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Statement of the
Case of the Newmans
another in Penitentiary
by order of Sir Phipps
sent to day January 16 64

Jan 64.

State of Tennessee,
EXECUTIVE DEPARTMENT,

Nashville,

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The facts of the case are about these
Mr Plater rented the premises to Mr
Howerton, for 1863. Howerton giving his
written obligation, to give possession on
the 1st of January 1864, during the year 1863.
Howerton, ^{rented} it to Reichhermer for the balance
of his Term, and in July 1863. Reichhermer
rented for the balance of his Term to Lipman
& Maas, each Sub tenant understanding
the written obligation of Howerton,
to give possession 1st of January 1864. Plater
rented it 1864 to Newman, and Lipman
& Maas, refused on the 1st of January
1864 to give possession, In October last
(1863) Plater refused to rent it for
1864 to Lipman & Maas, Plater brought
suit according to Law, before three
Justices, to recover possession and recover
aid judgment, for the same, from this
judgment Lipman & Maas took or offered

State of Tennessee,

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to take an appeal to the Circuit Court
There being no such court or
office, the appeal amounted to
nothing, as Lipman & Mann knew
at the time, for they knew and was
so told, and was heard to say, that
they had no defense, and would appeal
for delay to the Circuit Court, "but there
would be no such court,"

Governor Johnson ordered the enforce-
ment of the judgment of the Court
that had decided the case, and
newman and others enforcing the
judgment have been ^{sent} to jail
by Hugh Houshain

Capt. Neil Division of the Miss
Nashville, Tenn. Jan 16. 1862

Respectfully referred to Maj. Gen
Rossau, Comdg District of
Nashville. who will release their
prisoners, and not further in-
terfere with the execution ^{act of the} of the
Justice in the ^{act of the} mentioned
case.

By order of Maj Gen Grant
T. S. Barriss
A. A. G.

Headqrs. Mil Div of the Miss
Nashville Tenn Feb 22. 1862

Respectfully returned to Maj. Gen
Rossau. Without going into the
merits of this case, either as to
the correctness of the Justice's de-
cision or the propriety of the ac-
tion of Governor Johnson it is re-
garded, as sufficient to announce
as a rule by which the Command-
ers of troops in the State of
Tennessee will be guided. - that
in all matters pertaining to the
civil or quasi civil government of

the people of said State, Governor
Johnson must be regarded as
fully competent and duly
authorized to act, being respon-
sible only to the Government
at Washington, and any or-
ders or decrees of his relating
to the same will not be inter-
fered with by the Military
Authorities.

By order of Maj. Gen Grant
T. S. Barriss
Asst. Adjt. Genl

(E. and W. 144)

State of Tennessee

plff should recover and by the appeal not proceedings in the cause was suspended until the same was determined by the Circuit Court and the justices refused to issue process directing Constable to execute the judgment by delivering possession of the premises to the plff. Therefore Col Johnson who was no Justice and no Judge and not acting in any judicial capacity steps in and orders a Constable to oust the defendants by force and giving plaintiff possession. This he did without hearing or the right to hear the cause and in defiance of the appeal granted by the justices. The Constable acting without process in the Refiner's verbal order. No Military Governor Genl Johnson having no right to ignore the judicial tribunals of the County in so flagrant a manner and take upon himself the functions of the Courts of the County and to decide cases without a hearing and to have his judgments executed without process. I supposed his action was based upon an assumption of Military Authority and a "Military necessity". Hence I intended

to protect the legally constituted judicial tribunals from being overriden by the Military. As I thought it my duty as Military Commander of the District that there is no Circuit Judge is no fault of the defendants who appeal but of Governor Johnson, having the power to make or fail and refuses to do so. He says there is no Circuit Court. Then there is no Constitution and no Laws of Tennessee in force for by them there is a Circuit Court. The Office of Circuit Judge exists in the State.

J. 12
Hend. Leachman -
District of Nashville Jan 1878/11

Respectfully returned for the information of the Genl Comdr the War Dept of the Miss.
By the papers in this case it will be seen that the Justices decided for Plff and then decided that defendants might appeal from their decision. That the defendants executed bond and took the appeal to the Circuit Court. It was as much their decision granting the appeal as it was that the

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when in fact there was no execution and no process they having refused to issue any after the appeal. My only order was that the Defendants should not be disturbed in the possession of the premises in litigation "except by process from the judicial tribunals of the County" as will be seen by the order forwarded with this. This would seem to be a small matter but it is not so. This ignoring the decisions of the Courts of Law and turning a man out of his home without a hearing or the right to hear or authority to decide as a precedent places in jeopardy the rights of every tenant in the State.

Respectfully submitted
Wm H Rowland
E. B. 16 Maj Genl Comdr

State of Tennessee,
EXECUTIVE DEPARTMENT,

Nashville, January 16 1864

Major Genl U S Grant
Comdg US Forces

General

I herewith enclose to you a statement of the case of Mr Newman (a constable of this County) and another Gentlemen whose ^{name} I do not have before me. The facts as stated are taken from the statements of each party, before me, and I have no doubt are correct. A large number of persons, following the Army and of temporary and transitory residence, in this City, have come into possession of houses sometimes by contract and occasionally otherwise, and have refused to give up possession to the owners when called upon, and resort to all means to continue in possession. Such cases became so oppressive, and applications

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for a remedy became so frequent at my
office, that I became satisfied that
it was ^{my} duty to interfere, which I
have done in several cases, of a deliberate
and wilful violation of right.
My Commission as Military Governor
authorizes me to "create Tribunals,
and abolish existing ones, to create Offices
and Officers," and is very full in this
respect. I have no doubt that the
Justices decided this case according
to Law and Justice, and that their judgment
should be enforced, and that no interference
exists for the release of the
Imprisonment.

I do I herewith enclose and draw your attention to an Order
of Gen. Kautz in this subject.