

**August 18, 1864 - "United States Military Commission."**



Lieut.-Col. James J. Davidson, President

Lieut. H. C. Blackman, Judge Advocate

The case of the United States *vs.* Mrs. Mary V. Reynolds, of near Columbia, Tenn., is now being investigated by the Military Commission, W. C. Bunts and J. W. Phramore, Esqs., counsel for the defendant, who stands charged with-



1. Being a spy,
2. Treason;
3. Violating the 56th and 57th Articles of War;
4. Being a war traitor;
5. Violating her oath of allegiance.



Mrs. Reynolds is the daughter of Mr. Thomas Leftwick, of near Columbia.

THE UNITED STATES *vs.* THOMAS W. ELLIOT.

This case was commenced before the Military Commission on the 14th of July, and was concluded on the 15th of August. The prisoner was charged with-

1. Violation of the laws and usages of war.
2. Being a guerrilla.
3. Murder.

The case was one of considerable importance, and is especially interesting to the public as establishing a precedent in admitting negro testimony against a white man.-Judge John S. Brien, counsel for the defence, objecting, and the Judge Advocate maintaining the competency of the witness. Below we give the argument of the Judge Advocate:

Alfred March, colored, was called for the prosecution, when the defendant counsel objected to his testimony being received, for the reason—1st. That a negro, slave or free, is an incompetent witness in this State in any case involving the interest of a free white man; and secondly, That as such negro, he is incompetent to testify in the Courts of the United States against a free white man. To these objections the Judge Advocate made the following reply:

It is objected that this person is not a competent witness; first, because he is a negro, and secondly, because he is a slave; and the laws of Tennessee, where the Court sits, exclude such persons from testifying where a white man is a party, and that the Federal Courts adopt the rule of the Courts of the State in which they now sit.

Now there is no law of Congress rendering this class of people incompetent as witnesses, and it is not seen why a Military Court should be held to the laws of the State in which the court in convened. In the army, all rules should be uniformly the same all over the country. But sustain this objection, and you

have one rule for a court sitting in Cincinnati, Ohio, and another for Covington, Kentucky, while in all probability the two places are garrisoned by the same troops and commanded by the same General.



Is a Military Commission to be bound by rules? The rule for these tribunals, in my opinion, should be just the rule that would be adopted by the commanding General himself in investigating the case. Suppose the prisoner were brought directly before the General Commanding, would not he investigate the case in the light of all the fact that could be brought before him?-judging of the value of the statements of witnesses by their intelligence, their manners, and their apparent honesty?



The General has power to try this case himself, and to inflict punishment, if he sees proper to do so; but he refers it to a commission of officers selected by himself, to ascertain and report the facts, and award sentence, but it is by his authority and will the whole thing is done at last.



In the same way the General refers cases of assessments for damages done by guerrillas. It is by virtue of his order that an assessment is made and collected, and not in accordance with any law of the State. These investigations were identical with Military Commissions, both are the offspring of military necessity, and each is but the carrying out of the will of the General Commanding.

Again, it would not do to adopt this rule. The Government has made soldiers of this class of persons. It is said that this negro is a slave by the laws of Tennessee. Thousands of our colored *soldiers* are no less so. Would it do to say that these soldiers could not testify in military courts? Would it do to say that a negro soldier could not testify in courts martial against his white officers? Would it do to say that negroes could not testify against white citizens for encouraging and procuring negro soldiers to desert? If this very negro, now offered as a witness, had been sent into one of our negro regiments by his master to entice negro soldiers away, would anybody say he could not testify against his master on a trial for that offence?

If, then he is a competent witness at all, he is competent for all purposes. If he would be competent against one white man, why is he not competent against *any* white man?

It must be borne in mind that circumstances have changed in regard to these people since the breaking out of this rebellion, and we are all familiar with the legal axiom, that when the reason for a rule ceases, the rule itself ceases. If there ever was such a rule in military courts, and if there ever was any reason for such a rule, manifestly that reason has ceased to exist. I refer to court to Deliaart, pages 402-3.

The Court decided that the negro was a competent witness.

Nashville *Dispatch*, August 18, 1864.