

State of Virginia,

County of Campbell

Before me, Samuel Tynel, a Justice of the Peace within and for the County of Campbell and state of Virginia, on this 1st day of May in the year, one thousand eight hundred and fiftyfour, personally appeared, Thomas Mason, aged fifty seven years, to me well known to be a person of veracity, and whose testimony is entitled to full credit, who being sworn upon the Holy Evangelist of Almighty God, depose and say as follows:

That he is a resident of Campbell County, Virginia, in which county he has resided for fifty years; that previously thereto he lived in Louisa County, Virginia, in which county he was born; that he is the son of Thomas and Elizabeth Mason; that he has often heard his father tell of his serving three tours in the Revolutionary War, and heard him say he was at the battles of White Marsh, Gates Defeat and at Guilford Ct. House, in which battle he was wounded on the hand; that he has frequently shown him the scar on his hand; that he has heard him speak of loosing his horse at the White Marsh; that among the officers whom he spoke of commanding him was Colonel Moore; that he always spoke of volunteering from Caswell county, North Carolina; that it was currently reported and believed he was in the Revolutionary war by his neighbors, and never heard it denied; that he has frequently seen his father's discharges; and that they were given to Major James B. Risque among testimony which he took by a special visit to North Carolina, to prosecute his claim in 1832; and that his father died in the Fall of that year, and prosecution was abandoned by said Risque; that since that, Major J. B. Risque died, and diligent search was made among his papers; but the papers could not be found in his fathers case; that his father and mother, Thomas Mason and Elizabeth Mason lived together as man and wife from his first recollection; and, that all of their children have always been recognized as legitimate, and that they were never regarded in any other light; that he is fiftyseven years old; and has a sister older than himself, who is now sixty years old; that his father and mother had six children, and that he is the second; that his father, Thomas Mason, died on the [blank] day of October, 1832, and that his widow, Elizabeth Mason to his certain knowledge never married again, but is still a widow.

That he has no pecuniary interest whatever in the claim of his mother for a pension against the United States, but that he feels that interest personally which attaches itself to him as a son of the claimant, and none other

[signed] Thomas Mason

State of Virginia,/ County of Campbell

Before me, Melville Talbot, a Justice of the Peace within and for the County and State aforesaid, on this 1st day of May, one thousand eight hundred and fifty-four, personally appeared, Samuel George to me well known to be a person of veracity, who being duly sworn upon the Holy Evangelist of Almighty God, depose and say as follows.

That he is a resident of Campbell County, Virginia, in which county he has resided for sixty years; that he was well acquainted with Thomas Mason, deceased in his life time – that this knowledge of him extended back for fifty years – and that he has frequently heard the said Thomas Mason relate his services in the war of the Revolution; that it was always currently reported and believed that he served in the said war by his neighbors, and never heard it questioned by any one; that the said Thomas Mason lived in the same house with him for several years before, and was living so when he died; that he well recollects when Major James B. Risque undertook to prosecute his claim, and the visit the said Thomas Mason made to Caswell County, North Carolina for evidence in his case, which he obtained, and which was given to said Risque; that he has frequently seen the discharges of said Thomas Mason for services in said war, and recollects that he always spoke of serving three tours; that all of his papers, including the evidence taken and discharges, were all given to said Risque; that very soon after, the said Thomas Mason died, which was on the [blank] day of October, 1832, and the claim then remained unattended to, since when said Risque also died; and though diligent search has been made among his papers by his daughter – Mrs. Ward – they cannot be found.

That the said Thomas Mason and Elizabeth Mason lived together as man and wife from the time

he first knew them fifty years ago, and were always currently reported and believed to be such; that they raised a family of children – six of which he knew – and one of them he believes to be sixty years old, as he knew her when she was a girl. That the belief and report of their being lawfully married was believed by every one who knew them, and never heard the report or belief contradicted. That the said Thomas Mason died on the [blank] day of October, 1832, and that the said Elizabeth Mason is his widow and that she has never married again; but is still a widow and alive.

That he is no wise interested in proving the facts herein stated, or in the claim of said Elizabeth Mason against the United States for a Pension
Samuel hisXmark George

Washington City/ May 25th 1854

Sir [L. P. Waldo, Commissioner of Pensions], Your letter relative to the application of Elizabeth Mason, widow of Thomas, (a free man of color,) of Virginia for a pension under the Act 7th July 1838, is received.

In reply to the first objection, suggested to this application that, “it should have been made before a Court of record, and not before a Justice of the Peace, as such, we have to say, that the rules of your Office in such cases, has been complied with, inasmuch as it is specifically set forth that, the reason why Mrs Mason did not appear in open Court, was by reason of bodily infirmity induced by old age. 2nd

It is beyond the power of man to prove, either by “White men,” or those of any other color, that the Thomas Mason certified to by the Comptroller of N. Carolina, but in the absence of any other applicant by this name as indicated by said certificate, we deem it but just and fair to presume & claim, that he is the Thomas Mason whose widow we represent, provided, none other of that name is found in the same category.

In regard to the date of marriage of Thomas & Elizabeth Mason, it is equally impossible to produce any such testimony in the form & of the kind required, but, moral reputation is shown, and that they raised a number of children & those of them now living are in old age & reputable. (The degradation of people of color or tainted with African blood is so well known, in this country, as not to require us to say, that their marriage relations are very little regarded among white men, and if married by even a Clergyman, as not obligatory upon to make a matter of record, yet the right of their descendents even in Slave holding States, to inherit & hold property is always recognized, notwithstanding there may be no statute laws of Virginia regulating their marriages, which we assume to be the fact. A number of decisions of the Courts might be cited to show this recognition by the Courts, but we presume this point to have been long since settled in your Office, as evidenced by the number of this class of persons already admitted to the benefit of the Pension laws. The Hon. H. S. Legaré Atty Gen^l. U. S. in his opinion as to the rights of colored men to acquire freehold rights by preemption, sets forth that, “even in the Slave holding States, they are capable of the rights of contract and property.” “In all nations, without exception, ancient & modern, in which domestic Slavery has existed, even the Slave is distinguished from the Alien. He is a part of the family, and as soon as he passes into the class of freemen, is at once capable of all the rights which mere birth, under the legience of a country, bestows” How far a political status may be acquired is a different question, but his civil status is that of a complete denizenship.” “Therefore, free people of color have always hitherto been admitted to share in the preemption laws &c.”

We ask for a review of your objections in this case, and the allowance of the claim as set forth.

Very respectfully/ Your Obd^t. Servts./ J. S. Pollard &Cs.

Lynchburg, Va., June 5, 1854.

Hon. L. P. Waldo, Com^r of Pensions:

Sir – As one of the Attorneys for Elizabeth Mason, widow of Thomas Mason, deceased, a soldier of the Revolution, and whose claim I had filed some month since, for her pension, I ask a re-consideration of her claim, and write to clear up some of the objections, in your letter of suspension of the 19th May last.

First– “That the Declaration should have been taken before a Court of Record, and not before a

Justice of the Peace as such.” You are doubtly aware that Justices compose our Court of Record, having a Presiding Justice, which Court has as high jurisdiction and its members seperately as the Judges in many of the states. In fact, I believe most of them have not as high power as our Justices. We have no county Judge at all in Virginia, though we have what is called a District or Circuit Judge, embracing a large number of counties in his Circuit. In this case, Elizabeth Mason is wholly unable to attend in open Court, and if that is required, it is impossible for me to get her there, and I shall be under the necessity to abandon the case. Mr. Jno. P. Knight, the Justice before whom she made the Declaration, had just left the bench, where he was presiding as one who constituted a Court of Record, and went with me from the Courthouse to visit this old woman, and take her Declaration. He certifies to her inability to attend in open Court, on account of old age and infirmity, which is literally true, and it would be impossible for me to get her to the Courthouse. She is 90 years old and very infirm, and is physically unable to move about. If it is regarded as essential by the Department, I will get the Presiding Justice to visit her, and certify as to her inability to attend in open Court, for I have to get them to go to see her. Heretofore I have had but little difficulty in getting this admitted by the Department, and I hope in this case they will not be more rigid than in others I have had. I should like to know your decision on this, as it would be unnecessary to proceed to comply with the other objections until this is removed.

2nd – “The certificate of the Comptroller of North Carolina does not show, that the soldier referred to in his certificate was a man of color.” In answer to this, I will say, no such distinction was made on the muster rolls or in any certificate given to free negroes from North Carolina or Virginia. Both black and white, if free persons, stood on the same footing at militiamen, no distinction being made as to color, which I hope will remove that objection. But if the Department thinks proof necessary as to that fact, I will procure the letter or certificate of the Comptroller, that these certificates never specify the color.

It is proper for me to say, that Benjamin Farmer and William Lee Fair, two of the witnesses, are white gentlemen of the highest respectability in the country. The other two witnesses are free persons of color (Samuel George and Thomas Mason) and whose testimony are entitled to the most ample credit, as they are thrifty and prosperous and educated – one of them, quite so. I refer you to the Hon. Thomas L. Bocock, if necessary, whom I suppose knows one them, Thomas Mason, who is a butcher, in regular attendance in the Lynchburg market. But if you think it best or necessary, I will get the Presiding Justice, who knows Mason well, and I believe he knows George, to certify as to their respectability and truthfulness. Of course, in speaking of respectability, I mean as colored men for as citizens our laws do not recognize their political equality with white persons, though their testimony, is lawful and valid in all cases, in which their own color is involved, as in the case of Elizabeth Mason, and that was the reason I annexed the testimony of two of each.

3d– “That the marriage has not been properly established.” Please let me know what will be proper for me to do to prove the marriage, when no records can be found. Recollect that the marriage of free persons of color are not kept with that attention, which is paid to whites, and it is a rare case that one is ever returned by the Minister to the Clerk’s office, as no law to fine him in that case exists, as is the case, when he makes a failure to return the marriage of whites. Their marriage, is therefore, seldom to be obtained from the records, though they generally get a minister to marry them, but he can do it without even the usual Clerk’s certificate or license as is essential in the case of whites.

Another objection urged is, that the Declaration embraces service “in the Line of the Army,” while the payments shew “Militia service only.” I am rather surprized that it is so in the Declaration, for the old widow informed me from the beginning, that the whole of her husband’s service was in the militia, and that he volunteered the first time together with his whole company from Caswell Col, N.C. and went to Pennsylvania. In looking over the original draft, I discover it so stated, but not knowing what law to claim under, I sent the Declaration and paper as written by myself, to my assistants in Washington, Jno S. Pollard & Co., and asked them to look over and write the Declaration anew, if the one I sent did not answer, or was too voluminous, which they wrote, and I did not discover by that Declaration, at least I did not understand that he was made any thing but a volunteer of militia in any case. He certainly was

never any but a militia company which volunteered as a whole. If I can be allowed to do so, and the Department think it necessary, I beg leave to amend and correct the Declaration in that particular, for Thomas Mason always served as a volunteer of North Carolina Militia, and in no other capacity – his company as a whole volunteering and entering the service.

This claim has been suffered to stand unattended to for a great while, because free persons of color are but little noticed or cared for. Such claims are overlooked, and the testimony is more obscure, as they never have any acquaintances but those that live adjoining or near them. I hope on this account, that the Department will be as lenient as it can be with due regard to its interest and rules.

Please answer this, and remit all the objections you can, and inform me what is necessary to perfect the claim.

Most respectfully, your obt sevt

Chs. W. Statham

Department of The Interior/ Washington June 13th 1854

Sir [L. P. Waldo]: In reply to the question submitted to this Department in your communication of the 16th Inst. arising in the case of Elizabeth Mason, a claimant for a Pension under the Act of July 7 1838, viz: “Can the relation of husband and wife exist between free colored people in the State of Virginia – the ceremony of Marriage taking place in said State, so as to constitute the wife upon the death of the husband, his ‘widow’ within the meaning of the laws of Congress granting pensions to widows of deceased revolutionary soldiers”? I have to say: That from the examination which the library of this Department affords, nothing has been discovered in the Statutes or Code of Virginia prohibiting marriage between free negroes or to deprive those who have entered into that relation, of any of the legal rights incident thereto – on the contrary, the rite of marriage is expressly recognized, and consequently legalized between servants {slaves} and between a free person and a servant {slave} ([6 Henning, page 83-4](#))

Such being the case, I would recommend a consultation, upon the question submitted with some of the Virginia delegation, and be guided by their opinion. In cases of this kind, the Department would not be disposed to be too technical and rigid.

It may not be amiss to call your attention to the Act of Assembly of Virginia, entitled “An Act for regulating ad disciplining the militia,” of May 1777" ([9 Henning page 267 &c](#))* “that all free male persons, hired servants apprentices” &c were directed to be enrolled the kind of service in which free mulattoes” were to be employed designated and provision made against the enrolment of slaves, by requiring “any negro or mulatto” to exhibit a certificate of freedom to the recruiting officer before enlistment. It appears also by the same act, that no distinction was made in the pay and bounty offered to such recruits.

I am, very respectfully, Your obdt Servt/ R. McClelland Secretary
*[In different handwriting on back] This was a law of Virginia and applied only to enlistment in that State – Masons service was performed in N. Carolina, where a Statute of Virginia could have no force.

State of North Carolina/ Comptroller’s Office

I, William J. Clarke, Comptroller of Public Accounts in and for the State aforesaid, do hereby certify, in addition to my certificate of the 22nd of February last, respecting Thomas Mason; that I have very carefully re-examined the records respecting him, and that I am very clearly of opinion that the payments were all made to one and the same man, and as certain as I can be without positive proof, (which seems to me impossible) that there was but one man of the name. I further certify that a few Descriptive Lists of soldiers are on file in my office, and that they prove that free negroes served in the Revolutionary army, but that the payments as recorded make no mention of color by which I might be able to say whether said Mason was a negro or not.

In testimony whereof I have hereunto subscribed my name and affixed my seal of office this 21st day of July 1854

Wm. J. Clarke, Compt’r.

State of Virginia }
County of Campbell }

Before me Saml Tyree a Justice of the Peace within and for the county and state aforesaid, personally appeared Gravitt Edwards, aged seventy-six years, a resident of said county and state, and a white man, to me well known to be a person of veracity and whose testimony is entitled to full credit, having been duly sworn according to law, deposes as follows:

That he was raised in the county of Louisa, state of Virginia, and from that county move to Campbell county, Va, some seven or eight years since; that he well knew Thomas Mason, deceased, when he was boy sixty-three years since, as when he came from North Carolina he settled near him, and he knew him soon after he married Elizabeth Ailstock, who was a free woman of color and said Mason was a free man of color; that he knew Mason lived in the neighborhood several years before he became acquainted with him, and that he had one child when he first knew him sixty-three years since that said Thomas Mason and Elizabeth Ailstock always passed as man wife and never heard it denied by any one; they raised a large family of children who are all recognized as his children and pass in his name. That said Thomas Mason has frequently narrated his services as a soldier from North Carolina in the war of the Revolution, and that he came from North Carolina to Virginia; that he has frequently seen his discharges and that none of his neighbors ever doubted or questioned his services as a soldier; that great respect was paid him on account of his having served his country, and more privileges were then allowed him with his neighbors than other free persons of color, that a great many years since he left Louisa county and moved to this county and died, but when the deponent does not know; that he has frequently seen his widow since and knows that she is the widow of said Thomas Mason, deceased

That he is in no wise interested in [undeciphered word] the facts above stated.

witness my hand and seal, the 17th day of January, 1855 Gravitt hisXmark Edwards

Old War Div./ InT[?] Ex'r
Betsey Mason widow of Thomas, a
revolutionary soldier from North Carolina

Department of the Interior/ PENSION OFFICE.
Washington, D.C. August, 25, 1884

Sir [Mr Moses Gibbs, 717 M. St NW, Present], In answer to your memorandum of enquiry relative to the application for a pension by Betsey, on account of the services of her husband, Thomas Mason, in the Revolutionary war from North Carolina, which was filed in this office on or before 1860 by Charles Stathen, you are informed that the only claim on file that has any probability of being identified with your enquiry, is that of Elizabeth widow of Thomas Mason both of whom resided before and after the war in Virginia, but he enlisted in North Carolina. The claim was filed in this office in 1854 by Charles N. Stathan and was rejected in that year for want of sufficient evidence which Mr Stathan was unable to furnish. The names of the officers as stated by the widow do not correspond with those in your memorandum.

As the widow is dead, her children or other heirs cannot now claim any rights to which the widow or the deceased soldier were entitled to in their life time. See enclosed printed circular.

Memorandum returned. Very respectfully Wm W. Dudley/ Commissioner

Lynchburg, Va. Nov 26, 1884

Hon. O. P. G. Clarke,/ Acting Com'r of Pensions/ Washington, D.C.

Sir. I received your letter of Nov 4, 1884 in regard to the application of Elizabeth Mason, widow of Thomas Mason, dec, No. 6993.

I observe what your say in regard to the application for bounty land. It seems hard for the attorney for these parties to understand the claim. It is the claim of the widow of a Revolutionary soldier for pension, and if it had been established it would then have given her bounty land under the act of 1855. The soldier was a colored man of considerable standing, with property, and married and had a family, which he educated. He was married in Church according to the rights of the Episcopal Church; but the record and Church had gone down years and years ago.

It was proven by the best citizens of the neighborhood, who had known them for many years, that they lived together as man and wife and had children and were always recognized as man and wife, but it was not legally recognized, because our laws in regard to negro marriages were not respected.

Since and after the war our District Military Commanders issued an order pronouncing it a lawful marriage when they wed together as man and wife and the Virginia Legislature passed an act confirming the orders of the Generals.

I have no interest in this claim and I long since gave up the papers to the parties.

Respectfully, Chs. W. Statham

[In a letter dated 8 Dec 1884 O. P. G. Clarke stated that there was no record of an application for bounty land and that the claim was rejected "there being no evidence of service."

NOTES:

Lt. Col. Stephen Moore was captured at the Battle of Camden and kept on the prison ship *Forbay* until after 18 May 1781. Clark, Walter. *The State Records of North Carolina*, Vol. 17.

The following is a transcription of an unsigned, undated note in the file, probably pertaining to a different Thomas Mason: "Thomas Mason was a Soldier in the Revolutionary war of 1776 & 1781, served regiment Detached from the 2nd 12th and 3rd Brigades, First Company detached from the Hyde County regiment of North Carolina. The officers of the company Viz. Simon Burton Lieutenant Col. Commandant, Nathan Tisdale First Major, John A Lillington Second Major."

On 22 Feb 1855 George and Mary K. Gruber stated that Thomas Mason died on 17 Oct 1832.

This pension application was the subject of an article by Damani Davis: "The Rejection of Elizabeth Mason: The Case of a 'Free Colored' Revolutionary Widow" in *Prologue Magazine*, Summer 2011, Vol. 43, No. 2. (<http://www.archives.gov/publications/prologue/2011/summer/mason.html>)