held in confinement under lawful order of the authorities of the United States? And, secondly, whether there be or not any valid constitutional objection to the acts of Congress, making provision for the extradition of fugitives bound to service in any State.

The determination of these two questions will serve to relieve the courts of the United States from those conflicts of jurisdiction which, in consequence of the existing uncertainty as to the true limits of judicial discretion in cases of habeas corpus, have recently arisen, not in Wisconsin only, but also in Ohio, in Pennsylvania, and in New York.

For this reason, special counsel was employed by direction of the President to argue the case before the Supreme Court of Wisconsin; and it seems to me important that it shall now be carried up by writ of error to the Supreme Court of the United States.

I am, very respectfully,

C. CUSHING.

F. B. STREETER, Esqr.,
Solicitor of the Treasury.

CONSTRUCTIVE PARDON.

The order of the Secretary of the Navy to an officer, while under sentence of suspension, to attend a court martial as a witness, does not operate as a constructive pardon.

ATTORNEY GENERAL'S OFFICE,
September 12, 1854.

SIR: Your communication of the 8th of August presents the following facts, and questions of law arising thereon, namely:

In April, 1851, Lieutenant Fabius Stanley was sentenced, on trial by court martial, to be dismissed from the service, which sentence was mitigated, by the President, to suspension from service and pay, for the term of twelve months.

On the 31st of October, 1851, and, therefore, during said term, Lieutenant Stanley received from the acting Secretary of the Navy, a letter in these words:
Constructive Pardon.

"You will attend without delay as a witness before a Court of Inquiry at the navy yard, Brooklyn, New York."

Lieutenant Stanley, it would seem, attended as required, and claimed and was allowed the usual compensation of a witness, by the decision, as it is said, of the Second Comptroller.

Whereupon, Lieutenant Stanley claims that these incidents are to be considered, in law, as a constructive pardon of the entire sentence by the President.

I am not aware of any principle of law to justify this pretension.

The hypothesis of Lieutenant Stanley, in this case, obviously assumes, that, to be summoned as a witness, and to receive pay therefor, is equivalent to being ordered upon the service and receiving the pay of his official rank, as lieutenant.

That assumption is plainly erroneous. Any person, having knowledge of facts to communicate to the court, whether he were of the Army or Navy, or neither, was subject to be called on to testify. To give testimony as a witness, and to have command or other duty as a lieutenant in the Navy, are very different things. Appearing as a witness before a naval court martial, no more operated to condone or pardon the sentence of Lieutenant Stanley, than would the same act, performed by a citizen, convert him into a lieutenant.

Lieutenant Stanley's erroneous construction of the legal consequences of these facts may have arisen from the circumstance that he received the order of attendance from the Secretary of the Navy. But an officer, though under suspension, does not cease to be an officer, subject to the military law, and, in all things lawful, subject also to the order of the President.

Nor can it be pretended that a pardon was necessary to make Lieutenant Stanley a competent witness, and that therefore the bringing him forward as a witness by order of the Department was, in effect, a pardon by the President.

If Lieutenant Stanley had been ordered on duty and command as a lieutenant, that would have been an express remission, not of the whole sentence, but of the unexecuted residue of the sentence. But his being ordered to testify was not, in my opinion, a remission, either express or constructive, of the remain-
ing part of the sentence, and still less was it the annulment of
the whole sentence, as claimed by Lieutenant Stanley.

I am, very respectfully,

C. CUSHING.

Hon. JAMES C. DOBBIN,
Secretary of the Navy.

VIRGINIA BOUNTY LAND SCRIP.

An unliquidated claim to bounty land scrip in Virginia passes by a clause of
general residuary devise.

An administrator of the estate with such will annexed, who, as such, received
the bounty land warrant under the authorities of the State of Virginia, is
entitled to receive the scrip in exchange from the United States.

ATTORNEY GENERAL'S OFFICE,
September 13, 1854.

SIR: I have duly considered the questions arising on the re-
port of the Commissioner of Public Lands transmitted to me
by your letter of the 6th instant.

It appears that a warrant issued on the 30th of December,
1852, from the Land Office of Virginia, for 666 3/4 acres of land,
to James M. Jeffries, administrator de bonis non, with the will
annexed, of Henry Young, deceased, for the services of said
Henry Young as Quarter Master General in the Virginia State
Line, has been filed in the General Land Office, for which scrip
is demanded by the said administrator.

The heirs at law contest the propriety of issuing the scrip to
the administrator with the will annexed, to whom the warrant
issued, and who presents it to be exchanged for scrip.

Henry Young published his will and testament, bearing date
11th February, 1817, in which Henry Young, nephew of the tes-
tator, was named executor. Letters of probate were granted,
on the 8th of December, 1817, to the executor appointed by
the will, in the county court of King and Queen county, of
the State of Virginia, in which county the testator lived and
died.

Afterwards, in the same court, administration de bonis non,