

Rape in the American Civil War: Race, Class, and Gender in the Case of Harriet McKinley and Perry Pierson

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Abstract:

In a period that shook and uprooted many social institutions, the study of rape in the Civil War can reveal a wealth of information on how social ideologies began to change as a result. After all, rape is the quintessential expression of patriarchal control over women's sexuality. Since sexual practices, ideologies, and definitions are cultural constructs created by the specific social forces active at a particular point in history, experiences of sexual power are based on factors of gender, race, and socioeconomic status. In this essay, I analyze the court-martial case of Perry Pierson and Harriet McKinley in which a white man was charged for the rape of a black woman during the Civil War. In doing so, I will explore how the intersections of race, class, and gender are represented in this trial. I argue that this case illustrates the first chance for black women to pursue legal justice for crimes against them. By situating this case in a broader framework of 19th-century incidents of rape and rape trials, I also show that the experiences of women and men involved in rape trials shifted due to the social changes caused by the war.

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Introduction

Historian LeeAnn Whites argues, "The Civil War constituted a critical watershed in the development of the nation and the American social order." [1] More specifically, the war was a determining factor in the structure of race, class, and gender relations in the United States. Studying the attitudes toward rape at a particular historical moment can shed a great deal of light on these social relations. Historian Sharon Block has written, "Rape is a quintessential inversion of patriarchal control over women's sexual

activities," and yet one must understand rape with "careful attention to the historical moment in which those acts occurred."^[2] In the context of the Civil War, which shook or uprooted many social institutions, studying rape can reveal much about how the social ideologies of the antebellum period were changed by the war. It can also help us understand why social interactions play out the way they do today. Since sexual practices, ideologies, and definitions are cultural constructs created by the specific social forces active at a particular point in history, experiences of sexual power are based on factors of gender, race, and socioeconomic status.^[3]

The military courtroom is a particularly interesting place for analyzing the performance of race, class, and gender. In the words of sociologist Sherryl Kleinman, "In feminist fieldwork studies, performance does not imply that individual agency (a virtuoso performance) is all that matters. We look for ways that these performances are culturally scripted as well as improvised. Do these scripts, when enacted, largely reproduce or challenge sex, race, and class inequalities?"^[4] Courtrooms are highly ritualized settings in which actors play certain roles and cultural scripts are carefully followed. There are particular "cultural rape narratives" that affect the course and outcome of trials. These narratives are "culturally pervasive tales of proper intergender sexual behavior that affect the crafting of courtroom and rape narratives at trials."^[5] However, during periods of social upheaval, these scripts can be rewritten and the revisions are then reflected in courtroom proceedings. In reading the transcripts of these court-martial it can be seen that while they were highly scripted and followed a pre-determined pattern for rape trials, they also contained moments in which the characters moved away from their scripts, demonstrating agency that both reinforced the attitudes toward race, class and gender of the time period and that challenged them.

As in modern-day rape prosecutions, Civil War era prosecutions privileged certain groups over others. Because women in the 1800s were viewed as the property of men, their trials were not about their own violation, but about an attack on one man's property by another man. For elite white women, this system of patriarchy offered some protection from rape as they were valued for their sexual purity, which was guarded by white men. Poor women and women of color, however, as "economically dependent and racially marginalized women," were offered less protection from rape and were less likely to successfully press charges against an alleged rapist.^[6] It is in this context that the case of Harriet McKinley and Perry Pierson occurred. Historian Lawrence Stone has written, "People who are hauled into court are almost by definition atypical, but the world that is so nakedly exposed in the testimony of witnesses need not be so. Safety therefore lies in examining the documents not so much for their evidence about the eccentric behavior of the accused as for the light they shed on the life and opinions of those who happened to get involved in the incident in question."^[7] It is with this attention to the entire court record and focus on all testimony, questioning, and behavior in mind that I have examined this court-martial case for a glimpse into the world inhabited by the people involved. This case reveals valuable information about the intersections of race, class, and gender in the courtroom and how these intersections shifted due to the social changes caused by the war.

In the National Archives in Washington, D.C. one summer, I uncovered the names of 76 men who were charged with rape or attempted rape, as well as the names of the 69 women assaulted by these men. Historian Thomas P. Lowry, looking at the same records and attempting to develop an index by crime,

discovered the cases of 262 other men.^[8] Thus far, 335 cases of rape or attempted rape brought before a court-martial have been discovered. Of the 76 men whose names I discovered, 20 were identified as "colored." There was an overwhelming number of Privates in rank, although there were also a few Corporals, Sergeants, and Lieutenants charged. Of the 69 women who were pressing charges or had charges pressed on their behalf, there were twenty identified as "colored" and only five identified as white. The remaining 44 women were not identified by race. However, upon close reading of the cases and according to social conventions of the time period, we can speculate that white was the "default" race. In other words, if a woman's race was not identified, it meant that she was white. Also, the only situations in which the women were identified as white were cases in which the accused rapist was identified as "colored." I found no cases in which a black man was accused of raping a black woman, which evidences the invisibility of that crime in the court system.

Once I had a handle on the demographic breakdown of the cases, I took the analysis further. I was interested in determining if a man was more likely to be accused of rape while also being charged with other crimes, and how the race of the alleged rapist and the victim related to the accusations. I discovered that the majority of rape or attempted rape charges were accompanied by other accusations. Forty-two percent of the accused white men were only brought under the rape charge or the related assault charges. All of the men with unspecified races were charged with additional crimes, and 67% of the "colored" men were accused of further charges. I was also interested in how the race of the alleged rapist and victim impacted the sentence received. If the accused man was given a sentence for other crimes committed but found not guilty of the rape charge, I counted him in the "acquitted" category. Fifty percent of the "colored" men found guilty of rape or attempted rape were executed while only 20% of the white men received the same punishment. Twenty-five percent of the "colored" men were acquitted, and about an equal percent of white men (22%) were acquitted as well. Whereas a black man found guilty of rape was often hung, there were more white men who were sentenced to a substantial amount of time in jail. I was also interested in how the rank/civilian social position of the man impacted his sentence. The majority of men accused with rape or attempted rape were privates. None of the white men with a rank above private were executed while all of the "colored" men with a rank above private were. Also, the one man in all the files identified as a slave was executed, suggesting the serious racial disparities faced by men tried by a court-martial. In terms of dates and location, the breakdown that I discovered was quite predictable. The majority of alleged crimes were committed in the South, where almost all of the fighting occurred and where most Union Army soldiers were stationed. They also occurred, for the most part, in 1863 and 1864.

Although each of the cases contains an interesting story with more useful information, I could not examine them all due to time constraints. In my initial analysis, I was interested in several different aspects of the cases. The first of these factors was a testimony given by the woman who was allegedly raped. Since I wanted to discover the woman's reactions to questions and the way she was treated in the courtroom, it was important that the case I chose to analyze featured testimony by the woman, as many cases did not. I was also interested in seeing if the defendant had been allowed to cross-examine the woman charging him with rape. The following case piqued my interest as it contains both of these elements. Additionally, it deals with the rape of a black woman by a white man, a social dynamic that

provides considerable insight into the attitudes of the time. In the pages of this transcript, stories unfold which reveal that while rape is an act of gendered power, it cannot be separated from other social hierarchies, as it is integrally tied to race and class oppression.[9]

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Black Women & White Men: Harriet Mckinley and Perry Pierson

Perry Pierson, Company "H" 33rd Indiana Volunteer Infantry, was tried on July 17, 1863 in Murfreesboro, Tennessee for the rape of Harriet Elizabeth McKinley. The specification for the charge read,

In this that he, Private Perry Pierson, Company "H" 33rd Indiana Volunteer Infantry, did by force and violence have carnal knowledge of the body of Harriet Elizabeth McKinley, a colored woman, without her consent or will. This in the neighborhood of Guy's Gap, State of Tennessee on or about July 10th, 1863. [10]

Pierson was represented by a lawyer who was a fellow soldier in the 70th Regiment of the Indiana Volunteer Infantry. Pierson was one of few men to procure the services of a lawyer. Despite his relatively advanced legal defense, Pierson was found guilty of the crime and sentenced to one year of hard labor and four months without pay. This sentence was light for the seriousness of the crime he committed but still incredibly significant, as before the war white men were simply not charged for raping black women. In fact, this case marks one of the first opportunities for black women to bring cases to court and prosecute white men for crimes against them.

The fact that a white soldier was charged with the rape of an enslaved woman is very important. Prior to the Civil War, this was unheard of. Sharon Block writes, "No rape conviction against a white man...for raping an enslaved woman has been found between at least 1700 and the Civil War." [11] The few cases prior to this involving sexual assaults against black women were cases in which the accused man was also black. Even this, however, was quite rare and as slavery became more prevalent, the cases in which enslaved men assaulted enslaved women were most likely settled outside the courtroom. [12] The existing racial and power structures prior to the Civil War enabled white men to have almost unlimited access to black women with no legal punishment. A "proslavery ideologue," William Harper, argued that the sexual accessibility of black women to white men protected white women from being "debauched" by white men's "hot passions." [13] Since black women were, in his words, "a class of women who set little value on chastity," it was not considered rape when they were sexually assaulted by a white man. Once the Civil War began, many of the old societal beliefs of the South were shaken. This is represented by the fact that Harriet was able to bring her case to trial and was served with justice. Eugene Genovese explains that in the antebellum period, "rape meant, by definition, rape of white women, for no such crime as rape of a black woman existed in law." [14] In this way, this case created a new script that included the voices of black women. In the past, white men had unlimited access to black women's bodies, and although these men remained privileged over black women, there was at least some opportunity for legal justice.

The court-martial of Perry Pierson occurred in July of 1863, a few months after the Emancipation Proclamation was passed on January 1, 1863. The case may reflect changing attitudes, especially among Union army officers, towards enslaved women. It also reflected the frustration that, although the Proclamation had been passed, the U.S. government was unable to enforce it in the states that had seceded. This was made more complex by a statement from Harriet during her testimony. Harriet said that Pierson, upon seeing her and a few other enslaved women on the road, told her "to get up behind him on the mule, and I would be a slave no more."^[15] Harriet refused him, potentially suspicious of his motives. Pierson, although he may have been trying to free Harriet from her enslavement, may have been trying to trick her to come with him in order to rape her. Because she was a black woman, he may have thought of her as a sexual object that he and his fellow soldiers should have access to. This also shows that, despite the passage of the Emancipation Proclamation, societal attitudes toward black women had not completely changed.

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Taking a Stand

In the case against Perry Pierson, Harriet was the first witness called to testify. By testifying, she was acting with agency and using a voice to speak out against her aggressor. "Colored" female slaves were expected to remain invisible in the legal system, and because they were unable to legally marry, all of their sexual relations were suspect.^[16] Harriet, however, did not accept this, and although it is impossible to determine whether she agreed or was forced to testify, by testifying she was breaking out of the established role for a female slave. This agency was denied for women, particularly black women, in the period preceding the Civil War.^[17] The defense in this case attempted to rely on pre-war beliefs to continue to deny Harriet a voice. When she was called to the stand, the defense immediately objected. It was expressed in several of the other cases that white people believed that a "colored" person, particularly a woman, could not understand the nature of an oath and thus could not be trusted to tell the truth when sworn in as a witness. The transcript reads,

The prisoner objected to the reception of this witness testimony on the grounds that 'she was not a qualified witness, being a colored woman.' The commissioner's room was then cleared for deliberation and after mature consideration the objection was not sustained.^[18]

Harriet was allowed to testify over the objections. In several other cases involving black women, they were asked questions to prove that they were able to understand the nature of an oath before their testimony was accepted. Although Harriet was identified in the charge and specification as a "colored" woman, she was identified as a "mulatto" woman prior to her testimony.^[19] This may have meant that Harriet appeared to be part white, further complicating the racially designated roles played in the courtroom.

Once the Commission established that Harriet was allowed to testify, the other "colored" women testifying were accepted without question. This was different, however, than some of the other cases in which the defense objected to all black witnesses introduced by the prosecution. However, this may have also been different given Pierson had the aid of counsel. Although not many accused men

requested the help of a lawyer, Pierson hired 1st Lieut. S.K. Hampman, 70th Regiment Indiana Volunteer Infantry, to defend him. Perhaps Hampman was a lawyer before he enlisted in the Army, meaning that much of Pierson's defense relied on the conventions of civilian courts and the defense strategies of accused rapists from before the war. In this way, the script of the trial is very much like those cases in the antebellum period.

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Race, Gender & Respectability

The questioning of the witnesses seems to adhere closely to the standards outlined by Sir Matthew Hale, chief justice of England and author of the legal guide *Historia Placitorum Coronae*. In this guide, Hale laid out the standards that established cultural attitudes towards sexual violence cases. It also held that the court could ask particular questions which women were forced to answer. When Hale wrote the guide, black women were not allowed to testify about rape in court, so his standards were not intended to be applied to them. In Pierson's trial, the Judge Advocate seemed to be aware of this criteria and applied it to the case. By doing this, it extended attitudes used towards white women's rape to black women. Although these attitudes perpetuated patriarchy and discredited many women's charges of rape, it was a breakthrough for black women. They were now in a position to argue that they had been raped and placed on a more equal legal footing with white women.

During Harriet's testimony, the Judge Advocate asked her a number of questions devoted to establishing how much she resisted. "A woman's cries not only signified her lack of full-fledged consent to her attacker but also signified to anyone within shouting distance her complete resistance."^[20] Matilda McKinley, another "colored" woman also enslaved by Joseph McKinley, testified on behalf of Harriet. In her testimony, she was asked if the man made a lot of noise while dragging Harriet out of the house, and whether Harriet "hollow[ed] long and struggle[d] much?"^[21] Matilda responded that "She hollowed and said oh quit if you please! Do quit! She hollowed as though she wanted to be let alone." The question was intended to determine if there was anyone who would have heard the commotion. In many cases, the woman was asked how many miles she was from the nearest house at the time of her rape, meaning that if a woman was close enough for someone to hear her cries but didn't help her, it could be assumed that she was not really resisting and that the intercourse was welcomed. During the cross-examination by the defendant, Harriet was asked, "At the time you say he had you down, and you was [sic] making a loud noise, did any of the other present come to where you were?"^[22] Harriet replied that "they tried to come but one of the men held 'Tildy' and would not let her come. She tried to come. The old woman was coming to help me when they saw Master coming and they broke and run."^[23] She testified that the other women present knew that she was screaming and resisting and would have come to her aid if it had been possible.

The Judge Advocate was also interested to know about her physical resistance; whether she hit Pierson and how she tried to fight him off. In her description of the assault, Harriet described how she desperately tried to escape from her pursuing assailant. She explained that she and Matilda had locked

themselves in a room until their lives were threatened and that she climbed out of the window to get away from Pierson. She also said,

He dragged me past a post, and I caught hold of it, and he told me if I did not let loose, he would slap the hell out of me. Then he dragged me around the smokehouse, and tried to make me lay down, and I wouldn't. He then caught hold of my shoulders, flung his knee in my back and threw me on the ground.[24]

The court then asked her, "Did you try to keep him from throwing you down, and could you not have prevented him from doing so?" It seems slightly ridiculous that after her lengthy explanation of how much she tried to fight him off that they would still ask her if there was anything else she could have done. Matilda McKinley also testified to the desperate way Harriet tried to resist. When the court asked if Pierson had much trouble dragging Harriet behind the smokehouse, Matilda told them, "Yes Sir, she fell down on the floor and hollowed for me to help her, I was sitting in a cradle, and she caught hold of it and he dragged her and me and the cradle halfway across the house." [25] If they had any doubts that she had not resisted to great extent it would have been considered consensual but with the extensive testimony about her physical resistance it should have been clear that Harriet was not consenting and was raped.

In addition to physical resistance, injury to the body as a result of the attack was important in order for the court to believe a woman's claims of assault. Sharon Block explains, "Visible physical injuries minimized the possibility that a woman had willingly engaged in sexual relations that she now regretted and charged as rape."

[26] The court commissioner asked Matilda, "did you examine the person of [Harriet] Elizabeth after the ravishment, and if so did you see any blood on her clothes?" [27] Matilda replied simply, "no, Sir." This could have meant that she did not examine Harriet or that she did not see any blood. If it was taken to mean that there was no blood the court may have seen this as proof that there was no actual physical damage and thus discredited the story. Or they could have taken it to mean that Harriet had been injured, but Matilda had not seen it. It is interesting, however, that with the violence and amount of force that Pierson used to drag Harriet behind the smokehouse, there was no other mention of her physical harm.

Related to the concerns about physical injury sustained during the attack, there was a strong focus in the questioning and testimony in most of these cases on the intimate bodily functions of all those involved. In addition to the questions about blood asked of Matilda, there was a substantial amount of questioning related to penetration. Prior to the war, there was much debate as to whether a rape could have occurred without "emission." [28] By the time of war, the "emission" criteria had been discredited but the view still remained that it was not rape unless there was penile penetration. [29] The Judge Advocate asked Harriet, "did, or did not, the prisoner actually accomplish sexual intercourse with you: that is, did he or did he not insert his private part into you?" [30] Matilda, who used the term "ravish" to describe the rape, was forced to define it in more graphic, explicit terms. She seemed resistant to do so, saying, "I saw him throw her down and get on her and do what he wanted to do- that's what I call 'ravishing her.'" Pierson then questioned Matilda on whether or not she saw definite penetration.

Pierson asked, "at the time I ravished her, as you term it, are you sure there was actual penetration?" To which Matilda replied, "Yes Sir, I saw him 'get it in' when he had her down."[\[31\]](#) He did not let it rest at that, however, and again asked her, "were you in a position to see my private member enter her?" This was very frank and explicit questioning. Perhaps, as Harriet and Matilda were black women, they were not spared answering such questions because they were not perceived to have the fragile sensibilities of an elite white woman, who would have been offended by such questions. Sharon Block discusses several cases in which elite white women, who pressed rape charges, were very vague about the actual details of the rape in court and whose rapists were found guilty of the charges.[\[32\]](#) In the two cases I analyzed involving white women, there were questions devoted to intimate bodily details, but none quite as graphic as in this case. This could be related to the fact that this case was the earliest of the three and the courts were moving away from focus on penetration and emission, which preoccupied cases during the early nineteenth century.[\[33\]](#) With or without discussion of penetration and emission, there was a preoccupation with the intimate details of the body in much of the testimony in all three cases.

Framing much of this courtroom discourse is the question of respectability. Being black meant that McKinley was not able, simply because of her race, to live up to the standards of a respected woman of that time. Although she said herself that she was a virgin and was not married, the court may have been hesitant to believe her. Constructions of black women's sexuality at the time were biased, and most men saw young black women as lustful and dangerous.[\[34\]](#) Knowledge of prior sexual experience was very important to establishing the credibility of a witness. It was commonly believed that "not only were unchaste women more likely to consent to sexual intercourse on any given occasion, but they were more prone to lie about their sexual behavior."[\[35\]](#) Harriet was asked by the defendant, "Have you ever had carnal intercourse with a man prior to the time, referred to, with the prisoner?" She replied, "No, never in my life." Stating that she was a virgin would have helped her case, as long as the court was willing to believe her. The questioning about her marital status and her prior sexual history would have helped the court determine how respectable a woman Harriet was, which was also linked to how likely she would have been to consent.

Despite all the frank discussion of bodily functions and the inquiry into Harriet's previous sexual experiences, one thing that was never explicitly mentioned was her age. In both of the other cases I analyzed, in which the women were white, the ages of the women involved were clearly stated. It can be inferred that Harriet was not an older woman since Aunt Leah, who was called a "granny," is obviously older than she. It is significant because the Judge Advocate asked Harriet, "did he do that thing that only married people do?"[\[36\]](#) Having read so many other cases in which the act of rape was referred to as "carnal intercourse" or "ravishing," this was different and stood out to me. It sounds as if he were speaking to a child or young woman and did not want to use explicit language. It was also a reinforcement of the attitudes of the time that sex outside of marriage was improper. He may have been treating her this way because she was a woman and should have been spoken to in a polite and proper way, regardless of her race. This would have been out of the ordinary because Harriet was enslaved, and most white men would not have taken careful consideration to be respectful of her.

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Women's Resistance

In Harriet's testimony, it was quite obvious that the women tried to fight off their attackers in any way possible, coming to each other's aid even if that meant putting themselves at risk. When Harriet first escaped from Pierson, she described how "Aunt Leah...caught hold of his hand and held him until I got over the fence."[\[37\]](#) This seems to me like an extremely brave thing for two "colored" women to have done when faced with a group of at least three white soldiers who were armed and threatening them. Throughout the testimony, it can be seen that the women did everything they could to help and protect each other. While Pierson was raping Harriet, the other women in the house tried to stop him, one even grabbing a "saw knife." "Aunt Leah," who tried to help Harriet with the knife, was taking an extremely huge risk. If she had attacked Pierson and wounded or killed him, she would have suffered the consequences. As can be seen from the case of Celia, a slave woman in Missouri who was repeatedly raped by her master and then convicted and hung after murdering him to prevent the rapes from continuing, Aunt Leah would have faced serious legal repercussions for attacking the white soldier.[\[38\]](#) Matilda McKinley, also acting quite bravely, came to testify for the prosecution on behalf of Harriet McKinley. She corroborated Harriet's story and answered explicit questions about whether she was able to actually see penetration.

Although no specific mention of it was made in the transcript of this case, Matilda was also assaulted. One of the other soldiers, not identified in this case, was charged in a separate case with her attempted rape. William Lindsay, also of the 33rd Indiana, pleaded not guilty to the charge but was sentenced to four months hard labor. The specification of the charge read,

In this that he, Private William Lindsay, Co "F" 33rd Indiana Volunteer Infantry, did by force and violence, attempt to have carnal knowledge of the body of Matilda McKinley, a black woman, without her consent or will. This in the neighborhood of Guy's Gap, Tennessee, on or about July 11, 1863.[\[39\]](#)

The testimony in Harriet's case alluded to the events described in the transcript of Matilda's case. Harriet said, "...one of the men held 'Tildy' and would not let her come" to help free Harriet from Pierson. Matilda said in her own testimony that, at the scene of the assault, there was one soldier who was retaining Aunt Leah and one that "was holding me down and would not let me move." When Hugh Thomas Bragg, also of the 33rd Indiana and present at the house at the time of the assault, was called to testify, he explained that William Lindsay was there and that Bragg went outside with "the old granny," presumably Aunt Leah, while Lindsay and Matilda remained inside. Although this incident was not discussed in Pierson's court-martial, some of the details of Harriet's case were discussed at the court-martial for William Lindsay. The court, therefore, was aware that both women had allegedly been assaulted. This may have had an impact on both their verdict and the successful sentencing of Lindsay and Pierson.

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Conclusion

Hugh Thomas Bragg, a white soldier from Pierson's regiment, was the final witness called to testify. It is unclear as to the part he played in allowing the rape to happen since, according to the two women, all the soldiers present were holding someone back to prevent them from interfering in the rape. Bragg said that he was there but knew nothing of what happened between Pierson and Harriet, whom he identified as "the mulatto woman." His testimony could not prove the rape didn't occur, as he admits to being inside the house and not in a position to see what happened outside. He even said, "I stayed in the house. What else was done I do not know."^[40] He did offer some confusing testimony. When asked by Pierson if he remained in the house until Pierson returned, he said he did not. This was inconsistent with his other statements. If he went outside where the women were and the rape was occurring, how could he have said he knew nothing of what happened?

Since he testified that he had no idea what was going on, the court could take that to mean that Harriet was not yelling as much as she claimed, or perhaps she was not even yelling at all and had actually consented. However, he did offer testimony that would have been very important to the court. He functioned as a character witness and explained that Pierson had been a "good and faithful soldier, and respected as such in the company."^[41] As a white man and a soldier, his testimony most likely would have had more weight with the court. Despite the fact that there was testimony from the woman Pierson was accused of raping, as well as a witness who supported that testimony, he was given only one year hard labor. Considering that there are documented cases in which a soldier was hung for being absent without leave, this seems an extremely light sentence. As a white man and a "good and faithful soldier," Pierson was given a light sentence for the rape of an enslaved "colored" woman.

Despite the wealth of information offered in the pages of this case, there are still many questions. For example, Harriet says that "when they saw Master coming they broke and run."^[42] Was it Joseph McKinley who pressed charges against Pierson? Was he the one who brought the incident to the attention of the military authorities? If so, why did he not testify? One can also wonder about Pierson's motives when he offered to let Harriet ride his mule to free her from enslavement. However, one can only speculate about the answers. Despite these questions, much can be gained from the study of this case. It marks a change in legal proceedings in our country and documents a moment that helped define the way our society conducts rape cases today. In addition, it can help us trace the development of the race, class, and gender interactions that we witness and experience every day. For example, we can see how our culture of blaming the victim is a remnant of the early focus on women's responsibility for their own reputation and "purity." It also provides a clear early example of white men's hyper-sexualization of black women, a continuing problem. However, there is also an important historical breakthrough for black women. Prior to the war, "although rape could be a very difficult crime for a white woman to prove, black and enslaved women were usually de facto (if not de jure), prevented from bringing criminal charges against almost any defendant."^[43] In the early years of the Civil War, however, this changes and marks the first time that black women's voices were present in the courtroom. More specifically, this case allowed them to tell their own stories of sexual assault and to act with agency to determine the legal outcome of their cases.

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[37] MM746

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[38] McLaurin, 16-37.

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[39] MM746.

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[40]MM746

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[41] MM746

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[42] MM746

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[43] Block, 164.

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