now holds, he could be forced in any court of law to pay the honest holders of these bonds.

It is not of the smallest consequence whether you treat the United States as guarantors that the revenues shall be raised in a particular way to meet the bonds, or as directly responsible to the holders. If the United States are considered as guarantors of the revenues, it comes to the same thing; they agree that certain means under their absolute control shall be employed to raise the necessary revenue, and thus pledge that the revenues *shall be raised;* the force of the obligation is thereby increased.

I have the honor to remain, your very obedient servant,

EDWARDS PIERREPONT.

The PRESIDENT.

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## EFFECT OF PARDON.

To satisfy the requirement of the statute which makes "the loyalty of the claimant" an essential element in a claim presented under the act of July 4, 1864, chap. 240, in order to warrant a recommendation for settlement thereof, proof of a pardon is sufficient.

DEPARTMENT OF JUSTICE,
*October* 26, 1875.

SIR: In reply to your inquiry as to the effect of the oath of allegiance upon subsistence claims presented under the act of July 4, 1864, chap. 240, § 3 (13 Stat., 381, 382), I would respectfully reply that that act relates to subsistence furnished in States *not* in rebellion, *i. e.*, whose citizens are not assumed to be belligerents; hence the property is not enemy's property, nor taken as such. If there be a refusal to pay for it, it must be on account of the personal conduct of its owner toward the Government in rendering aid and comfort to those in arms against it; an offense which the President has power to pardon, by extending his clemency to each guilty individual, or by a general amnesty to a whole class.

The Commissary of Subsistence must be "convinced that the claim is just and of the loyalty of the claimant" before he can report the claim with a recommendation of settlement. *How* is he to be "convinced" of the facts first to be found be-

fore he can recommend payment. Clearly, by *evidence*. He is, *pro hac vice*, the tribunal to determine whether or not the basis of a legal claim against the United States exists. Then he should proceed in the ordinary manner of investigating facts. Among these facts, prominent is that of the loyalty of the claimant. A pardon is introduced as evidence of it. True, this shows that guilt has once existed, but, at the same time, that it has been entirely blotted out, "so that in the eye of the law the offender is *as innocent* as if he had *never committed* the offense." He is restored to his civil rights, among which is that of claiming from his government compensation for his property used by it. Property seized and condemned for whatever cause is not restored by a pardon, nor is any right to compensation thereby conferred, nor, if taken and sold under a valid decree and its proceeds paid into the Treasury, can its value be obtained; but if taken for military use, with an intention of payment upon proof of loyalty, that condition is satisfied and that proof is made as completely by a pardon as in any other manner. Such is the effect of the decision of the Supreme Court. It is believed that this is a comprehensive answer to the several questions propounded.

Very respectfully, your obedient servant,

EDWARDS PIERREPONT.

The SECRETARY OF WAR.

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## NAVAL OFFICER IN MERCHANT SERVICE.

A naval officer cannot lawfully serve as master of a private steam-vessel in the merchant service without having previously obtained the license required by section 4438 of the Revised Statutes, although he may be eligible, by virtue of his commission, to take command of a steam-vessel of the United States in the naval service.

DEPARTMENT OF JUSTICE,
*October* 26, 1875.

SIR: A commander in the United States Navy, in order to justify him in assuming the position of master of a merchant steam-vessel, should procure the license required by the Revised Statutes, sections 4438 and 4439.

The United States vessel which Commander Philip's com-