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11938. G. D. 315 Oct 1863

Memphis Tenn

Grierson John. C.
Receiver of Civ. Con

Transmits reports of Cases entered on Docket and of Disbursements to Officers & Attaches of Civil Commission Dist Memphis. From April 26 1863. To August 25" 1863

(One Enclosure)

Rec'd H.A. 16" A.G. 21" Sept. 1863.

Report of Disbursements
to Officers and Attaches
of the Civil Commission
District of Memphis.
From April 23rd 1863.
To August 23rd 1863.
By John C. Grierson
Recorder

Exhibit A

10938.G.20 315 1865

Agreeably to request of Brig Genl James C. Veatch the Recorder of the Civil Commission, District of Memphis, begs leave to make the following Report of disbursements to Officers and Attaches of the Commission from the 25th day of April 1863. to the 25th day of August 1863 (being four months)

Viz:-

| | | | | |
|---|---|---|---|---|
| To | Judge | Barbour Lewis. (President) | | 1385.00 |
| | " | Joseph Williams. | | 2180.00 |
| | " | A. C. Ketchum. | | 2095.00 |
| | Recorder | John C. Grierson. | | 775.00 |
| | Clerk | B. J. Radford, | 13 weeks, | 130.00 |
| | " | F. M. Bassett | 10 " | 100.00 |
| | " | C. Brown. | | 140.00 |
| | Marshal | B. Searcy | 13 " | 310.00 |
| | Assistant " | D. Morse | | 375.00 |
| | " " | H. A. Robertson | 11 " | 110.00 |
| | Orderly | Henry Knuppel. | | 80.00 |
| | | Allen Gillespie | | 67.50 |
| | Clerk | H. H. Downes. (Dismissed on or about June 15th 1863) | | 56.00 |
| | Total amount paid Officers and Attaches. | | | $7828.50 |

All of which is respectfully submitted.

John C. Grierson

Recorder.

Civil Commission

District of Memphis

10938. G. 315 1868

Civil Commission.
District of Memphis.

Brig. Genl. James C. Veatch.
Commandg. Dist. of Memphis.

General,

In reply to inquiries made through you by Maj. Gen. Hurlbut (received by me on the 25th. instant) I have the honor to report that the number of Cases entered on our Docket up to this time is four hundred and ninety nine (499). Of these three hundred and seven have been disposed of in the following manner, to wit:-

| | |
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| Causes in which there was a full trial upon the pleadings, the evidence in the Case and the arguments of Counsel ..... | 109. |
| Causes in which Judgments have been rendered by Default | 78 |
| Judgments Pro Confesso | 15. |
| Causes dismissed with Costs | 30. |
| Causes dismissed without Costs | 14. |
| Letters of administration granted | 12. |
| " Testamentary | 1. |
| Causes settled by the parties | 41. |
| Causes dismissed for want of jurisdiction | 5. |
| Recording Deeds of Manumission | 6. |

Appointment of Guardian
Dalal



307.

In Judgments by default upon Promissory Notes and Bills of Exchange no other evidence than the Note, &c. was required, but in Cases on accounts, claims, &c. a Writ of Inquiry was always ordered and evidence required as to the amount actually due. Among the Causes dismissed are those in which the plaintiffs took Non-suit. It will be perceived that the number of Cases settled is large, the Commission being always anxious to afford parties every facility in avoiding or terminating litigation. Of the five Causes dismissed for want of jurisdiction four were suits for divorce, and one was an appeal from a Justice of the Peace in a case when the Magistrate clearly had no jurisdiction. The Commission has in addition to these five refused to receive or in any way to entertain at least fifty Cases offered and presented, but which we have deemed to involve the title to real Estate, or to be Cases which should be presented to the Provost Marshal or to the Military Authorities, or otherwise to be beyond our jurisdiction. The Recorder has always been instructed not to file or receive

any cases but such as we were authorized to hear and determine, and he has usually been successful in doing so, referring the matter to the Commission where he had doubts. Sometimes, however, it was impossible to know that the case was an improper one until after hearing. Thus, Case No. 50, Boro vs. Merrill, brought as an action of unlawful detainer, but upon hearing the evidence and full argument in the case it was adjudged to involve the title to Real Estate and was therefore dismissed: Case No. 187, David Jamesm vs. Annie Israham, as an action of forcible entry and detainer. The defendant was regularly served with process but failed to appear and on the 10th of June judgment by Default was rendered against her. Inquiry was held and due proof being given, a writ of possession was ordered to be issued in the usual way. On the 16th of June you sent us your approval of said judgment and on the 24th. the writ and execution were issued. On the next day the Marshal reported to us that the defendant claimed to be in possession under Capt. Eddy. I directed him to suspend all action until I could see Capt. Eddy. On the 26th you addressed inquiries to Capt. Eddy, and upon receiving his reply, upon the

27th. You sent us orders to suspend all proceedings, which was accordingly done, and made immediately in the Court Docket the following Entry:- "June 27th.- By order of Gen. Veatch this day, Execution and all proceedings in this Case suspended until further orders, it appearing that defendant is in possession under Capt. Eddy by Military Authority." In this case Mrs. Graham ought to have made her defense before the Commission by showing how she held. Had she done so no judgment would ever have been rendered against her. We of Course could not foresee the facts and we suspended all action in the case as soon as she even intimated to our Marshal that she was a tenant under Capt. Eddy and by Military Authority.

The following is a full and explicit statement of the classes of all the actions which have been brought before the Commission, some of which have been dismissed for want of jurisdiction:-

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| Actions for Debt (On accounts stated).- | 209. |
| On Promissory Notes and Bills of Exchange | 126. |
| In Replevin | 40. |
| In Attachment | 30. |
| Unlawful Detainer | 21. |
| Injunction | 17 |

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|---|---|
| For Letters of Administration | 12. |
| Recording Deeds of Manumission | 6. |
| Contempt of Process | 4. |
| Divorce (Dismissed for want of jurisdiction) | 4. |
| Appointment of Receiver | 4. |
| Garnishment | 4. |
| Habeas Corpus | 5. |
| Chancery - Settlement of Partnership | 2. |
| Detinue | 1. |
| Recording Deed | 1. |
| Appointment of Guardian | 1. |
| " Trustee | 1. |
| Probate of Will | 1. |
| Bastardy (Settled by the parties) | 1. |
| Petition for Rent, Profits and Possession of House | 1. |
| For Resisting Officer | 1. |
| Seduction | 1. |
| Slander | 2. |
| Trover and Conversion | 1. |
| Petition by wife to enforce decree in Chancery, against her husband for her & her children's Support | 1. |
| Suit by wife for support & Maintenance | 1. |
| Against City of Memphis for Damages | 1 |
| Whole Number | 499. |

We have proceeded as nearly as circumstances permitted according to the Code and Laws of Tennessee. The Code has a-

bolished the old forms of pleadings and the proceedings before us have been upon Petition (Bills in Chancery Cases) and Answer thereto. Many of the Cases classed above as "Actions for Debt" would be assumpsit under the old practice. Under the head of unlawful detainer are included cases of Forcible Entry and Detainer as the Code treats them all alike.

The six Deeds of Manumission recorded were simply Deeds of Emancipation of Six Slaves formerly the property of Benjamin Wright of Philadelphia. At his death he by his will ordered them to be made free, in accordance with the Laws of Tennessee, and his executor, Joseph Wright, in carrying out the provisions of said Will, finding no County Court in existence wherein he could have said Deeds recorded as required by law, applied for permission to have them recorded in our Commission as the nearest approach he could make to the forms of the law; We granted him his application as a proceeding in <u>memoriam rei</u>, but not assuming any jurisdiction. Subsequently in one other Case parties applied to have a Deed recorded, but the Commission has not yet acted upon the application at all, in-

tending when it comes up to refer it to you for instructions. You will perceive that they do not ask us to determine anything, but simply in these troubled times to preserve for them the record of a fact done. Divorce cases have uniformly been dismissed by us, in accordance with your instructions, as fast as they came before us. We have, however, entertained two cases by wives for maintenance of themselves and children, supposing such to be cases especially requiring investigation and relief. One of these cases though strongly contested, was simply an application for the enforcement of a decree claimed to have been rendered in the Chancery Court by Judge Dixon, a short time before the taking possession of Memphis by the United States forces.

The Habeas Corpus cases perhaps required our action more pressingly than any others. Women, Youths, and all classes of persons, from the vilest Criminals to those who probably had no acquaintance with Crime were thrown together in the City jail; committed sometimes by magistrates without any investigation or being heard in their own defense, with the prospect of remaining there a long and unknown pe-

ried there being no Criminal or other Court in existence to try them. In a couple of those cases where the offence charged was trivial the parties were discharged upon such bail as the laws required. In the other cases upon a thorough and patient investigation it was found that there was no just reason whatever for committing the parties to prison. The Seduction case was clearly proven and was for the infamous ruin of an orphan girl only fourteen years of age.

There have been two slander cases. In One the judgment was Pro Confesso, the defendant admitting his wrong doing and making terms with the plaintiff. In the other there has been no trial; the lawyer for defendant, B. W. Sharp, demurred to the petition as not sufficiently formal for a declaration, but made no question at all as to our jurisdiction, and that question therefore has not yet come up.

The Commission has not in any case of administration made any order for the distribution of any part of the Estate or personal property of any deceased person, and heavy bonds have been required in all cases from administrators and guardians. In the case of Stones Estate, his will ex-

prefely absolved his executors from giving any bond or Securities, but upon his wife and son coming forward with their claims and praying for the appointment of Receivers, the latter parties were required to give Bond with ample securities in the sum of Two Hundred Thousand Dollars. The Commission did not undertake or assume, in any way whatever to give the Receivers any jurisdiction over the Real Estate left by deceased or over any of the personalty in the possession of the Military Authorities, but in relation to such matters they were referred to the proper Authorities and to them they applied. Had the Commission known, however, of the peculiar circumstances connected with said estate I should have applied to the proper authority for instructions before taking any action at all.

In regard to the regular fees and costs charged by this Commission, Rule No. 4. prescribes that, "Costs shall be charged in this Commission until otherwise ordered, at rates double those prescribed in similar cases, as near as may be, in the Code of Tennessee; but such additional Charge may be made in each case as shall be deemed re-

cessary." (See Printed Rules.)

The fees in this state were fixed at a time of great depression in prices and were exceedingly low. In practice then were usually as great as we charge. The "Additional Charge" mentioned in Rule, No. 11. we call the "assessment" and in ordinary cases it has been usually ten or fifteen dollars, but in those of great importance, where large amounts were involved, or long and tedious trials took place, larger sums have been charged, and in the famous case of Heffernan and Cummins vs. Porter, which occupied over a week of the time of the Commission, the assessment was one hundred dollars ($100.) In a case also where Judgment was rendered for $13.750.28 the assessment was $125.00, and in one or two others the assessment has been as high as One hundred dollars, but in a great many cases no assessment at all has been made, and in every case where a party has asked for a reduction of Costs his application has been patiently considered and granted. Any person who makes affidavit of inability to pay costs is allowed to bring suit

in forma pauperis, and twenty or thirty have done so. Justice in this Commission is as free and as prompt to the poor as to the rich. Law-suits which formerly used to occupy many years are now concluded in as many months, or less, and old lawyers have assured me that the expenses are less than they were in other days, while the remedy is far more prompt and efficient. There has been an application for a new trial in but few cases, and in a majority of these few it has been granted. Every defeated party has full power and opportunity to appeal from our decisions with very little cost or trouble, but out of all the cases decided by us only three or four have been appealed.

The mode in which execution of Judgment is enforced is, (after you have approved the Judgment and ordered execution to issue) by the usual levy upon personal property, and sale within thirty days after the execution is issued. By a special order to our Marshal, all parties who choose to give a Delivery Bond are allowed to retain possession of their property for thirty days undisturbed. If in any case they are really entitled from

any cause to a longer indulgence they can obtain it by a proper showing, upon application either to the Commission, or to yourself or to Maj. Gen. Hurlbut. It has been granted in a number of instances, and in one case by yourself within a week. Where perishable property has been taken it sometimes becomes necessary to order a sale at an early period, and in one instance where a small boat, (The Propeller Enterprise) the property of an absconding debtor had been attached for various debts, some of which had matured, while others would not mature for two or three months, and the attorney in the case, B. W. Sharp, brought in very strong affidavits showing that said boat was daily lessening in value and would continue to do so, while the expense of providing watchmen for said boat, &c. was very burdensome, the Commission ordered the boat to be sold, and the proceeds to be paid into Court to be held subject to the final adjudication of the case.

"The amount of fees received by each member and officer of the Court" for four Months services rendered up to Aug. 25th

1863, is fully shown by the Report of the Recorder herewith submitted marked "Exhibit A", which is respectfully referred to as a part of this report.

The members of the Commission have worked constantly in the performance of their duties as a court eight to ten hours daily and sometimes more. An immense amount of business has been accomplished, but there still remain 192 cases to be disposed of and new ones are being presented continually. Many of them are important.

It gives me great pleasure to bear testimony to the efficiency and ability of each member of the Commission associated with me, and to the faithful discharge of his duties by every clerk and officer. Our relations with all the attorneys practicing before us, with one or two unworthy exceptions, have always been perfectly harmonious, and they have cordially cooperated with us in all our ~~transactions~~ duties. Regretting that this report is so lengthy.

I have the honor to be
Very Respectfully
Your Obdt Servt.
Barbour Lewis
Captain & Prest. Civil Commission

I enclose two Copies of our
Printed Rules

B. L.