gent circumstances as to be unable to support himself without
the assistance of his country," do not comprehend those only
who are incapable, without the aid of the government, of sup-
porting themselves, except by private or public charity?

*Answer.*—I think that it was the intention of Congress to
make the amount of the schedule the test of the indigence of
the applicant; and that, consequently, the relief given by the
former act is to be continued in every case in which the schedule
shall exhibit proof of such indigence, that the income of the
property is inadequate to the support of the applicant.

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

WM. WIRT.

To the Secretary of War.

PARDON OF PIRATICAL MURDER.

The power of pardon neither requires nor authorizes the President to enter into
an investigation of facts, not set up nor proven at the trial, which, if true,
should have been thus interposed to the indictment, after a trial, conviction,
and an appeal, and decision adverse to the accused has been made by the Su-
preme Court of the United States; nor to pardon the accused.

Office of the Attorney General,

May 9, 1820.

*Sir:* I have examined attentively the petitions for pardon
presented by Rosewaine, Hornes, and Warrington, convicted
of a piratical murder before the circuit court of the United
States for the district of Massachusetts, which have been re-
ferred to me by the direction of the President.

The ground taken by the prisoners is, that they sailed from
Buenos Ayres in a regularly-commissioned privateer of that
government, called the Tuckerman; that by this privateer a
Spanish ship was regularly captured, and ordered for Buenos
Ayres for adjudication; that, not being willing to go back to
that country, the prize crew (of which they were part) rose on
the prize-master, who was killed in the affray; after which,
they brought the ship into the United States, and delivered her
up to the original Spanish owners; that from the regularity of
Pardon of Piratical Murder.

The privateer's commission, and the consequent regularity of the capture, it results that the offence (if one has been committed) is an offence against the government of Buenos Ayres, and not against the United States; and hence, that they have been convicted before a court which had not jurisdiction of the offence; that they were not able on the trial to avail themselves of this ground of defence, because their poverty disabled them from procuring evidence of the leading fact—the regularity of the privateer's commission.

If the fact be as they have stated it, I believe they are right in the conclusion of law; and that, instead of being executed in the United States, they are amenable for this offence to the laws of Buenos Ayres only.

But why was not an affidavit made of this fact, and a continuance asked, to give them time to produce the proof of it? It is scarcely conceivable that a continuance thus asked would have been refused; and considering the masterly ability with which they were defended on their trial, (of which there was full proof in a written argument before the Supreme Court,) it is as little conceivable that the motion would have been omitted, had there been any ground for it in the facts of the case. These facts now come to the President on a statement entirely ex parte, not supported by one tittle of testimony—not even by the oath of the petitioners themselves. There is no certificate of facts from the judges who presided at the trial—from the jury, from the counsel of the United States, nor even the counsel for the prisoners. All the questions of fact which were made in the case on the trial have been settled by a jury, who have not recommended the prisoners to mercy. All the questions of law were referred to the Supreme Court, where they were most ably argued in behalf of the prisoners, and most solemnly decided against them. And now the case is presented to the President on a new set of facts, which it is admitted was not before the jury—these facts, too, entirely unsupported by proof; and from the posture in which the case now stands before the President, entirely unsusceptible of any but ex parte proof, because there is no one to cross-examine a witness, nor to collect proof on the part of the prosecution.

These facts, and the question of law growing out of them,
belonged to the merits of the case on the trial. The petitioners propose to the President nothing less than to enter into a new trial of the cause, on a new set of facts leading to new conclusions of law—and this in the absence of the accuser and his witnesses; for the President must either do this, or take the facts for granted as they have been stated by the petitioners, and found an immediate pardon on that assumption.

I do not think that the power of pardon either requires or authorizes him to do the one or the other of these things; but that, on the contrary, to do either would be an abuse of that power.

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

WM. WIRT.

To the Secretary of State.

NEW MADRID LAND CLAIMS.

Patents under the act of 17th February, 1815, must issue to the owner at the date of the act, if alive; and if dead, to the heirs or devisees. The act attaches no assignable quality to the charity which it bestows; and being the only authority for issuing a patent, its terms must be strictly pursued.

The rectangular system of public surveys must be observed and conformed to in the location of certificates.

Office of the Attorney General,  
May 11, 1820.

Sir: I have examined the letter of the Commissioner of the General Land Office, with its enclosures, referred to me yesterday; and after an attentive consideration of the act of Congress of the 17th February, 1815, "for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes," I am of opinion—

1. That the patent must, under the provisions of this act, issue to the person who was the owner at the date of the act; or, in case of his death, to his heirs or devisees. The act attaches no assignable quality to the charity which it bestows; and the act being the only warrant of authority to the Commissioner to issue a patent at all, he must pursue that authority