

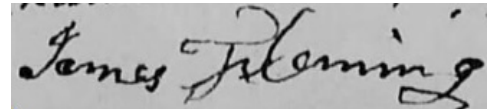
Southern Campaigns American Revolution Pension Statements and Rosters

Pension Application of James Fleming R3605 Mary M. Fleming MD
Transcribed and annotated by C. Leon Harris. Revised 8 Jan 2015.

State of Virginia } Sct
County of Harrison }

On this 24th July 1832 personally appeared before me William A. Rogers one of the Commonwealth's Justices of the peace for the county, and State aforesaid, James Fleming Sen'r. aged Eighty Eight years, a Resident of Simpson's Creek in the County aforesaid, who being first duly sworn according to Law – doth on his oath make the following declaration – in order to obtain the benefit of the act of Congress pass'd June the 7th 1832.

That in the year 1776 he enter'd the Service of the United States as first Lieutenant under Capt. Michael Troutman, in the [blank] Regiment Commanded by Col. Baker Johnson and continued in the said Service two years & nine months during which time, he was stationed at Basten ridge [sic: Basking Ridge], in the State of New Jersey untill the Spring of 1777 – from thence we went to Piscataway, where he was engag'd in a Battle fought by Cols. [Charles Mynn] Thruston & Johnson, against the British. This battle was fought on the 1st da of March 1777 in which he rec'd a wound in the Leg – from thence we return'd to Gen Quarters at Basten Ridge – at which time Gen'l. Washington quarter'd at Whites Three Taverns – or Morris Town [Morristown]. Gen'l. Green [sic: Nathanael Greene] at this time quarter'd with Lord Sterling [sic: William Alexander, Lord Stirling] at Bastin Ridge – on our return home, we cross'd the Delaware near Trenton – march through Lancaster in Pensylvania – from thence to Frederick Town in Maryland. Early in the fall of 1778 he was order'd on an Expedition to the South but in consequence of a severe attack of the Rheumatish brought on, as he believes, from exposure in the service, he was render'd unable to march and quit the service at this time. He at this time knows of no living Witness, by which he can prove the aforesaid services – but begs leave to refer to the accompanying commission. He hereby relinquishes every claim whatever to a pension or annuity except the present and Declares that his name is not on the pension roll of the agency of any State.



The DELEGATES of the FREEMEN of MARYLAND IN CONV[page torn here and at *]
TO James Flemming Gentleman We, reposing trust and [*] fidelity, courage, good conduct, and attachment to the liberties of America, DO, by these presents [*]point you to be First Lieutenant of a Company of Melitia in Frederick County to which [*] elected, belonging to the Thirty fourth Battalion of Melitia in this Province wh[*] Johnson Esquire is Colonel
YOU are therefore carefully and diligently to discharge the trust reposed in you, by disciplining all of [*] under your command; and we do hereby strictly enjoin and require them to obey you as their first Lieu[*]
And you are to observe and follow all such orders and directions [*] time to time, receive from this or a future Convention, or from the Council of Safety of Maryland for the [*]cording to the rules and regulations established by this or a future Convention. THIS Commission to [*] revoked by this or some future Convention of the Delegates of the Freemen of Maryland, or by the Co[*] Maryland for the time being, according to the powers and authorities in such Council of Safety to be herea[*] Convention.

Given in Convention at Annapolis this Third day of Janua[*] Anno Domini, 1776
by Order [*]

James Fleming being sworn saith that he believes a part of the the services mentioned in his decalartion were performed in the year 1775 after he had been chosen a Leuttinant in said service as a matter choice and altho a Militia officer he volunteerd his services as such, which was accepted by Col. Johnson & that

he did contin[page torn] & that he was actually employed in the sevice more than two years

James hisXmark Fleming

I certify that James Fleming who has subscribed the above declaration personally appeared before me the undersigned and made oath that the above statement contains the truth

Given under my hand this 12th day of Jan. 1833

[Joseph Johnson J.P.]

[The following is by US District Attorney Washington G. Singleton who investigated many pension applicants in present West Virginia. For details see my appendix to the pension application of David W. Sleeth S6111.]

Jno. Ashcraft [John Ashcraft S6537]	}	
James Fleming	}	
Ebenezer Fisher [S8473]	}	Pensioners
Sotha Hickman [S5516]	}	
Isaac Richards [S9056]	}	

Harrison Cty/ Dead

[Other side. Above names repeated.]

I understand from sources entitled to credit that all these men are dead.

W. G Singleton/ Nov. 21 1834

Near Shinnston Va 23 April 1835

Sir [James L. Edwards, Commissioner of Pensions] I received your letter stating that Daniel Smiths [see Daniel Smith, pension application S18596] claim for a Pension, had been examined and found to be fraudulent. This has no doubt arisen from the person who formed his declaration different from what he made it, as I am told such has been found to be the case in many instances that have been investigated in Court, where large sums have been drawn & detained from the Pensioners. Smith is a very Ignorant infirm old man and I have very little doubt was fairly intitled to some compensation under the law – altho' from what I learn there have been immense fraud practised. [See appendix to David W. Sleeth S6111]

A few days since a Mr Davidson & Mr Goff were at my house and in conversation on this subject mentioned a certain James Fleming, who had drawn a considerable amount (or that had been drawn for him). that he was dead. and the attorney [Singleton] had made no investigation, but returned him dead, now it so happens that I was acquainted with Mr Fleming, – and I will briefly state that at the time Lord Cornwallis was entering Virginia [spring 1781] a Regement of Tories were raised between Frederick Town and Hagars Town [sic: Hagerstown MD] to join him. I think their number were nearly six hundred; among them was this James Fleming, as well as I recollect, a lieutenant in Capt Shumans [sic: Peter Sueman; see endnote] Company. I was then a young man belonging to a company of Dragoons – and upon being furnished with the enrolment, which was found in the Possession of a man by the name of Fritchey [sic: Casper Fritchie], who was to command the Regement, by either Gen'l Baily [sic: Montjoy Bailey], who I believe now resides in Washington or Baker Johnson, I cannot now recollect which, between 250 and 300 of the party were taken, among them Col Fritchey and Capt Shuman, who with one or two others were hung – Fleming made his escape and settled with a Band of tories on the South Branch of Potomac in Hampshire County Va. as I afterwards was informed, and subsequently came to this (Harrison) County. no doubt there are yet many persons living about Frederick, who will remember the circumstances as above stated, and I should suppose there could be no doubt but that the money drawn for Fleming should be restored by those into whose hands it may have fallen.

Very respectfully/ yr mo obt ser/

[Benjamin Reeder]

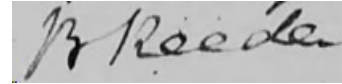
War Dept./ Pension Office/ May 6, 1835.

Sir [B. Reeder], I have received your letter of the 23^d Ult'o. and in relation to the case of James Fleming, dec'd. I have to inform you that you will perform an acceptable service to this Dept. if you will make and affidavit as to the facts set forth in your letter. Without such evidence this Dept. will not be able to recover the amount paid in this case. An early answer is requested

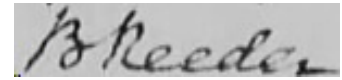
[This copy unsigned, but probably by James L. Edwards]

near Shinnston Va. 20th May '35

Sir [Edwards], Agreeably to your request of the 6th Instant I annex a statement of what I know of the late James Fleming deceased, very respectfully



I first knew James Fleming about the year 1777 or 8 – he then lived in Frederick County Md near the Kitoctan Mountain [sic: Catoctin Mountain]. At the time Lord Cornwallis was coming through the Southern States towards Virginia [beginning January 1781], A Number of Tories, amounting to several hundred, residing principally between Frederick Town and Hagars Town enrolled themselves to form a Regiment to join him as he approached to Potomac. The plan was devulldged as well as I recollect, by a man named Orandorf to either Baker Johnson or Major Mountjoy Baily – and the enrolments I believe were found in the possession of a man by the name of Fritchly – and measures immediately taken for apprehending and in the course of two or three days about one hundred and fifty were taken and put in jail in Frederick and perhaps as many in Hagars Town. In this Conspiracy James Fleming was implicated and as well as I can now recollect was enroled as a Lieutenant, among those taken was the man by the name of Fritchly, who it was said was to command this Regiment and I think a man by the name of Shuman, that was a captain, I cannot at this distance of time remember Other names. about ten or twelve were sentenced to be hanged. Fritchly, Shuman, and one or two others were executed. the rest were reprieved. James Fleming escaped, and as I was afterwards informed settled in Hampshire County Virginia, about 40 years ago I met Fleming on the allegany Mountain.[Allegheny Mountains], when he told me he resided in Hampshire County. he afterwards came to Harrison County, where I have frequently seen him.



Before the Subscriber a Justice of the peace for Harrison County Virginia, Benjamin Reeder made Oath that the above statement is true, to the best of his knowledge and recollection. Given under my hand this 21st day of May 1835

[signed] B. J. Brice

near Shennston Va. 31 May '35

Sir [Edwards] Attending at a Regimental muster in my neighborhood a few days since, I mentioned in company with a half dozen Gentlemen, some of them the neighbors of the late James Fleming, that you had requested me to make a statement of what I knew of Mr Fleming, When all said that they had understood from his first coming to this County that he had been an old Tory, one of them remarking that he had prepared the papers and drawn the Pension of Mr Fleming at which I was a little surprized as he had admitted to have heard he was a Tory.

Afterwards one of the Gentlemen observed to me that some of Flemings family were very vicious, and that I might subject myself to secret injury by making the development. I certainly feel no alarm but you will permit me to suggest to you, to make other inquiries to corroborate what I have stated. If General Baily is living and in the City, it is highly probable upon seeing my statement, it would bring the subject fresh to his recollection, or if you would send the statement to some confidential person about Frederick, or the village of Middletown, near which Fleming lived, no doubt there are many yet living, whose recollections would be revived by the relations With great respect/ yr Ob Svt/ B Reeder

War Dept./ Pension Office/ June 15, 1835

Sir [Reeder], Your letter of the 31st ult'o. has been received. As James Fleming is dead, and as no further payment will be made in his case, this Dept. deems it unnecessary at present to make any enquiry into the case, more than what has been already made.

[On 30 Sep 1853 Mary M. Fleming applied for a pension as the widow of James Fleming. See endnote.]

Pension Office/ 21st Oct. 1853

Sir [F. A. Werninger, Esq/ Clarksburg VA] The claim of Mrs. Mary Fleming for a pension as the widow of James Fleming has been received, examined & rejected.

Mr. Fleming, the pensioner under whom the said Mary claims was stricken from the pension roll in March 1835 in Consequence of having been improperly pensioned he having been a Tory in the war of the revolution the latter part thereof. If said James Fleming was alive he would not be entitled to a pension & as the widow can only take the rights of the Soldier, it is clear she would not be entitled.

I have &c, &c

[This copy unsigned, but probably by L. P. Waldo, who succeeded Edwards as Commissioner of Pensions]

Clarksburg Va 7th Nov 1853

Sir [Waldo] I rec'd your letter of 21st Oct. last [remainder of paragraph summarizes the accusation]

There Must be Some Mistake.

James Fleming the pensioner and husband of the said Mary Fleming died on the 14th May 1833. Upon Enquiry, Hon Joseph Johnson (present Govener of Virginia) I am informed (by him) that he (as agent) of the said James Fleming, obtained for him, his said pension, and that the evidence was full & complete. Gov Johnson would not of been Employed in any doubtful case, less likely is it that he would of been the instrument in obtaining a pension improperly. That James Fleming was a very highly respectable citizen now more so, his character for honer and honesty & veracity unimpeachable, a Tory he could not of been. I would be pleased to have a copy of the evidence upon which the said Fleming was stricken from the pension Rolls.

Yours Respectfully/ F. A. Werninger

Clarksburg Va 14th Nov 1853

Sir [Waldo] In reply to your letter of 9th Inst. permit me to say, that I think you wrong, in relation to the application of Mrs Mary Fleming for pension (under act of Congress of 3^d of Feby 1853) as the widow of James Fleming a revolutionary pensioner, (under act of 7th June 1832) on several grounds. In your letter of 21st Oct last you say that James Fleming, under whom Mary claims, was stricken from the pension rolls in March 1835 in consequence of having been improperly pensioned, he having been a Tory in the war of the revolution, or in the latter part thereof. That evidence is palpably wrong, and it was (also I think, obtained illegally, for I hold that the Government cannot take evidence in any matter without notice to the adverse party, Fleming could not of had any notice of the taking of the said evidence; for he died on the 14th day of May 1833, near two years (according to your showing) before he was stricken from the pension roll.

Then again in your letter of 9th inst you say the evidence upon which the said Fleming was shown to have been a Tory & stricken from the pension roll, cannot be made public. How can the widow rebut that testimony?

Is not the onus upon the Government to legally shew that he was not entitled? !! See, opinion of Attorney General; J. Y. Mason of 23^d June 1846.

I think it very unfair to withhold the said evidence. Has the Government of U.S. secret Tribunals, or secret Police?

I as the attorney & Agent of the said Mary Fleming claim the right to be furnished with Copies

of the evidence upon which James Fleming, (the husband of the said Mary Fleming) was shown to ever have been a Tory during the revolution.

If your decision still be adverse, I shall appeal. please take the opinion of the Secretary of Interior; or shall I. Very Respectfully/ F. A. Werninger

Clarksburg Va 29th November 1853

Sir [Waldo] In reply to yours of the 21st inst. informing that it was upon the testimony of B. Reeder Esq'r that James Fleming's pension was suspended, now I take it (from the part of Mr Reeder's affidavit sent me) that his testimony was from rumour.

You will please send to me an exact copy of the whole evidence upon which James Fleming was stricken from the pension roll – verbatim.

What Mr Davidson and what Mr. Goff is it spoken of in Mr Reeder's affidavit? There are several families of both names in this County.

What was the evidence upon which the said James Fleming was placed upon the pension roll? Was there not a commission?

From the reputed vigilance of the then Commissioner of Pensions [Edwards], I think the evidence on behalf of Mr Flemings to pension, must of been full and complete.

Then again the pension of Mr Fleming was obtained through the agency of the Hon Joseph Johnson – present Govener of Virginia, who would not I think be employd in obtaining a pension upon even doubtful pretensions. Yours Respectfully/ F. A. Werninger

Clarksburg Va/ 21st Dec'r 1853

Sir [Waldo] Receiving no reply to my letter of 29th Nov last, soliciting a more exact copy of the evidence upon which James Fleming a Revolutionary pensioner of US under Act of Congress of 7th June 1832 was stricken from pension roll; I take it you have declined granting my request.

Will you be so good as to inform me (at your earliest convenience) what is your decision.

Yours Respectfully/ F. A. Werninger

[On 9 June 1854 Werninger assigned power of attorney to John P. Dickinson of Washington DC to pursue the case.]

Washington D.C. June 20th 1854

Hon L. P. Waldo

Sir I enclose herewith a power of Attorney in the case of Mary Fleming widow of James Fleming dec'd, an applicant under Act of Feby 3^d /53. I respectfully ask that the case may be reexamined with particular reference to the propriety and justice of rejecting it upon the evidence heretofore furnished to shew that her husband was a "Tory". The evidence of service upon which the claim of the husband was allowed not being in the papers, I infer that it was obtained from the Rolls in the Pension Office. If so, it is not to be supposed that they would be silent in relation to the desertion &c of Fleming had such been the fact, and if nothing of the kind can be found there, I submit that the statements of the informer (Reeder) made after the death of Fleming when it is impossible to disprove them, except by circumstances such as I have mentioned, should not be received to blast the reputation of a man who received an honorable Commission in the Army of the Revolution, and against whom not a word is uttered for half a century afterwards, and then when there is no one to vindicate his cause & fame from the gratuitous aspersions of perhaps a personal enemy. Justice to the dead requires that this question should be carefully examined, whilst, in this case, the rights of the living demand that the evidence to sustain the charge be conclusive and complete. That the statements of Reeder, couched in language which indicates too plainly that he had no personal knowledge of the facts charged, will be so regarded, I cannot believe; more especially when it is noted that these statements were made under the sanctions of an oath, before a person legally qualified for that purpose, and that there is nothing to shew that the

person making them is entitled to any credit whatever.

If upon a careful review of the case, you should arrive at the conclusion (as I think you must) that the evidence adduced in support of this charge is not sufficient to defeat the claim of the widow, I respectfully ask that her certificate may be issued and sent to me.

Yrs &c/ Jno P Dickinson

Pension Office, June 27, 1854

Sir [John P. Dickinson Esq./ Present], I have carefully examined the application of Mary Fleming, of Virginia, for a pension under the act of February 3^d 1853, as the widow of James Fleming, dec'd.

I find that, James Fleming, was admitted to the list of Revolutionary pensioners on his own affidavit merely, on the 6th day of March, 1833, at the rate of one hundred & twenty Dollars a year. He received this pension to the 14th day of May, 1833 when he died. After his death, to wit, on the 24th [sic] day of May, 1835, one B. Reeder, filed his affidavit in this office in which he gives a particular account of the enrolment of a band of Tories in 1781, to join Lord Cornwallis, and aid him in the subjugation of this country. He further says that Fleming, was one of this number, that, he became acquainted with Fleming in 1777, and continued that acquaintan for many years, and he traces him to near the time of his death leaving but little doubt as to the identity of the man. From this affidavit it is fairly inferible that, the man who enrolled himself among the Tories in 1781, is the same James Flemming, who received the pension in 1833. If this be so, it is evident he was placed upon the pension list by mistake, or he got there by fraud. Now if a person is placed upon the list either by fraud or mistake it is certain that, he can be stricken therefrom. If therefore, Flemming, had been alive in May '35 he could have been stricken from the roll upon the affidavit of Reeder, and he should have been called upon to explain the transaction, described in his affidavit.

Now can Mary Flemming, who claims as the widow of James, have any benefit that James, did not have at the time of his death, or than he would have had, if the affidavit of Reeder, had then been filed? I think not. The act of 1846, did not contemplate making the action of the office in the application of the husband final, when such action was produced by fraud or mistake. Mrs Flemming, therefore, stood in the same position in relation to this evidence that, her husband would if living. He would be compelled to explain these transactions. She should do the same before she can receive the benefits she seeks. the answer of the office suspending her claim is therefore affirmed. I remain yours &c

[On 21 Dec 1859 Mary M. Fleming again applied for a pension through her attorney, Charles C. Tucker of Washington DC. See endnote.]

Washington D.C. Dec'r. 29th '59

Hon. Geo. C. Whiting/ Com'r. of Pensions/ Sir

Enclosed find authority to prosecute the claim of Mary M Fleming for a Revolutionary pension under Act of Feby. 3rd. 1853.

Her husband was a Revolutionary pension on the Harrison Co Va roll under Act of 1832.

We are advised that some three or four years since her claim was presented by one Mr. Weringer of Clarksburg Va but from some cause it was not adjusted

Be pleased to advise us as early as possible the difficulties in the way of settlement.

Very Respectfully/ Your Obdt. Serts./ Tucker & Lloyd

Pension Office, December 30/59

Gentlemen [Tucker and Lloyd], In response to your enquiry of the 27th instant I have to state that the claim of Mary Flemming was rejected by this office for the reasons assigned in a letter to John P. Dickinson her agent, dated June 27 1854. I enclose a copy of said letter.

The power of attorney from claimant to you has been filed with the other papers

Washington D.C. Jan 16th 1860.

Hon Geo. C. Whiting/ Com'r. of Pensions. Sir.

Enclosed please find additional evidence in support of the Revolutionary Pension claim under the act of Feb 3, 1853 of Mrs Mary or Polly Fleming widow of James of Taylor Co. Va.

We received your letter of the 30th ult. enclosing a copy of a letter to J. P. Dickinson Esq. under date of June 27, 1854 respecting this claim.

We respectfully request a re-examination of the claim as we believe that after a careful perusal of all the papers on file the claim of the widow will be allowed. It will be seen that the soldier in his Claim under the Act of June 7, 1832 complied with all the requirements of our Office. One of his witnesses was Rev. Hamilton Goss by whom he was married in 1820 and who evidently had been long acquainted with him, and he filed his commission from the State of Maryland appointing him a Lieutenant

The only cause why the Pension was not allowed appears to be an affidavit from one B. Reeder who testifies to the enrollment of a band of Tories – that James Fleming was implicated and as well as he recollects was enrolled as Lieutenant. He does not testify to any service by Fleming and his statement indicates that no service was performed by the band he refers to. He does not state how he derived his information about the organization of this band a that Fleming was enrolled with it, and of the one hundred and fifty names which he states were enrolled, he can remember the names only of Fleming and two others. His affidavit also is imperfect, it is not properly certified to and would therefore not be received as testimony in support of a claim.

Reeder swears that the band was organized in 1777 or '78. Fleming was commissioned a First Lieutenant in 1776 and served in the American Army from the Spring of 1777 to March 1778. We think you will admit that it is very improbable that Fleming, who was a man of sufficient reputation to have received a Commission should have enrolled himself in a band of Tories and in a rank, the same, or of a lower grade than he had held in the American Army during the same years he had performed service as an American officer.

We respectfully submit that even if Reeder's statements had been more direct, it would be unjust to deprive the widow of a pension in consequence. They were made fifty seven years after the alleged occurrences took place and two years after the death of the soldier's death. As they both resided in the same County he doubtless was aware that Fleming was dead and could give no explanation. He appears to have been concerned in a fraudulent Claim and probably believed that some stigma would be removed from him if he could induce your office to believe that another Claim was fraudulent and the discovery was made by him.

We respectfully ask of you a careful examination of the Claim.

Respectfully/ Your Obt Servts/ Tucker & Lloyd

NOTES:

John Thomas Scharf's *History of Western Maryland: Being a History of Frederick... Vol 1* (1882), pp 142-143, has the following: "The plot and the names of the prominent conspirators were at once disclosed, and secret and efficient measures were instantly taken to put them under arrest. Numbers were accordingly arrested and imprisoned, and on the 25th of July, Peter Sueman, Nicholas Andrews, John George Graves, Yost Plecker, Adam Graves, Henry Shett, and Casper Fritchie were brought to trial before a special court at Fredericktown.... After an impartial trial they were found guilty of high treason, in 'enlisting men for the service of the king of Great Britain and administering an oath to them to bear true allegiance to the said king, and to obey his officers when called on.'" They received the following sentence: "You, Peter Sueman, Nicholas Andres, Yost Plecker, Adam Graves, Henry Shett, John George Graves, and Casper Fritchie, and each of you... shall be carried to the gaol of Fredericktown, and be hanged therein; you shall be cut down to the earth alive, and your entrails shall be taken out and burnt while you are yet alive, your heads shall be cut off, your body shall be divided into four parts, and your heads and quarters shall be placed where his excellency the Governor shall appoint. So Lord have mercy upon your poor souls." According to Scharf, three were executed, and the rest pardoned. As an aside,

Casper Fritchie was the father-in-law of the celebrated Barbara Fritchie.

In her pension application dated 30 Sep 1853 Mary M. Fleming was said to be 62 and residing in Taylor County VA. She stated that she married James Fleming on 13 Feb 1820, and he died on 14 May 1833. Her claim was witnessed by Emry D. Fleming. The file includes a copy of the marriage record from Harrison County.

On 21 Dec 1859 at age 66, Mary M. Fleming applied again, stating that as Mary M. Whitehair she was married to James Fleming at her residence on 13 Feb 1821 by Rev. Hamilton G. Goss. J Prunty and Jonathan Whitehair certified her claim before Minor S. Fleming, Justice of the Peace, who stated that Mary M. Fleming had been "for several years past, much afflicted with both Dropsey and Rheumatism, so she has frequently propt up to Eate, that she has been unable to leave her yard for the last eight or ten years." The power of attorney assigned by Mary M. Fleming was witnessed by Emry D. Fleming and Daniel Whitehair.