempts from taxation property not actually used for school, church and charitable purposes; that it exempts the Louisiana State Lottery Company from the payment of the *pro rata* tax on income, contrary to Art. 118 of said Constitution; that said act was not passed by a legal and constitutional majority of the House of Representatives of said General Assembly, and that the proceedings of said House of Representatives on the day previous to and at the time of the final passage of said act, concerning said act, were irregular and unconstitutional; that said act is in violation of the Constitution of the United States in this, that it attempts to regulate commerce among the several States by restricting and regulating the sale of lottery tickets, by said act recognized as articles of commerce, and confining the sale thereof to special channels; that said act is generally contrary to the provisions of the Constitution of the United States and of this State; that said act, if allowed to have effect, creates a pernicious and dangerous monopoly, and is *contra bonos mores*.

That said writ of injunction had been issued unadvisedly and without authority of law. It is necessary to proceed a little further in the judicial history of this case before this court to understand the conflict of orders existing between this court and the Sixth District Court for the parish of Orleans. On the 12th of January, 1869, the counsel for defendants also filed an exception to said suit, averring the unconstitutionality of that act, in the same words and figures that their rule to quash is written. They also filed an answer on the 11th January to the merits of the case, bringing up again to the consideration of this court the very same grounds of unconstitutionality, urged in their rule to quash and in their exception; the only difference, if it can be called a difference, is that in their answer they alleged that the capital stock required to be subscribed before commencing operations is not yet subscribed and paid in. They deny the corporate entity of plaintiff, because said act is alleged unconstitutional, and very properly reserve their right to claim damages," if this court decide the act of the Legislature unconstitutional and void. The obvious reason of this reservation of their claim in damages is that in order to claim damages the act must be declared unconstitutional; if declared constitutional they have no claim whatever, not even the shadow of a claim, in damages against the plaintiff in this case.

Now those identical pleas, proceedings and defenses of the defendant before this court and in this case are made the subject matter of his petition addressed to the Sixth District Court, and upon which he has obtained a writ of injunction from that court, positively prohibiting the plaintiff in this court from exercising its rights, privileges and immunities as a corporation, notwithstanding the fact that the plaintiff in this court, long previous to the issuance of that writ of injunction by the Sixth District Court, had a positive and peremptory order of this court to exercise and continue to exercise its corporate rights, privileges and immunities as granted in the act of August 17, 1868, incorporating it, any orders of any court to the contrary notwithstanding, but until the further order of this court. So far for the history of this case as it appears from the records of the Fifth and Sixth District Courts.

The court will now proceed to examine the grounds of unconstitutionality urged by the defendants against the act of 17th August, 1868, entitled "an act to increase the revenues of the State, and to authorize the incorporation and establishment of the Louisiana State Lottery Company, and to repeal certain laws now in force."

The defendant avers that said act is unconstitutional, because it is false in its title in this: that it is entitled "an act to increase the revenues of the State," whereas, on the contrary, far from increasing the revenues of the State, it does effectually diminish them. The ruling of the court, excluding any evidence on that point, does of itself do away with that objection, for there is no evidence, under that ruling that the revenues of the State are effectually diminished. But as the evidence is annexed to the bill of exceptions taken by the defendants' counsel, the court might as well examine it and decide thereon. An extract from the books of the auditor of the State show conclusively the fact that the whole revenues of the State derived from lottery dealers in 1866 were $36,636 28; in 1867, $34,893 36; in 1868, $28,779 01, and in 1869, under the act in question as it now stands, the annual revenues shall be $40,000, showing, therefore, an increase of $3,363 72 over the most prosperous year of revenues from lottery dealers. Evidently the Legislature in the legitimate exercise of its legislative functions had a right to conclude (seeing that the revenues of the State from lotteries were yearly diminishing) that it would be better to determine positively and definitely the revenues at a sum exceeding any previous revenue from that source of industry or dealing, by granting certain rights and privileges to the Louisiana State Lottery Company.

But it may be contended by the counsels for defendants that the words "to increase the revenues of the State" must mean all the revenues of the State as a whole. Such a construction of the title of that statute might fall, for in the interpretation of the title of a statute all the words of the title must be taken and considered separately and together, just as in the interpretation of the body of a statute, so that no sentence or word shall be superfluous void or insignificant. (See 1 A. R. 162, 5 A. R. 516, 11 A. R. 722.) Now the act is entitled "an act to increase the revenues of the State, and to authorize the incorporation and establishment of the Louisiana State Lottery Company." That last sentence evidently leads the court to the conclusion that the words in that title, "to increase the revenues of the State" limit the interpretation as effectually as if the title were read, "an act to increase the revenues of the State in lottery matter."

Again, it is contended that the title is untrue and defective in this: that it only authorizes the incorporation and establishment of the Louisiana State Lottery Company, whereas the body of said act does effectually incorporate and establish the said company. This, in the opinion of the court, is a play upon the grammatical construction of words. In the interpretation of the title of the law, the words of the title are not to be strictly and technically interpreted; if it state the object according to the understanding of reasonable men, it satisfies the Constitution. (See 6 A. R., 605; 9 A. R., 329; 11 A. R., 145, 671, 722; 13 A. R., 301.) (See, also, the authorities referred to by the court in the preceding ground, and the principles therein laid down for the interpretation of the statute.) But admitting, for the sake of argument, that the title does not cover the effectual incorporation and establishment of the Louisiana State Lottery Company, the court would answer that it is not necessary that it should, for the incorporation and establishment of a company authorized to be incorporated and established is an incident which (if the decision of the S. C. in the 11 A. R., p. 722, 145, 671, and 13 A. R., p. 301, and others above referred to by the court, be correct,) need not be expressed in its title.

But the court contends that the title does effectually cover the fact of incorporation and establishment of that company, just as if the title of the act were to read: An act to increase the revenues of the State and authorize the incorporation of, and to establish the Louisiana State Lottery Company," for if the Legislature had not had that idea in their mind, and the title did not cover it, the word "establisment" found in the title would be superfluous and have no meaning, for the words "to authorize the incorporation of" would have met all the requirements of the Constitution placed upon that title by the defendants' counsels, and the fact of the establishment would have been a matter of doing beyond the power of the Legislature, dependent simply upon the will of the corporators to establish themselves under that authorization of incorporation or not. The word "establishment" was evidently put by the Legislature to cover the fact of the existence of that body as a corporation.

But counsels for defendants further urge that said act is unconstitutional because the title is not consistent with the body of said act. The court would see no apparent inconsistency as alleged by the defendant, if in their argument they had not explained to the court that by the word "title" in their sentence, they meant the preamble or reasons accompanying that statute, and which the Legislature assigned for its passage. That inconsistency, if really existing, (and it is not necessary for the court to decide whether it does or does not exist,) can very well be got over under the settled rules of interpretation of statutes which, as laid down by our Supreme Court in the decisions already referred to by the court, require that if the literal text of a statute lead to an absurdity, the court must, if it be possible, give it that interpretation which will do away with the absurdity and yet maintain the idea and intention of the Legislature. Under that rule the court could not hold that the Legislature meant to sanction that which they gave reasons for not sanctioning. But counsels for defendants have further objections still to urge. They aver that the title of the act is defective in this, that it should mention the titles of the special acts then in force and which are repealed by that act, though the titles of those repealed acts, then in force, are given in the body of the statute. They further urge that the title is defective in this: that it contains nothing of the penalty inflicted by the section three of that act for a violation of its clauses.

The court will consider these two objections together, because the same authorities apply to them, and for the purpose of deciding these objections the court wants no better authority than the one relied upon by the defendant's counsel making these objections.

In the 11 A. R., p. 722, the S. C. says: "The doctrine of all American courts is that a legislative act will not be declared void or unconstitutional unless its incompatibility with, or violations of the paramount law be clear beyond a reasonable doubt." The court continues the quotation: "The design of a title of a law is merely to indicate the general subject of the law, and not to furnish a detailed exposition of all its provisions;" if the latter were the case it would lead us to the absurd conclusion that the title should be as long as the act.

What good sense would indicate is what the Constitution exacts, namely, that by some general provisions at the head of the law, the intention of both Legislature and citizen should be fixed upon the main subject matter to which "all the details in the body of the statute are auxiliary." There is no doubt in the mind of this court that the penalty inflicted by the section 3 of that act, as well as the title of the law repealed by that act, are in the words of the above decision of the S. C., an auxiliary in the body of the statute which need not be expressed in the title.

The court now leaves the title of the act, and doubts whether the intelligence of the most learned counsel of the land could find any further objections to the title. As to the court, it has in vain searched the perhaps barren fields of its own legal attainments for further objections.

The next ground is that art. 5, sec. 1, exempts said corporation from the payment of any other tax but the one of $40,000. The Legislature has that right, under a late decision of the Supreme Court, not yet reported, but a copy of which has been read to this court (City of New Orleans, C. Lussy and R. Reihlman). The construction placed upon that article of our Constitution by the Supreme Court, is that the Legislature is not prohibited, by the terms of the article, from exempting other property from taxation, save that actually used for school, church or charitable purposes. If not prohibited, it has the right to exempt the Louisiana State Lottery Company from any further taxation.

But it is said that that act exempts the Louisiana State Lottery Company from the payment of a *pro rata* tax on income. The article 118 in question says "all tax on income shall be *pro rata* on the amount of income or business done; the General Assembly may levy an income tax upon all persons pursuing any occupation, trade or calling."

There is nothing to show that the General Assembly has levied that tax; that article is evidently permissive and not obligatory. The Legislature may or may not, and until it does there is no necessity for deciding that question. But, on the supposition that it does levy that tax, or that it has levied it, the court sees nothing in that article that would either expressly or impliedly prevent the Legislature from exempting the Louisiana State Lottery Company from paying that income tax.

The only prohibition that the court can find in that article is that the Legislature cannot tax *arbitrarily* one income more than the other. The tax has to be levied generally upon all incomes, and then each person pays that proportion of the tax according to the amount of business done by him.

The fact that the Legislature exempts certain property or persons from the payment of taxes would not contravene that article of the Constitution, which says: "Taxation shall be equal and uniform."

But on the supposition that the court should sustain the objection of defendant's counsel, that part alone of the law would be unconstitutional, it not being a material part of the law; a part without which the act should cease to have any effect; the other parts of the law would remain constitutional. The next point to be considered is that that act was not passed in the manner and form provided for by the articles of the Constitution of 1868, and required by those articles. The pages of the journal of the House referred to the court by counsel, are pages 95, 96 and 114, but the court by looking at page 90 of that same journal finds that on Saturday, the 1st day of August, Mr. Faulkner called up House bill No. 66, which is the act in question.

Mr. Carr of Orleans moved that the bill be considered engrossed and placed on its third reading. (The counsel for defendants do not question the regularity and constitutionality of that bill at any previous passage; therefore its passage on first and second readings is admitted to have been constitutionally correct. It is only the third reading and final passage of the bill which is questioned.)

Mr. Antoine of Orleans moved that the bill be made the special order of the day for Tuesday next.

Motion laid on the table.

On motion of Mr. Carr of Orleans, the bill was considered engrossed and placed on its third reading. That follows forcibly, for that was his previous motion. Yeas 33, nays 28. Total 61.

Now, what the other pages 95 and 96 of the journal have to do with the passage of the bill this court cannot see, for the bill, as appears by page 90 of the journal, had already passed its third reading, and therefore could not properly come up again, no motion appearing in the journal of the House to reconsider the vote then taken. But the court will examine, out of respect to counsel, the pages 95, 96 and 114 of the journal of the House.

Mr. Carr moved to take up House bill No. 66.

Mr. Brewster, of Ouachita, moved to lay on the table the motion to suspend the rules.

Yeas and nays called. Yeas 11: nays 49. Total 60.

Several amendments offered.

Mr. Carr moved to lay the amendments on the table. Yeas 48; nays 11. Total 59.

Mr. Carr called for the previous question. Yeas and nays called and ordered on the adoption of the amendment offered by Mr. Burrell, resulting as follows: Yeas 48; nays 1. Total 49.

No quorum voting. Call of the House ordered. Fifty-three members answered to their names. The chair decided that the question recurred on the adoption of the amendment.

Mr. Carr appealed from the decision of the chair. The chair was not sustained. All that proceeding thus far shows that the members wanted no addition to the bill.

But be that proceeding illegal, though the court shows it was not, for to decree it illegal it should be shown affirmatively that there was not a quorum present, voting, when the vote was taken on the motion to sustain the chair; but the journal shows quite the contrary, for, on the call of the House made previously to putting the motion whether the chair should be sustained, 53 members had answered to their names. The court has, therefore, no right to presume, with this written official declaration in the journal, that some of the members had withdrawn, and that there was no quorum present when the vote was taken on the motion to sustain the chair.

But, on the supposition that there was no quorum during all these proceedings, does it follow that no regular action could ever afterwards be taken on the bill? Evidently, no!

And the journal goes on: Mr. Carr moved that the bill be now considered engrossed and placed on its third reading and final passage, and called for the previous question. Carried. Yeas 54, nays 3; total 57.

The bill was ordered to be sent to the Senate for concurrence.

There is nothing unconstitutional in the passage of the bill on its third reading, in the opinion of this court. The metropolitan police board bill to whom the counsels for defendant referred in this case presented an entirely different question from the one now raised; it presented this question which does not arise in this case: How many votes does it take to prevent the reading, discussion and passage of a bill on the same day; and since that discussion is referred to, will take this to say; that is the court is satisfied that if that same question were to come up again it would decide quite differently, for this court feels no reluctance in acknowledging an error of judgment, and the court feels relieved of its error in knowing that in a case before the Seventh District Court, in which that very same question came up the judge of that court very properly refused to be guided by the decision of this court in the metropolitan police bill, and very correctly ruled that the four fifths of the House meant the four-fifths of the members present or the four-fifths of a quorum.

The next point urged, is that said act violates the Constitution of the United States in this: that it attempts to regulate commerce among the several States of the United States in confining the sale of said lottery tickets recognized by said act as articles of commerce to certain special channels.

The court cannot see the application of that article of the Constitution of the United States to the facts of this case. If the court understand that article, it is, for instance, that this State has no right to prohibit the importation of goods, to levy an impost upon them, to tax them, to pass any law on the subject of commerce derogatory of that article; for instance, to seize, confiscate, sell or destroy the goods imported, to try to punish the importers or commission merchants who sell them, either by fine or imprisonment, or in any other manner, and such like cases; but the Constitution of the United States or the laws of Congress nowhere speak of lotteries or lottery tickets as articles of commerce, or claim the right to exercise exclusive jurisdiction or non-concurrent jurisdiction with the States; on the contrary, it leaves it entirely under the exclusive control of the individual States, by saying, in its internal revenue law, for instance, that nothing in the article is to be construed so as to authorize lotteries; and if that article of the Constitution of the United States did apply, the court would then hold, according to the more modern decision on that point, that the State may legislate in matters regulating commerce, in matters not legislated upon by Congress. (6 Wallace Reports, page 35, Crandall vs. Nevada.

If the State allows it, then the United States gets its revenue from it as a lawful occupation, but nothing more; it is a matter entirely under the control of the State, and upon which it can act as it please. This is so true, that not long ago the selling and dealing in lottery tickets was a crime punishable very severely under the laws; made it the duty of the judge of the Criminal Court to charge specially the Grand Jury to investigate into every violation of that act. And to question the constitutionality of those acts of our Legislature making the dealing in lottery tickets a crime, as being in violation of the article of the Constitution of the United States regulating commerce among the States, would have been an enterprise as strikingly surprising to a strain of argument in that line. Therefore if the State has the greater right to entirely and effectively prohibit the sale of lottery tickets within its bounderies, without violating that article of the Constitution of the United States, it has *a fortiori* the lesser right of allowing it to such persons as it pleases, and under such restrictions, privileges and conditions as it may please to impose.

The authorities referred to by counsel for defendants on this point are good law, and conclusive, as far as they go; but they have no application, in the opinion of the court, to the case at bar, for the reasons already assigned by the court on the merits of that point.

The next point is that said act, if permitted to have effect, creates a pernicious and dangerous monopoly, and is *contra bonos mores*.

There is no doubt in the mind of the court, as the court has just demonstrated by the preceding reasoning, that as far as the selling and disposing of lottery are concerned, the Legislature having the right to prevent that sale *in toto*, and has therefore the lesser right, in its wisdom, to modify that right, to grant it under such conditions as the court thinks best, and to such individuals, or sets of individuals as it may think proper, creating a monopoly, it is true—but then the legislators are, in such a case, accountable to none but to God and their conscience—for the power of the Legislature is supreme; it can do everything which it is not expressly or impliedly prohibited from doing by virtue of the Constitution of the United States and the Constitution of this State, not even restricted in its legitimate functions by the laws of morality. There are but two bounds to its power. First, the Constitution of the United States. Second, that of the State. When not restricted by these two, it is an omnipotent as the autocrat of Russia. (See page 28.)

The next point is that that act is *contra bonos mores*. That point would not avail counsel for defendants, for if the court could be led to decide that this act was contra bonos mores, it would prohibit the parties from exercising the right to sell lottery tickets. But this court cannot decide such a thing. As an individual, the judge of this court has his own ideas of morality. As a judge, his code of morality is the law. What the law allows the court will judicially decree to be legally moral, though it may not be legally moral *in se*, i. e., in the abstract. There the duty of the judge must end. The law is his morality; and if he attempts to go beyond the law, he can but substitute his own ideas of morality, or those that he has got from some philosophical thinkers, and the doctrine of the higher law which the judge of this court was once unfortunate enough to hear advocated by an eminent member of the bar.

So true, correct and legal is the opinion of this court on the question of *exclusive right* conferred by the act of the 17th of August, 1868, on the plaintiffs in this case, that the learned judge of the Sixth District Court concurs in it, as it can be seen by the following extract taken from a charge delivered by him to the jury in the case of Martinet vs. City Railroad, pending before his court.

The last point is, that said writs of injunction have been issued unadvisedly and without authority of law.

The court having decided the act of 17th August, 1868, constitutional, it will strike the common sense of everybody, that there is no necessity of deciding those two other writs of injunction, which were merely incidental to the main suit. However, the point is made, and should be looked into. The court understands an injunction to be a mandate obtained from a competent court, prohibiting one from impairing a right which he claims. If such be the case, there is no doubt that, upon the allegations of a certain right vested in a party, the court must protect him, and prevent any impairing of that right, until a final hearing. And, if after a final hearing, the court feels convinced that the party, alleging to have a right, has it in reality, why then the injunction must stand forever. But that is not the main point; the question to be decided is, whether this court has the right to issue its writs of injunction, as it did in this case, to prevent the other party from bringing a suit. There is no doubt in the mind of the court that it has that right; and, without entering into a discussion of the merits of the case, the court would refer to several cases establishing that fact beyond the possibility of a doubt.

The first case is that of Leaumont vs. Viavant, before the Sixth District Court, in which the judge of that court issued an order directed to the defendant in that case prohibiting from bringing a suit before any State court against the plaintiff in that case. Another case before the same court is that of Lee and al. vs. Thiberge, and a case reported in 14th Annual, page 58, wherein defendants in an injunction suit were enjoined from bringing any suit at law to enforce the payment of mortgage notes.

The act of the Legislature of 17th August, 1868, entitled "an act," etc., being constitutional for the reasons above set forth.

It is therefore ordered that both rules to quash the injunction in this case be dismissed at the costs of plaintiff in rule.

Preparing the Ground for Planting Cotton.

Here is an article from the Vicksburg Times, containing matter of especial interest to a large class of our readers:

Mr. Editor—As the time approaches for this important work, I wish to call the attention of those engaged in it to an error which prevailed before the war to a greater extent than any fallacy where was so much depending on its correction. It was a saver of time, and was not visible to the eye, though the results were always felt, but never attributed to the right cause. It was that practice of leaving to the center of the cotton ridge hard ground for the cotton to take root in. Of all the crops grown cotton requires the deepest and mellowest soil to root in, having a long top root, which runs deep into the ground. How perfectly absurd to suppose it could penetrate hard soil and give more nutriment to the stalk and its branches and fruit than it would in the well pulverized and deeply plowed ground. Cotton has but few lateral roots, and draws its sustenance from the depths of the earth rather than the surface, and it must be aided by the intelligent planter reaching these sources of supply. But to prove the folly and absurdity of this practice so universally believed in, and I will give a few facts.

In 1855 the writer had allowed an immense bank of cotton seed to collect at his gin-house, and not having time to spread it on distant parts of the field, he had it hauled on a 16 acre cut close by, which had been cultivated for *fifty years*. Some of the best teams were put on this cut and plowed in the middle of the row, as deep a furrow as possible. Then the seed was thrown in this furrow, and filled in to the top; he then had the ridges thrown up with this rotted cotton seed in the center. This was all done in March. About the 1st of April the cotton was planted in the usual way, with many misgivings amongst the laborers as to the results, and the overseer said that the cotton would die out. When the top root reached the cotton seed beneath, the cotton grew off beautifully, was the first to bloom, the first to mature, and the first to open, and on the first of September we gathered fifteen hundred pounds of seed cotton to the acre, and picked it again 1st October, when we gathered fifteen hundred pounds more to the acre, and had another picking from it of some three or four hundred pounds to the acre in December, making a yield of near 2½ bales.

B.

REORGANIZATION OF THE ARMY.—A bill for the reorganization of the army will be brought in by Gen. Garfield, from the House military committee, and moved as an amendment, in accordance with the understanding reached on Friday, to the army appropriation bill. It is based in a large part on recommendations of Generals Thomas, Schofield, Hancock, McDowell and other officers, who have recently been examined by Gen. Garfield's committee. It provides for reducing the number of infantry regiments from 45, the present number, to 30. The men of the regiments broken up are to be mustered into the others so as to give the maximum strength to those retained. The pay, commissary and quartermaster departments are to be consolidated, and the new branch will be called the supply department. The ordnance arm of the service is to be broken up entirely, and all its officials mustered in as officers of artillery, with a chief of artillery and a bureau in the war department. There is to be a reduction of about one-third in each of the staff departments. The Indian bureau is to be transferred to the war department, and the extra line and staff officers are to be put on duty in place of the present civil officers among the Indians. These are merely the outlines of the proposed plan. It looks to a reduction of at least six hundred in the number of army officers, and it is thought the measure will reduce the expenses of the government fully $10,000,000 per year. No new officers are to be mustered in, and the committee think that by death, discharge and resignation, the present force of officials can in less than three years be reduced to the average requirement of the service. The first step toward the new order of things was taken in the House, on Saturday, when ten millions reduction was made at one stroke in the aggregate of the amount appropriated by the army bill. The Indian bureau and the staff department will of course oppose the adoption of the proposed scheme.—[Washington dispatch.

MAGNOLIA WATER.—Superior to the best imported German Cologne, and sold at half the price.

Buy the only sewing machine fit for family use, the Grover & Baker. Warranted for five years. Quilter, braider and hemmer given with each machine at 182 Canal street.

The Louisiana Legislature.

THIRTY-NINTH DAY.

Senate.

SATURDAY, Feb. 13, 1869.

Senate met at noon, Lieutenant Governor Dunn in the chair.

A full quorum present.

Prayer by Rev. Mr. Turner, chaplain.

Reading of the minutes dispensed with.

Mr. Campbell called up the special order of the day, according to motion of the previous day, viz: The bills relative to the new city charter.

The Senate refused to entertain the call, in accordance with the rules of the Senate.

REPORTS OF STANDING COMMITTEES.

Mr. Lynch, from the finance committee, reported favorably upon a bill exempting from taxation the New Orleans Methodist Repository.

Mr. Pinchback, from the committee on claims, reported favorably upon a bill for the relief of Pike, Lapeyre & Co., with the recommendation that it be referred to the finance committee. The bill was referred as recommended.

An unfavorable report was made by the committee on commerce upon a bill creating the office of lumber and timber inspector for the city of New Orleans.

By the internal improvements committee, favorably upon a bill for the relief of S. James.

NOTICES OF BILLS.

By Mr. Campbell—Of a bill for the relief of the Southwestern Bible Society.

By Mr. Lynch—Of a bill exempting from levee taxation certain persons of Lake Providence.

ACCORDING TO PREVIOUS NOTICE.

Mr. Todd introduced a bill incorporating the lot filling company of the city of Jefferson.

Also for the relief of Lucy G. Carson, which was referred to the committee on claims.

By Mr. Campbell—A bill for the relief of the Southwestern Bible Society. Referred to the finance committee.

Under suspension of the rules, Mr. Ray introduced a bill relative to the conveyance of titles in successions and insolvencies.

A bill conferring additional powers to parish judges. Both bills were read twice and referred to the judiciary committee.

JOINT RESOLUTIONS.

By Mr. Campbell—A resolution to investigate the affairs of