Pardon for Desertion.

Tions between the several Departments of the Government of the United States and their officers and agents."

I have the honor to be, very respectfully, your obedient servant,

CLEMENT HUGH HILL,
Acting Attorney-General.

Hon. WM. W. BELKNAP,
Secretary of War.

PARDON FOR DESERTION.

The President may grant a conditional pardon, and he may remit a part of the penalty or punishment without remitting the whole. Hence he can pardon a deserter so as to re-enfranchise him, (i. e., remove the disabilities imposed by section 21 of the act of March 3, 1865, chap. 79,) and at the same time make the pardon conditional upon his not becoming thereby entitled to any moneys forfeited; and a condition of this sort would exclude any right to the pay referred to in the joint resolution of March 1, 1870, [No. 18.]

DEPARTMENT OF JUSTICE,
October 3, 1872.

SIR: In your communication of the 31st of August you ask the opinion of the Attorney-General as to whether a pardon for the offense of desertion will re-enfranchise a deserter without giving him the right to the pay to which he would be entitled by the removal of a false charge of desertion, under the joint resolution of March 3, 1870.

By the act of March 3, 1865, section 21, (13 Stat., 490,) it is enacted that, in addition to all the other lawful penalties for the crime of desertion, "all persons who have deserted the military or naval service of the United States ... shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens, and such deserters shall be forever incapable of holding any office of trust or profit under the United States or of exercising any rights of citizenship thereof."

By the joint resolution of March 1, 1870, above referred to, (16 Stat., 370,) section 2, it is resolved that "the moneys withheld because of the desertion of any person from the volunteer forces of the United States, who is borne on the rolls as
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a deserter, shall not be paid to him except the record of desertion shall have been canceled, on the sole ground that such record had been made erroneously and contrary to the facts; but such money shall be and remain the property of the National Asylum for Disabled Volunteer Soldiers, for the support of its beneficiaries."

I do not deem it necessary to decide whether or not an unconditional pardon of the President would restore the moneys above referred to, notwithstanding this act of Congress, to a deserter; for as it is well established that the pardon of the President may be conditional, and may remit a part of the sentence or penalty without remitting the whole, I am clearly of the opinion that the President can pardon a deserter so as to re-enfranchise him, and at the same time make the pardon conditional upon his not being entitled to any moneys which he has forfeited by the crime of desertion; and such conditional pardon would enfranchise any such person, without giving him any right to the pay referred to in the joint resolution of March 1, 1870.

I have the honor to be, sir, your very obedient servant,

CLEMENT HUGH HILL,
Acting Attorney-General.

Hon. Wi. W. BELKNAP,
Secretary of War.

BUILDINGS ON MILITARY RESERVATIONS.

Buildings erected on military reservations by post-traders, under a license from the War Department, for the purposes of trade, are not to be regarded as such buildings would be if placed there by trespassers; that is to say, as constituting a part of the realty.

A trader, when he removes from his post at a military reserve, has a right to remove the buildings which were erected thereon by him under such license, and is at liberty to dispose of the materials thereof as his own property.

But the license to erect such buildings, being purely personal to the trader, does not carry with it any right to lease or convey the same to others for their occupation and use, without the permission of the military authorities; his rights are confined solely to that of removing the buildings from the premises.