

which it was founded, the former would doubtless make an order for the immediate payment of the money. That the act of 9th of April, 1814, dividing New York into two districts, gave to the northern district court, no jurisdiction over cases pending before the former court. That the judge of the southern district had decided that all cases commenced in the old court must be closed in his own court; and that the funds deposited in it could not be subject to any decree of the southern judge. The trial had been had upon copies of papers emanating from the northern district; and that that trial had been *coram non judge*. Mr. Gold had left Mr. Fisk with the impression that he was to follow his suggestion as to the manner of getting the decree of the northern district confirmed by the southern judge, when the money would be paid.

"The foregoing letter was on the 2d October, 1817, communicated to Mr. Bagot.

"On the 15th April, 1818, Mr. Bagot communicated to the Secretary of State a letter from Messrs. Crooks, stating that, on personal application by their agent at New York, to Judge Tallmadge, for the papers necessary to carry the case before the southern district court, agreeably to Mr. Fisk's suggestion, the Judge had positively refused to deliver them, upon reasons which they call of mere etiquette between the Judges of the two districts, respecting the powers of their respective courts. Mr. Bagot concludes by again asking the interference of the Executive in the case.

"In consequence of the foregoing application, the Secretary of State, on the 21st May, 1818, addressed a letter to Mr. Fisk, directing him, in the event of the clerk of the southern district court persisting in his refusal to pay the money, and of his being sustained by the judge, to inform the department whether any other mode, short of an application to Congress, be practicable to obtain relief for the parties.

"To the preceeding letter Mr. Fisk answered on the 7th May, that, by an act of Congress passed the 3d April, 1818, jurisdiction was given to the court for the northern district over all cases circumscribed like that of the Nelson; and that, consequently, the decree of that court in the case might be considered as final. But another difficulty still existed; which was, that Theron Rudd, the clerk of the southern court, had, in May, 1817, absconded with all the funds of the court; amounting to about one hundred thousand dollars; and that, therefore, no funds existed out of which the proceeds of the sale deposited in court could be paid to the claimants. On the 28th October, 1818, Mr. Bagot communicated this information to the Secretary of State, and renewed his appeal to the justice of the Government of the United States.

"This note was accompanied by an exemplification of the certificate of the clerk of the court for the southern district of New York, that the amount of sales of the vessel was \$2,999 25; of the cargo, \$1,972 10; that the same were paid into court: and that the balance, after deducting costs and charges accruing in that court, \$4,243 32, was paid into the hands of Theron Rudd, remained there when he resigned his office, and had not since been paid over to the order of the court. This certificate is dated 21st September, 1818.

"At the ensuing session of Congress, the President, by message of the 3d February, 1819, recommended to their attention the claim to indemnity, which the legislative authority was alone competent to provide. The message was accompanied by copies of most of the correspondence and documents detailed above.

"The following is the direction which was given in Congress to the subject of the message, and the course by which it arrived at a final rejection of the proposition made in the Senate for the relief of the claimants:

"On the 11th February, 1819, Mr. Goldsborough, of the committee of Claims of the senate, to whom the subject had been referred, reported a bill for the relief