law here presented; but the conclusion itself is independent of the particular facts, and rests on a logical analysis of the true legal intendment of the act of Congress.

I am, very respectfully,

C. CUSHING.

Hon. JEFFERSON DAVIS,
Secretary of War.

PARDONING POWER OF THE PRESIDENT.

The President of the United States has the constitutional power to pardon as well before trial and conviction as afterwards; but it is a power only to be exercised with reserve, and for exceptional considerations.

ATTORNEY GENERAL'S OFFICE,
April 15, 1853.

SIR: I have examined the papers in the case of John Sandford, and respectfully submit the following statement of facts and suggestions on the subject.

At the last January term of the District Court of the United States for the District of New Jersey, Sandford was indicted for the act of purloining a letter, and money contained therein, from the post office at Paterson; and the indictment stands for trial at the approaching April term of the same District Court.

It appears, from the representation made in behalf of Sandford, that he was a youth employed, at the time of the offence, as a clerk in the post office at Paterson, and left there by the deputy postmaster to perform his duties; and that, in committing the theft, Sandford yielded, perhaps, to the persuasion of another and older person, as much as to the temptation of opportunity; in consideration of which extenuating circumstances, and of the respectability of his connexions, he was recommended to the leniency of the Court by the grand jury who found the bill of indictment, and his pardon is now solicited by persons of great worth and credit, including the Governor of the State.

The application, therefore, is for a pardon before trial and conviction. The President of the United States has, undoubtedly, the power to grant a pardon as well before conviction as
The Attorney General and Local Officers of the Government. afterwards, because the act of clemency and grace is applied to the crime itself, not to the mere formal proof of the crime by process of law. But there must be satisfactory evidence of some kind as to the guilt of the party. And it has been held unwise and inexpedient, as a general rule, to interpose the pardoning power in anticipation of trial and condemnation, although particular circumstances may exist to justify such an exceptional act on the part of the President. (Mr. Wirt's opinion, March 30th, 1820; Mr. Berrien's opinion, October 12th, 1829; Mr. Taney's opinion, December 28th, 1831.)

In addition to the obvious considerations of public policy and official duty, which seem to dictate reserve in the granting of pardons previous to trial and conviction, is the special fact here, that this application is ex parte: whereas it has been usual for the President, before acting on questions of this class, to inquire into the merits of the given case, by means of a report from the proper District Judge or otherwise.

I do not see, on the present occasion, any sufficient reason for departing from the established course in such matters. As the District Judge can have no official knowledge of the case, I recommend that the District Attorney be required to communicate any facts, which, in his opinion, may contribute to inform the conscience of the President in the premises.

I have the honor to be, very respectfully,

C. CUSHING.

The President.

THE ATTORNEY GENERAL AND LOCAL OFFICERS OF THE GOVERNMENT.

It is not the duty of the Attorney General to give advice to local officers of the Government in the Department of the Secretary of the Treasury.

ATTORNEY GENERAL'S OFFICE,

April 20, 1853.

SIR: I have received your communication of the 5th inst., referring to my consideration the letter of James Murray, a Supervising Inspector of Steam Vessels.

That letter propounds a series of nine questions of doubt,