The power of the Executive to grant reprieves and pardons extends to the remission of fines, penalties, and forfeitures, and costs in criminal cases, and may be exercised in degrees at different times at the discretion of the incumbent of the office.

A portion of a sentence may be remitted at one time, and another portion of it at another time, and by another Executive.

And the same power is possessed by the Executive over a judgment after security for its payment shall have been given, as before.

ATTORNEY GENERAL'S OFFICE,

February 16, 1839.

SIR: In yours of the 12th of February, 1839, my opinion is asked as to the power of the President to remit the costs in the case of the United States vs. Martin.

The constitution of the United States clothes the Executive with the power "to grant reprieves and pardons," &c. This power has been construed to extend to a remission of fines, penalties, and forfeitures; and the power to remit the costs in criminal cases, after judgment against the defendant, has been exercised, and has never been questioned, so far as I can learn. The view taken upon the subject seems to have been, that the costs are a part of the judgment or sentence; and the same constitutional power which can remit a portion of the sentence, may remit the whole sentence. This practice has prevailed so long, and is so well sanctioned by a fair construction of the constitution, that I presume it ought not at this day to be disturbed.

The only remaining inquiry is, Has anything occurred which deprives the Executive of the United States of the power which he possessed over the judgment at the time it was originally rendered in this case? The late President issued his pardon, releasing Martin from his imprisonment, upon his paying or securing the costs which had accrued in the prosecution. The said Martin did give security for the payment of the costs in two years, and was thereupon discharged from his confinement. That the Executive, possessed of the pardoning power, may exercise it in part at one time, and in part at another, I think can admit of no doubt. The pardoning power given by the constitution is plenary, cases of impeachment only ex-
TO THE SECRETARY OF THE TREASURY.

Construction of an Appropriation Act.

cepted. Its exercise, and the mode of its exercise, are placed, without condition or limitation, wholly in the discretion of the President. He may, therefore, in my opinion, pardon or remit a portion of the sentence at one time, and a different portion at another. I therefore do not think that the remitting the imprisonment by the late Chief Magistrate, upon condition of the defendant's paying or securing the costs, deprives the present Chief Magistrate of the power of remitting the costs, the payment of which was so secured.

The giving sureties to secure the costs cannot, in a legal point of view, affect the power of the President. The security is but collateral. It is the judgment that is to be discharged; and if the money were paid by the sureties, it would be in satisfaction of that judgment. I should therefore conclude that the President possesses the same power now over the judgment, which he possessed at the time of its rendition.

The expediency or inexpediency of exercising the pardoning power, in the form and in the case now presented, is a subject exclusively within the power and discretion of the President; and in relation to which I therefore forbear to express any opinion.

I am, sir, &c., &c.,

FELIX GRUNDY.

To the SECRETARY OF STATE.

CONSTRUCTION OF AN APPROPRIATION ACT.

Where an appropriation act for the expenses of preventing and suppressing Indian hostilities expressed a sum for the aggregate less than the aggregate, in fact, of the several items therein enumerated—decided, that the amount equal to all the items was appropriated, and that an erroneous addition of said items produced no effect upon the law.

ATTORNEY GENERAL'S Office,

March 13, 1839.

Sir: Yours of yesterday proposes for my opinion a question arising upon the act of the late session of Congress, entitled "An act making appropriations for preventing and suppressing Indian hostilities for the year 1839." The difficulty arises from the fact that the gross sum stated in the first section of