ments and facts seems to be that there is something in the climate of the south that favors civil war.

On the 7th, Gen. Carbajel fell upon the forces under the order of the clergy chiefs Ordonez, Mendiozabal, and Marcelino Cobos, at a place called Calpulalpam, in the State of Puebla, and obtained a complete victory. Cobos was taken prisoner and shot. His head was brought to this city on the 10th, and formed an object of attraction to many to whom its former owner once was a terror. There was, however, good taste enough shown by the authorities to have this disgusting trophy disposed of, after it had remained on exhibition at the palace for some time.

On the 10th, the reactionary forces fell upon a portion of the forces of Gen. Berriozabal, in the Llanos de Salazar, and defeated them. The victors afterward took Lerma, but were again dislodged, and fled toward Huisquilucan. The loss of the Government on this occasion has been thirty men, three loads of ammunition, and three howitzers.

The Minister of War, under date of the 4th inst., orders the Military Commander of the District to disband the guerrilla forces of Duran and Diaz Salgado, for the reason that they are a disgrace to the Government. The immediate cause of this order was the assassination of a peaceable citizen in one of the central streets of this city, at mid day, by some of these ruffians.

A decree, fixing the disbursements of the Government, has been published, dated the 16th of August, 1861. The annual expenses of the different departments are thus fixed:

Foreign Relations	$219,360 00	Finance	$1,573,624 00
Interior	1,191,630 00	War	4,745,395 04
Justice	537,000 00		
Fomento	69,179 00	Total expenses	$8,327,418 04

To cover this disbursement the Minister of Finance reports the following resources:

Customs Duties	$5,500,000	Custom-House of the District	$1,200,000
Contributions	400,000		
Sealed Paper	250,000		
Total receipts			$7,350,000

From this statement it will be seen that the annual disbursements will exceed the annual receipts of the Government by $977,418 04. To cover this deficit a contingent is imposed upon the revenues of States and Territories amounting to 20 per cent.

The election for members of the Ayuntamiento has been made, and the following persons have been elected:

President—The Citizen Ignacio Ramirez. *Members*—J. M. del Rio, Francisco Mejia, Jose M. del Castillo Velasco, Angel Cabrera, Luis G. Picazo, Joaquin Rangel, jr., Luis Rivera Melo, Vincente Rosas Landa, Guillermo Prieto, Luis Fernandez Gallardo, Francisco Buenrostro, Juan Palacios, Rafael David, Nicanor Carrillo y Cano. *Recorders*—First Citizen, Antonio Malo; Second Citizen, Manuel G. Parada.

The Ayuntamiento was installed on the 16th.

Our advices from the San Luis Potosi are to the 15th. Gen. Doblado was still in San Luis. Marquez had imposed a forced loan of $100,000 on Catorce and several Spaniards who refused to pay had been carried off by Marquez. Forces had left San Luis under command of Gov. Escandon, and it was expected that on the 16th these should have had an encounter with Marquez.

Gen. Ortega was yesterday at the hacienda of the Cañada. His advance was on the 18th at the Soledad with forty-five pieces of artillery.

Mejia, with about one thousand men, was still on the 16th at Toliman.

It was reported in San Luis that Comonfort was preparing to march from Monterey, and that he would be joined by Marquez and other clergy chiefs. The line of march to be taken by Comonfort is not yet known, but it was thought probable he would move on Tamaulipas.

Everything remains quiet in Guanajuato. The new impost was complained of by some, but the blessings of peace are considered by most people as cheap at any price. The conducta that was dispatched for Tampico has changed its course and gone to Colima.

It is reported that the Government has been treating with an American house for the sale of the waste lands of the Republic for $10,000,000. These lands were mortgaged to the bondholders years ago, and by default of more recent contracts with those creditors of the nation it would appear that they propose to fall back on their original security. If they do so, as they have the right to do, the American house had better be careful.

Olavarria, a Spaniard, who for some time was second to Juan Vicario, in the South, was defeated and killed on the 23d ult. in the Valley of Cuernavaca by a force of the Government. Olavarria was one of the most active men of the reaction, and his death is a gain for the Government.

Gov. Alatriste of Puebla has resigned his post as Governor of that State, in order to leave the Legislature free in its action. Don Francisco Ibarra has been elected to fill the place of Sr. Alatriste.

The Minister of Finance contradicts the report that the Government proposes to repeal the forced contribution imposed by the decree of the 21st ult. He orders the immediate enforcement of the decree.

The French bark Panama was wrecked at the mouth of the Coatzacoalcos River on the 21st ult. while going out.

By a decree of the President, dated the 10th, the state of siege is raised, which was declared over the city on the 25th July.

On Sunday evening several officers belonging to the garrison of Chapultepec, while disguised, seized two Spaniards and suspended them to one of the arches of the aqueduct. This done, they fastened to the victims rockets and other explosives, and set them on fire. Torturing their victims in this manner, the officers kept them there until late in the night. The Spaniards, we hear, were much injured and worse frightened. Such barbarities should meet with some notice at the hands of the Government. We hear that Mr. Corwin, in the name of the diplomatic corps and civilization and humanity, has addressed the Government, urging the exemplary punishment of the officers culpable.

Arrangements are in progress, we understand, and during the past month have been in a great part concluded, which are designed to secure the establishment of a complete system of steam communication on both coasts of this country, and between the principal ports on each coast and the United States. The two more important contracts for this service have been concluded between the Mexican Government and responsible parties in San Francisco and New-York, and are for the following lines:

FIRST, ON THE PACIFIC.—A line to run twice a month between Acapulco and Guaymas, touching each way at the ports of Manzanillo, San Blas, Mazatlan, and La Paz; and a line to run once a month between Mazatlan and San Francisco; the trips of this line to be also extended from Mazatlan to San Blas or Guaymas, when the demand for freight or passengers from San Francisco may require.

SECOND, ON THE GULF.—A semi-monthly line to be placed in operation by the 1st of November next, to run between New-York and Vera Cruz, touching each way at Havana. The days of departure of this line are to be the 1st and 15th of each month, from both New-York and Vera Cruz.

The plans of the Government embrace also the following additional lines, viz:

First: In connection with the last mentioned line, in the Gulf, the establishment of two small branch lines to run twice a month, each way, along the coast of the Gulf from Vera Cruz: one to Tuxpan, Tampico, and Matamoras; and the other to Alvarado, Minatitlan, Tabasco, Laguna, Campeche, and Sisal, and back to Vera Cruz, there to connect with the trunk line to Havana and New-York.

Second: On the Pacific Coast, the establishment of communication below Acapulco by the extension of the Panama Railroad Company's line (now running from Panama along the coast of Central America), to Acapulco, touching at the ports of Tonala, State of Chiapas, Ventosa, or Salina Cruz, Isthmus of Tehuantepec, and Huatulco, State of Oaxaca, and connecting at Acapulco with the line to Guaymas and with the present line of the Pacific Mail Company's steamers to San Francisco.

This complete system of steam mail service will place every port on both the Pacific and Gulf Coast, in frequent communication with every other, and with California, the Atlantic States, and Europe, and while greatly facilitating and enlarging commerce will at the same time put an end to the fraudulent export of the precious metals, which has heretofore drawn so largely upon the resources of the General Government.

We understand the entire subventions required from this Government for the establishment of these lines is less than $200,000 per annum, which will be more than saved in the one item of the export duty of specie now fraudulently exported.

The Government of the United States, we believe, contributes in a great degree to the support of the principal of these lines, and it is expected the entire system will be in operation early the coming year.

We have no space to enlarge upon these most important measures in our present issue, but shall do so at an early day. In our judgment no more important steps for the enlargement of the commerce of the country, the augmentation of its revenue, and the development of its resources, have been taken since Mexico became independent and its commerce opened to the world.

Two new journals, in the interest of the Government, have recently been started. We find nothing remarkable in these new lights, which are respectively called the *Opinion Liberal* and the *Verdad*. Everything appears to be in the titles of these journals.

The Government of Vera Cruz has given publicity to an order from the Minister of Justice demanding, by return post, information of what has been done in the case of the assassins of Capt. Aldham. The only answer that can be given is well known.

Six to eight thousand Indians are said to be in arms at Ixmiquilpan for the avowed purpose of exterminating the whites, who are flying in dismay from the surrounding villages and farms before the fury of this servile insurrection. It is difficult to predict where this movement will end. The *plateados* hold the eastern part of the valley at their mercy, and have recently committed some horrible atrocities on the defenseless inhabitants.

The Governor of the State of Vera Cruz has signed a contract with Senor Escandon for the construction of the railroad from Vera Cruz to Orizava, and a Council of Advisers has been named for the latter place.

Gen. Ortega's march to the interior appears to be delayed by the sad condition of the roads, which are in such a state as to prevent the transfer of his artillery.

A band of reactionists have made their appearance in the State of Zacatecas.

By a correspondence that has taken place between the Spanish Vice-Consul at Queretaro and Gen. Arteaga, it appears that the Spanish flag has been actually unfurled by some bands of clergy forces in the Sierra. The Vice-Consul declares that he knows nothing of the motive for this unfurling of the Spanish flag.

We have before called attention to the great number of Spanish officers now in the army of the clergy—a number which is increasing every day. Their object can be no other than to obtain a supremacy over the Mexicans and re-enact the game of St. Domingo in Mexico. The fact that some of these chiefs have raised the Spanish flag should be a convincing proof that there is reason for other powers to look well after the movements of Spain in this quarter.

TRIAL OF THE PRIVATEERSMEN.

UNITED STATES CIRCUIT COURT—OCT. 30.—Before Judges SHIPMAN and NELSON.

THE PROSECUTION.

The Court met at 11½ o'clock. The crowd which has been in constant attendance during the progress of the trial was bounded only by the capacity of the court-room.

Mr. Evarts resumed his argument for the prosecution. He contended that the position taken by the opposing counsel of the right of Secession was inconsistent with the purpose upon which the General Government was formed. He combated this position as against the intent of the Government in its formation and in its practical working. The opposing counsel (Mr. Brady) asks, what if the Government should choose to impose the expense of this war upon the State of New-York alone? I frankly say that if the General Government should by its laws impose this tax upon the State of New-York, I should advise the citizens not to pay it; and I would like to know if there is any warlike process by which the General Government can exact the tribute of such a tax. Away with the notion, so foreign to our actually constituted Government. Every act of Congress, must govern the whole Union; every tax, to be Constitutional, must be extended over the whole Union. In great communities opinions may vary, and honest sentiments may produce the enactment of laws by Congress which equally honest sentiments, expressed through Legislatures, may regard as inconsistent with the Government of the United States. But for those purposes and occasions an ample, complete, and theoretical protection of the rights of all is found in the absolute identity of the rights of the people and in the arrangements provided by the Constitution itself, testing every question which touches the rights or property of every citizen. Upon the theory that the States, in the formation of the Constitution, are themselves the creators and the Constitution the creature proceeding from their power, will my learned friends tell me how these theories of theirs have the least application to those States—which outnumber the original thirteen—that now form a part of the nation? Out of thirty-four States, twenty-one have derived their existence—their permission to exist—their power to live under the Constitution—from the General Government itself, out of whose territory these States have sprung into existence. What was Louisiana at the time of the great transactions of the Revolution but a province of Spain and afterward of France? How did her territories and her property come to be a State Government? It was through the very power of the General Government itself. I come now to consider the question of the right of revolution. From the earliest ages the tendency has been to secure in governments a greater area of liberty to the people, the latest effort culminating in the happy success of our own form of government, established on foundations where liberty and law might find equal scope; where the rulers, instead of being the masters of the people, are their agents and servants. But the great problem in respect to the freedom of a people in the establishment of a Government presents itself in this wise: A free people, in order to maintain their freedom, must be the masters of their Government. To secure that, a Government must not be too strong in its Constitution and arrangements of power to overmaster the people; and yet it must be strong enough to maintain and protect the independence of the Government against the aggression and usurpation of foreign nations. Here you have a difficulty raised at once. It disposes of the freedom of a nation by making the Government too strong for the preservation of its freedom, or too weak to maintain the National existence against the passion or power of rival nations. Let us look at the right of revolution as an attempt to overthrow the Government. Mr. Evarts read largely from the speech of Alexander Stephens previous to the secession of Georgia, in which he speaks of the form of the American Government as the best the world ever saw; and described at length the blessings which had been showered upon the people of this country since the establishment of its government. This doctrine of revolution appeals to our sense of duty; it rests upon facts and upon purposes as indicated by those facts. There is not an act or a proclamation—an act, judicial, executive, or legislative, on the part of the Government, that gives the least warrant to revolutionary proceedings. The letter of the South Carolinians, on the revocation of their allegiance, discloses but two propositions; first, that when anybody, or any set of people, cease to be a majority in a government, they have a right to leave it; and the other proposition, that threats were made on the part of some of the Northern States to uproot the institution of Slavery. Counsel went on to show that the Southern States had not been deprived by the Government of any of its rights, but on the contrary had enjoyed to the full extent all the rights guaranteed by the Constitution. If you concede the right of revolution you must adopt the proposition of South Carolina, that when any interest ceases to be a majority in a government, it has a right to leave it. There never was any other interest but Slavery that had a majority in this country. Did manufacturers ever have a majority? Did the grain-producing interest ever have a majority? Did California gold ever have a majority? No interest ever should have a majority; but the concurring wisdom drawn out of these conflicting interests should produce a system of laws which should tend to the general interests. Has any act ever been introduced into Congress to abolish Slavery? They complain of the stoppage of the inter-State slave-trade. Has it been introduced into Congress in any form of legislative assemblies? Where is the decision of the Supreme Court that holds that Slavery cannot go into a Territory? Everything has gone in the way of recognizing that right, to wit, the repeal of the Missouri Compromise and the decision of the Supreme Court. Nullification and the Fugitive Slave Law? Who passed the Fugitive Slave Law? Congress. Who has enforced it? Federal power, by arms, in the city of Boston. Who has enjoined its observation upon courts of justice and upon juries? The Justices of the Supreme Court of the United States in their several districts. Who has pronounced it to be constitutional? The Supreme Court of the United States and the subordinate courts of the United States—every court, I believe, with the exception of that of the State of Wisconsin, are underground railroads, supported by Government, and paid by it! I think not. I cannot discuss all these matters. They are beneath the gravity of State necessities. But, my learned friends, having made so passionate an appeal that no individual lives should be sacrificed, certainly might listen to the proposition that the life of a great nation should not be destroyed by these opinions of individuals. They say that it is upon this doctrine of revolution that the Government rests. It comes down to the proposition of Mr. Brady that it comes to the same thing as power and right. Does common sense recognize that because power and right may result in the same consequences, therefore there is no difference between them? If I am slain by the sword of justice for my crime, or by the dagger of the assassin for my virtue, I am dead; but is one as right as the other? An oppressive Government may be overthrown by the uprising of the oppressed, and Lord Camden's maxim may be adhered to, that when oppression begins, the right of resistance begins. But Governments may be overthrown by enmity, by more power. The Colonies may be severed from Great Britain on a principle of the right of the people to assert itself against the parent Government, and Poland may be dismembered by the interested tyrannies of Russia and Austria. In reply to the encomiums of the opposing counsel upon Garibaldi for his efforts in gaining Italian independence, Mr. Evarts read a letter from that individual in favor of the Union, and announcing his intention, if the rebellion were not soon put down, of coming to this country and aiding in its accomplishment. In the course of his argument, Mr. Evarts read from the writings of Daniel Webster a glowing and brilliant eulogy of the American Government, and concluded his argument by a stirring appeal to the Jury to do their duty for the upholding of the liberties of this nation, which forms a part of the record of the hopes of the human race wherever that flag shall wave, with every star and stripe for Union, and hoped that the glorious legend of "Liberty and Union, now and forever, one and inseparable," shall not be replaced by this mournful confession, unworthy of a free people, "Our own baseness has surrendered the liberties which we had neither the virtue nor the courage to love or defend."

The closing sentiment of Mr. Evarts's argument was received with applause by the audience.

THE JUDGE'S CHARGE.

Judge Nelson then proceeded to deliver the charge of the Court, in which Judge Shipman, his associate, concurred:

I. The first question presented in this case is whether or not the Court has jurisdiction of the offense. This depends upon a clause of section 14 of the act of Congress of 1825 as follows: "And the trial of all offenses which shall be committed upon the high seas, or elsewhere, out of the limits of any State or district, shall be in the district where the offender is apprehended or into which he may be first brought." The prisoners, who were captured by armed vessels of the United States, off Charleston, S. C., were ordered by the commander of the fleet to New-York for trial; but the Minnesota, on board of which they were placed, was destined for Hampton Roads; and it became necessary, therefore, that they should be there transferred to another vessel. They were thus transferred to the Harriet Lane, and, after some two days' delay, consumed in the preparation, they were sent on to this port, where they were soon after arrested by the civil authorities. It is insisted, on behalf of the prisoners, that, inasmuch as Hampton Roads, to which place the prisoners were taken and transferred to the Harriet Lane, were within the Eastern District of the State of Virginia, the jurisdiction attached in that district, as that was the first district into which the prisoners were brought. The Court is inclined to think that the circumstances under which the Minnesota was taken to Hampton Roads—in connection with the original order by the commander that the prisoners should be sent to this district for trial—do not make out a bringing into that district within the meaning of the statute. But we are not disposed to place the decision upon this ground. The Court is of opinion that the clause conferring jurisdiction is in the alternative; and that jurisdiction may be exercised either in the district in which the prisoners were first brought, or in that in which they were apprehended under lawful authority for the trial of the offense. This brings us to the merits of the case. The indictment under which the prisoners are tried contains ten counts. The first five are framed upon the third section of the act of Congress of 1820, which is as follows: "That if any person shall upon the high seas" * * * "commit the crime of robbery, in or upon any ship or vessel, or upon any ship's company of any ship or vessel, or the lading thereof, such person shall be adjudged to be a pirate," and upon conviction shall suffer death. The five several counts charge in substance that the prisoners did upon the high seas enter in and upon the brig Joseph, the same being an American vessel, and upon the ship's company naming them; and did then and there piratically, feloniously and violently make an assault upon them, and put them in personal fear and danger of their lives; and did, then and there, the brig Joseph, her tackle and apparel her lading (describing it), which were in the custody and possession of the master and crew, from the said master and crew and from their possession, and in their presence, against their will, violently, piratically and feloniously seize, rob, steal, take and carry away, against the form of the statute, &c. There are some variances in the different counts but it will not be material to notice them. It will be observed that this provision of the act of Congress prescribing the offense applies to all persons, whether citizens or foreigners, making no distinction between them, and is equally applicable, therefore, to all the prisoners at the bar. The remaining five counts are formed under the 7th section of the act of Congress of 1790, which is as follows: "That if any citizen shall commit any piracy or robbery aforesaid [that is, as described in the 4th section, corresponding substantially with the 3d section of the act of 1820], or any act of hostility against the United States, or any citizen thereof, upon the high seas, under color of any commission from any foreign prince or State, or on pretense of authority from any person, such offender shall, notwithstanding the pretense of any such authority, be deemed, adjudged, and taken to be a pirate, felon, and robber;" and, on conviction, shall suffer death. These five counts charge that the prisoners are all citizens of the United States, and that they committed the acts set forth in the previous five counts, on pretense of authority from one Jefferson Davis. As the provision of the act of Congress upon which these counts are framed is applicable only to citizens and not to foreigners, but four of the prisoners can be brought within it, as the other eight are admitted to be foreigners. The four are Baker, Howard, Passilique, and Hadleston. The distinction between the provisions of the third section of the act of 1820 and the ninth section of 1790, and the counts in the indictment founded upon them arises out of a familiar principle of international law, and which is, that in a state of war existing between two nations, either may commission private armed vessels to carry on war against the enemy on the high seas, and the commission will afford protection, even in the judicial tribunals of the enemy, against a charge of the crime of robbery or piracy. Such a commission would be a good defense against an indictment under the third section of 1820, by force of the above rule of international law. The ninth section of the act of 1790 changes the rule as it respects citizens of the United States who may take service under the commission of the private armed vessels of their country. It declares, as it respects them, the commission shall not be admitted as a defense; and, as this legislation relates only to our own citizens, and prescribes a rule of action for them, and not as it respects the citizens or subjects of other countries, we do not perceive that any exception can be taken to the act as unconstitutional or otherwise. But, upon this view the Court has taken of the case, it will not be necessary to trouble you with any observations as it respects this section, nor to respect to the several counts framed under it, but shall confine our observations to a consideration of the third section of the act of 1820. There can be no injustice to the prisoners in thus restricting the examination, as any authority for the perpetration of the acts charged in the indictment, founded upon the act of 1820, will be equally available to them. Nor can there be any injustice to the prosecution, for unless the crime of robbery, as prescribed in the act of 1820, is established against the four prisoners, none could be under the ninth section of 1790. The crime in the two acts is the same for all the purposes of this trial. The only difference is the exclusion of a particular defense under the latter. Now, the crime charged is robbery upon an American vessel on the high seas, and hence it is necessary that we should turn our attention to the inquiry, what constitutes this offense? It has already been determined by the highest authority—the Supreme Court of the United States—that we must look to the common case for a definition of the term robbery, as it is to be presumed it was used by Congress in the sense in that term and, taking this rule as our main guide, it will be found the crime consists in this: The felonious taking of goods or property of any value from the person of another, or in his presence, against his will, by violence, or putting him in bodily fear. The taking must be felonious—that is, taking with a wrongful intent to appropriate the goods of another. It need not be a taking which, if upon the high seas, would amount to piracy, or what is some of the books be called general piracy or robbery. This is defined to be a forcible depredation upon property upon the high seas without lawful authority, done *animo furandi*—that is, as defined in this connection, in a spirit and intention of universal hostility. A pirate is said to be one who roves the sea in an armed vessel, without any commission from any sovereign State, on his own authority, and for the purpose of seizing by force and appropriating to himself, without discrimination, every vessel he may meet. For this reason pirates, according to the natural law, have always been compared to robbers—the only difference being that the sea is the theater of the operations of one and the land of the other. And as general robbers and pirates upon the high seas are deemed enemies of the human race—making war upon all mankind indiscriminately—the crime being one against the universal laws of society—the vessels of every nation have a right to pursue, seize and punish them. Now, if it were necessary on the part of the Government to bring the crime charged in the present case against the prisoners within this definition of robbery and piracy, as known to the common law of nations, there would be great difficulty in so doing either upon the evidence, or perhaps upon the counts as charged in the indictment—certainly upon the evidence. For that shows, if anything, an intent to depredate upon the vessels and property of one nation only—the United States—which falls far short of the spirit and intent, as we have seen, that is said to constitute essential elements of the crime.

But the robbery charged in this case is that which the act of Congress prescribes as a crime; and may be denominated a statute offense as contradistinguished from that known to the law of nations.

The act, as you have seen, declares the person a pirate, punishable by death, who commits the crime of robbery on the high seas against any ship or vessel, or upon any ship's company of any ship or vessel, &c., and the interpretation given to these words applies the crime to the case of depredation upon an American vessel or property on the high seas, under circumstances that would constitute robbery, if the offense was committed on land, and which is, according to the language of Blackstone, the felonious and forcible taking from the person of another of goods or money to any value, by violence or putting him in fear. The felonious intent which describes the state of mind as an element of the offense, is but briefly alluded, in technical language, as one *furandi*, which means an intent of gaining by another's loss, or to despoil another of his goods *lucri causa*, for the sake of gain.

Now, if you are satisfied, upon the evidence, that the prisoners have been guilty of this statute offense of robbery upon the high seas, it is your duty to convict them, though it may fall short of the offense as known to the law of nations. We have stated what constitutes the elements of the crime, and it is your province to apply the facts to them, and thus determine whether or not the crime has been committed. That duty belongs to you, and not to the Court.

We have said, that in a state of war between two nations, the commission to private armed vessels from either of the belligerents affords a defense, according to the law of nations, in the Courts of the enemy, against a charge of robbery or piracy on the high seas, of which they might be guilty, in the absence of such authority. And, under this principle, it has been insisted by the learned counsel for the prisoners, that the commission of the Confederate States by Jefferson Davis, to the master and crew of the Savannah, which has been given in evidence, affords such defense.

In support of this position it is claimed that the Confederate States have thrown off the power and authority of the General Government; have erected a new and independent Government in its place; and have maintained it against the whole military and naval power of the former; that it is a Government at least *de facto*, and entitled to the rights and privileges that belong to a sovereign and independent nation.

The right, also, constitutional or otherwise, has been strongly urged; and the law of nations, and the commentaries of eminent publicists, have been referred to as justifying the secession or revolt of these Confederate States. Great ability and research have been displayed by the learned counsel for the defense on this branch of the defense.

But the Court do not deem it pertinent or material to enter into this wide field of inquiry. This branch of the defense involves considerations that do not belong to the Courts of the country.

It involves the determination of great public political questions which belong to departments of our Government that have charge of our foreign relations—the legislative and executive departments; and, when decided by them, the Courts follow the decision, and, until these departments have recognized the existence of the new Government, the Courts of the nation cannot. Until this recognition of the new Government, the Courts are obliged to regard the ancient state of things remaining as unchanged.

This has been the uniform course of decision and practice of the Courts of the United States.

The revolt of the Spanish Colonies of South America, and the new Governments erected on separating from the mother country, were acknowledged by an act of Congress, on the recommendation of the President in 1822.

Prior to this recognition, and during the existence of the civil war between Spain and her colonies, it was the declared policy of our Government to treat both parties as belligerents, entitled equally to the rights of asylum and hospitality, and to consider them, in respect to the neutral relation and duties of our Government, as equally entitled to the sovereign rights of war as against each other. This was also the doctrine of the Courts, which they derived from the policy of the Government following the political departments of the Government as it respects our relations with new Governments erected on the overthrow of the old.

And if this is the rule of the Federal Courts in the case of revolt and erection of a new Government, as it respects foreign nations, much more is the rule applicable when the question arises in respect to a revolt and the erection of a new Government within the limits and against the authority of the Government under which we are engaged in administering her laws.

And, in this connection, it is proper to say that, as the Confederate States must first by the political departments of the mother Government in order to be recognized by the Courts of the country, namely, the Legislative and Executive Departments, we must look to the acts of those Departments as evidence of the fact. The act is the act of the nation through her constitutional public authorities.

These, gentlemen, are all the observations we deem it necessary to submit to you. The case is an interesting one, not only in the principles involved, but to the Government and the prisoners at the bar. It has been argued with a research and ability in proportion to its magnitude, both in behalf of the prisoners and the Government; and we do not doubt, with the aid of these arguments, and the instructions of the Court, you will be able to render an intelligent and just verdict in the case.

The jury retired at 3½ p. m., and after being out nearly three hours, returned to the Court for instructions upon some points; but as all but one are embraced in the Judge's charge, it is needless to repeat them. That one was whether it was necessary, to constitute robbery, that the thing stolen should be intended for the use of the robber. The Court answered it was not, and the jury again retired.

There being no possibility of an early agreement of the jury, the Court, at 8 o'clock, took a recess till Thursday morning.

LAW INTELLIGENCE.

UNITED STATES CIRCUIT COURT—OCT. 30.—Before Justice NELSON.

Philip Allen et al. agt. Schuchardt et al.

The sample of a quantity of madder was put into the hands of a broker in the city of New-York, by the defendants, to make sale of it for them. A sale was made accordingly to the plaintiffs in the State of Rhode Island, upon an inspection of the sample bottle, which the broker refused to open, on account of instructions from his principals. The sample bottle had been forwarded from Amsterdam to the defendants, previous to the shipment of the bulk, and was the only sample of the goods as none accompanied it. The madder was in barrels in the vessel, which had arrived in New-York about the time of the sale. The sale was made in the name of the defendants, their principal not being disclosed.

NELSON, C. J.—I. The contract of sale in this case was made in Rhode Island, and though verbal, is there valid, as no sale note is required as in our Statute of Frauds. The madder, the subject of the sale, being in New-York or elsewhere at the time does not affect this question.

II. The action on the case for a false warranty is certainly a somewhat antiquated remedy, the action of assumpsit having taken its place. Yet we cannot say that it is abolished or modified, on account of the substitution by the profession of the new remedy. There are certain advantages to be gained by the adoption of the one or the other which are not common to both. And in a count upon a false warranty the pleader need not aver the vendee any more than in those of assumpsit. (1 Wh. Selwin, p. 496; 2 East., 446; 2 Chitty Pl., p. 161; in p. 276-7; 1 ib., 139.)

III. The sale of the madder was a sale by sample, where the purchaser had no opportunity to examine the bulk, and where he was prohibited by the vendors from opening the sample bottle for the purpose of examining the articles by which act, we are inclined to think, they assumed the responsibility of maintaining that the bulk was equal to the quality of the article, as it appeared to the eye in the bottle. The sale was not only by sample, but was obviously intended to be such by the vendors, as the sample of the madder preceded the arrival of the bulk from abroad, and no sample accompanied it. The sample thus previously forwarded was put into the hands of the broker to sell the 100 barrels subsequently shipped. This sample thus forwarded was the only one furnished representing this quality of madder.

IV. The sale being a sale by sample, there was an implied warranty that the bulk was equal to the sample in quality, which, upon the evidence in the case, it clearly was not. All agree, that from an inspection of the sample, the madder appeared to be pure and unadulterated. From a careful analysis of the bulk by chemists, there was an adulteration by sand and other foreign substances, exceeding thirty per cent. This evidence preponderates over the weight of the testimony abroad taken on commission. There was no analysis of the article abroad.

V. The note at the head of the bill of goods tendered, "no claims for deficiencies or imperfections allowed, unless made within seven days from the receipt of goods," was not binding upon the purchasers. The contract was complete and binding upon both parties before this bill was delivered.

The case is an unfortunate one, as both parties are innocent, the fraud having been perpetrated abroad before the goods were shipped to the defendants, who were mere consignees. The question is, which of these innocent parties, under the facts disclosed, should suffer the loss? The question turns upon a dry rule of law, and, according to my view of it, the plaintiffs are entitled to the judgment.

The verdict of $10,000 was taken by consent, subject to adjustment and the opinion of the Court upon a case stated. I shall deduct 30 per cent from the price paid for the madder, as furnishing the amount of damages in this case, and give judgment for plaintiffs for that sum.

UNITED STATES DISTRICT COURT—OCT. 30.—Before Judge SHIPMAN.

THE S. J. WARING SALVAGE CASE.

Wm. Tillman et al. agt. The Schooner S. J. Waring, &c.

This case was continued this morning. The examination of Tillman was concluded, and Wm. Stedding, one of the saloon, was called to the stand. He described the seizure of the vessel by the Jeff. Davis, and the carrying out of the plans of Tillman to recapture her from the prize crew. It appears that Tillman left Stedding on deck to watch the Mate while he went below and dispatched the Captain. Fitzemaster, and the other Mate. Stedding was armed with a revolver. After the fatal blows had been struck, he assisted Tillman in throwing the bodies of the dead men overboard. Pending Stedding's testimony the case was adjourned to Thursday morning at ½ o'clock.

PRIZE CASE—CONFISCATION OF A VALUABLE CARGO.

The United States agt. The schooner Henry C. Booth.

This vessel was originally captured by a privateer and taken into Hatteras Inlet, where she was loaded with an assorted cargo, estimated to be worth about $50,000. She was subsequently recaptured by the Harriet Lane and sent to this port as a prize. A motion was made to confiscate the vessel and cargo. Whereupon the owners of the vessel gave proof of their loyalty, upon which the Court this morning granted a decree of restitution. No claimant appearing for the cargo, a decree of confiscation was entered.

NOTICE TO THE BAR.

Notes of issue for the November term must be filed on or before Friday, November 1, in order that they may take their proper places on the Calendar.

SUPREME COURT—CHAMBERS—OCT. 30.—Before Justice SUTHERLAND.

DECISIONS.

Frank V. Hartshorne agt. Wm. Graydon et al.—Motion denied with $7 costs.

Mark Levy et al. agt. Mark Celler et al.—Motion denied.

Wm. A. Conant agt. Wm. H. Carhart.—Motion granted on payment of $10 costs of opposing.

Atwater agt. Ripley.—Motion denied.

The People ex rel. Elston agt. Robinson.—Certiorari allowed.

Phebe Ann Waterbury agt. Allen et al.—Motion for writ of assistance granted.

In re application of Freeland Kortright in relation to the estate of John L. Kortright, deceased.—Reference ordered to Dayton Hobart, esq., to take proofs, &c.

Before Justice BARNARD.

Palmer, Assignee, agt. Elisha Smedley (four other cases).—Motion denied, with $10 costs.

Hunt et al. agt. Chapman et al.—Motion for appointment of receiver granted, provided plaintiffs, within ten days, present to me a bond, in the penalty of $7,500, conditioned to pay all damages that have already or may hereafter be sustained in consequence of the appointment of a receiver. In case plaintiffs do not comply within ten days, motion denied, with $10 costs, and injunction dissolved.

SUPERIOR COURT—SPECIAL TERM.—Oct. 30.—Before Justice HOFFMAN.

DECISIONS.

Wm. Quinn agt. Thomas Herbert, et al.—Motion to dissolve denied, with $10 costs.

Albert L. Feck agt. Wm. Williams.—Order to be settled on two days' notice.

Moses Chamberlain agt. Wm. D. Salisbury.—Judgment for plaintiff.

COURT CALENDAR—THIS DAY.

SUPREME COURT—CIRCUIT—Part I.—No calendar made up. Case on trial. The calendar of short causes for Friday will be called as usual.

MARRIED.

DILLINGHAM—TALLMAN—On Thursday, Oct. 24, at the Memorial Church, Hammond street, by the Rev. E. R. T. Cook, Robt. H. Dillingham to Juliet, youngest daughter of Capt. John F. Tallman all of this city.

LAMBELET—HALOIN—On Wednesday, Oct. 30, 1861, at Trinity Church, by the Rev. John Purves, Louis Cambelet of Switzerland, to Miss L. Haloin of France.

DIED.

CREEMER—At South Bergen, N. J., on Tuesday, Oct. 29, Phoebe, widow of William Creemer, late of Woodbridge, N. J., in the 90th year of her age.

The friends and relatives of the family are respectfully invited to attend the funeral services at the residence of her daughter, Mrs. D. B. Messerve, corner of Academy avenue and Bergen street, South Bergen, on Friday next, at 3 o'clock p. m. The remains will be taken to Woodbridge, N. J., for interment, on Saturday morning, by the 10 o'clock train from Jersey City.

Newark, Rahway, and Elizabeth papers please copy.

CLARKE—On Tuesday evening, Oct. 29, Patrick Clarke, a native of Crosdoney, Parish of Kilmore, County Cavan, Ireland, aged 85 years.

His friends and those of his sons, John, James, Daniel, and William, are respectfully invited to attend the funeral from his late residence No. 391 Madison, corner of Montgomery street, this afternoon at 1½ o'clock.

POPE—In Dorchester, on Sunday, Oct. 27, Lizzie E., youngest child of William F. and Sarah A. Pope, aged 3 years and 11 months.

WELLS—In Brooklyn, on Tuesday, Oct. 29, 1861, Mrs. Esther Wells, relict of John A. Wells, aged 58 years.

The friends of the family are respectfully invited to attend her funeral from No. 524 Myrtle avenue, near Tompkins avenue, on Friday, at 10 a. m.

Newark, N. J., papers please copy.

WIGGINS—In this city, on Wednesday, Oct. 30, of consumption, Joseph, eldest son of James and Margaret Wiggins, in the 23d year of his age.

The relatives and friends of the family are invited to attend the funeral on Friday, Nov. 1, at 1½ p. m., at No. 61 North Moore street.

Walter Brown's Monthly Wool Circular.

The market has continued remarkably active, and prices have steadily advanced during the entire month, until qualities best adapted to army clothing have reached very extreme rates. The stock of medium and low fleeces is extremely light, a large portion of the clip being already consumed, or in the hands of manufacturers; and if the demand for army goods should continue through the Winter, manufacturers will have to resort to fine grades, which, by being mixed with lower foreign wools may be found to answer a good purpose. Of these last we shall probably have fair supplies, but judging by the readiness with which lots now on the way are taken to arrive, there will not be, for some time, much accumulation on the market; and as by latest advices, prices are rapidly advancing in the European markets, we cannot look for much variation from our present market rates. Domestic pulled wools have advanced in proportion to fleeces, and are in brisk demand, with a very light stock. California wools of all grades sell rapidly at greatly improved rates, most of the importations having been sold by invoice at high figures. Fine foreign wools have also partaken of the general advance, and moderate sales have been made, while medium and low descriptions have fully kept pace with corresponding grades of Domestic. The sale of East India wools which took place on the 30th was fully attended, and buyers eagerly competed for the different parcels. The average prices realized were fully up to market rates, and the lots were well distributed among manufacturers. We look for a continued active market, and an increased demand for the finer grades of wool, which are still comparatively low.

We have reported the following sales: 360,000 lb Fleece at 41@50c.; 135,000 lb Pulled at 36@50c.; 10,000 lb Smyrna, 50,000 lb Unwashed Chilian, 50,000 lb Mediterranean, 146 bales Entre Rios, 230 bales Cordova, at 30@34c.; 141 bales Unwashed Mestizo, 160 bales Unwashed Buenos Ayres, 2,252 bales California, at 16@35c.; 50 bales California Pulled, 50 bales Cape.

By Auction—779 bales East India.

In Philadelphia—300,040 lb Fleece at 40@53c.

In Boston—1,350,000 lb Fleece at 40@55c.; 6,050 bales Cape, South American, Spanish, and Mediterranean (part to arrive); 440,000 lb Valparaiso.

In Providence—104,700 lb Fleece at 40@50c.; 36,000 lb Pulled at 35@52c.; 19,349 lb Foreign at 30@50c.

Prices Current of Wool at New-York, Nov. 1, 1861.

Choice selected Saxony Fleece, 50@52c.
Saxony Fleece, 47@50c.
Full-blood Merino Fleece, 47@50c.
Half and three-quarter blood Fleece, 47@50c.
Native and quarter-blood Fleece, 47@50c.
Common Fleece, 47@50c.
Canada Fleece, 45@50c.

Domestic Pulled.

New-York City Extra Pulled, 45@47c.
New-York City super Pulled, 42@45c.
New-York City No. 1 Pulled, 40@43c.
Choice Country Picklock Pulled, 46@48c.
Country extra Pulled, 46@48c.
Country super Pulled, 40@43c.
Country No. 1 Pulled, 42@45c.
Country Lambs