

[Southern Campaigns American Revolution Pension Statements and Rosters](#)

Pension Application of James Maxwell R73

VA Sea Service/ Half Pay

Transcribed and annotated by C. Leon Harris. Revised 4 Oct 2020.

[The original of the following document is from [rejected claims in the Library of Virginia.](#)]

Petition for additional bounty land

The Heirs of James Maxwell – Cap't. S.N.

In reporting upon the claim for additional Bounty Land, for the services of Capt. James Maxwell, I am in some measure forced to present the substance of a Report, which I made to his Excellency the late Governor, upon the petition for the Bounty Land which has been allowed.

In that report, I said – there is no evidence that James Maxwell was a Captain in the State Navy. The Cormorant, which vessel he commanded about the close of the war, was in the Trading Department. The papers concerning the Cormorant were bound in a volume of papers relating to the Navy; because it was thought they ought to be preserved, and could not more properly be plead [sic] elsewhere. The Cormorant seems to have been in the trading Department. The letter of instruction from Duncan Rose commercial agent of the State to Hardyman [John Hardyman, pension application R110] of marines (which is relied upon to support this claim) proves the fact that the cormorant was, at the date of the instructions, a vessel employed in trade. As commercial agent, Duncan Rose had no control over any vessel in the Navy, nor over the marines in any such vessel. He had control however, over the vessels employed in trade. Many of these were armed vessels; and some of them were defended by a peculiar force; to wit, Marines, enlisted for two cruises, or nine month's. Cap't. Hardyman was one of the officers employed in recruiting these marines, and was subject to the order & instructions of the Commercial agent. The Marines, who served in the Navy, were according to law enlisted for three years. Over these last Mr Rose had no controul.

Captain Maxwell was Commissioner of the Navy, and Superintendent general of the ship yards &c; but as such was not entitled to bounty land, under any law of the State.

This was substantially my report upon the original application for bounty land, for the services of Cap't. James Maxwell.

The late Governor probably agreed with me in opinion respecting the principles and reasoning of that Report. But his attention was called by the petitioner (after that Report was made) to an act of the General Assembly of May 1782 Hening's Stat. vol 11. page 42 [<http://vagenweb.org/hening/vol11-03.htm>] – entitled "an act for protecting and defending the trade of the Chesapeake Bay." This act provides that the ship Cormorant & boat Liberty should be immediately fitted out and prepared for protecting the trade & commerce of the Chesapeake bay & its dependencies &c. The act directed the appointment of a board of Commissioners "to superintend & provide for the defence & protection of our Bay trade" &c. amongst other provisions of this Act was a provision that "such officers shall be appointed to command the said vessels as are at present in the Navy service of this State." Captain Maxwell was appointed to command the Cormorant.

The Governor was of the opinion; either that the force ordered to be raised by this act for the defence of the trade of the Chesapeake Bay & its dependencies was a component part of the Navy; or that Cap't Maxwell's appointment to the command of the Cormorant was proof that he was before that time in the Navy service of the State; or both. Be this as it may, he allowed bounty land to Capt. Maxwell heirs, for a service of 3 years as Captain in the Navy. That that opinion was honestly and conscientiously given I cannot doubt. It may be a correct opinion; but candour requires me to say that I doubt its correctness. It is with reluctance I say it; for there is no man in the Commonwealth of Virginia for whom I have a greater respect than I have for the late Governor.

1st – The Cormorant was in the trading Department, certainly until May 1782. The Act of

Assembly of May 1782, did not, as I think take her out of that Department. It placed her under the direction of a board of Commissioners, to defend the trade of the Chesapeake bay &c. She was not by that Act, made a component part of the Navy. On our western frontiers, during the Revolution & after it, there were companies of Rangers Scouts & spies, who were raised by law put under the order of the County Lieutenants, called out into actual service, (and the service was most hazardous and arduous) and paid by the State; yet they were not of the State line. [See endnote.] They did not receive bounty land. No more ought the officers of the Cormorant to receive Bounty land. They were employed for the special purpose of protecting and defending the eastern frontier. The Rangers, Scouts & Spies defended the Western frontier of the State.

2^d – I do not think Cap^t. Maxwell's appointment, under the Act of May 1782 to the command of the Cormorant affords proof that he was a Commissioned officer in the Navy, having actual command, or being entitled to it.

He was chosen on account of his being in the Navy service of the State. He was in that service as superintendant gen^l of the Ship yards. A s commissioner of the Navy, Charles Thomas, the Superintendant of the public Rope Walk was in the Navy service; Wm Frazer, who supplied the vessels of the Navy, was in the Navy service, but none of them were commissioned officers in the Navy, and as such entitled to bounty land.

With reluctance, and with great deference to the opinion of the late Governor (whose judgement upon this case, I am sure your Excellency does not feel a wish to disturb, and to which nothing but a sense of duty would have made me urge an objection) I must say, that I do not think Captain Maxwell was entitled to Bounty land at all; and that there is no foundation whatever for the claim for additional bounty land.

The only papers filed with this petition, are – an extract from the journals of the Navy board – and a note or memorandum of the petitioner.

Resp^{'ly} submitted;

John H Smith Com^r. &c./ May 15th 1834.

To his Excellency Gov. Tazewell

Endorsed "Rejected Aug^t. 4, 1834"

Pension Office/ May 1, 1845

I certify that I have examined the claim of William Maxwell, administrator of James Maxwell, deceased, who was a Captain in the Virginia State Navy during the revolution, and I find that under the act of the 5th of July 1832, entitled "An act to provide for liquidating and paying certain claims of the State of Virginia," he received half-pay at the rate of Two Hundred and Forty Three and one third Dollars per annum from the 22^d of April 1783 [formal end of the war] to the 4th of October 1795 [date of death]: whereas he was entitled to half-pay at the rate of Two Hundred and Fifty Dollars and Ninety three Cents per annum for the above mentioned period. The difference between the amount paid and that to which he was entitled is now claimed; and my opinion is that the claim should be allowed. It is requested that the sum to be allowed may be sent in a draft to the administrator at Richmond, Virginia.

Approved./ Secretary of War.

Commissioner of Pensions.

[From [bounty-land records in the Library of Virginia](#). The file also contains an additional document that is not legible enough for transcription.]

By an entry in the Journal of the Navy Board it appears that Capt M was engaged to superintend the Navy Yard of the state, equipping the vessels of war &c in January 1777 agreeably to his proposals of Oct 1776. He was afterward appointed to superintend the Navy Yard at Chicahominy [sic: Chickahominy River] &c Note. In the minutes stating his appearance before the Board to make the contracts he is always called Mr, & immediately afterward in all the minutes respecting him, & his service, he is uniformly styled Captain. In the Papers concerning the Army of the Revolution Vol 1 p 1 are the following entries:
At a Meeting of the Board of War in the City of Williamsburg the 30th of June 1779.
"A letter written to Capt James Maxwell informing him of his appointment of Commissione

[Commissioner] of the Navy.”

“Captain James Maxwell this day waited on the Board & accepted his appointment of Commissioner of the Navy whose duty is to superintend the shipyards belonging to the navy, also the building, rigging, & equipping for sea the vessels belonging to the same, to inspect into such vessels that may from time to time be repaired, to inform the Board the state & situation of the said vessels & other matters belonging to the navy under his direction, & to follow such instructions as he may from time to time receive from the Board respecting the Navy, he having taken the several oaths required by law. In consideration of these services the Board do allow him One Thousand five hundred pounds per annum to be paid quarterly; two rations per day, forage for a horse, his travelling expenses, the privilege of the public store to commence from yesterday.”

In the “Papers Concerning the Navy,” vol 2^d Letter H he is recognised as a Captain in the navy commanding the state ship Cormorant, employed in the defence of the Chesapeake Bay &c. in a Letter from Duncan Rose Navy Agent to Capt Hardiman [John Hardyman R14719], dated Richmond 16th February 1782, for which the following is an extract.

“Sir, As you are appointed Captain of Marines on board the state ship Cormorant, commanded by James Maxwell Esq. youll please to proceed with the utmost expedition to recruit your company, which is to consist of 40 men besides yr lieutenant.

You are to enlist them for 9 months or two cruises, counting each cruise from the sailing of the ship & her return again into harbor.”

The accounts of the Ship Cormorant also (same volume) shew that J. M. was her commander.

And note: by the extract from Duncan Rose’s Letter it appears that the enlistment was to be for 9 months & by another letter from the same to the same (& others) No 2 dated March 8th 1777[?] it appears that the enlistment was then going on; for the Postscript has these words: I have this moment received yr letter of this date, & have to inform you that no alteration has been made in the terms of the enlistment.” Now if the enlistment was not completed till the 1st of July following, as is probable, the last man must have been enlisted by the terms for 9 months from that date, that is to the 1st of April 1783, or the end of the war. By a letter from the Commissioner of the Bay Service dated Sept 15th 1783, No 2 same volume) it appears that the Ship Cormorant still belonged to the state at that time. [see endnote]

Norfolk County Ss.

Before me Tapley Webb a Justice of the Peace for the said county this day came Captain John Cox [S8223], a citizen of said county to me well known as a person of great respectability & veracity, & maketh oath that he was intimately acquainted with Capt James Maxwell of Norfolk Borough, now deceased; that he knew him before the revolutionary war, but became better acquainted with him during said war, when said Maxwell commanded a ship in the state service then lying at Broadway above City [illegible word]. The said ship was a vessel of war armed with guns but the affiant does not remember how many. He remembers Capt Maxwell wore a cockade in his hat, & [undeciphered word] & believes that he was in the state service. This as well as the affiant can remember, was about the year 1780, for the affiant married on the [illegible] of January 1779, & went to reside about seven miles from Broadway, & he recollects well that he used to go down of Saturdays & take said Maxwell up with him to spend the sunday. This affiant also well remembers when Arnold & afterward Philips [Gen. Benedict Arnold on 1 Jan 1781 and Gen. William Phillips on 20 Mar 1781] went up the river, & he thinks it was before this that he saw said Maxwell at Broadway. What became of him afterward he does not remember; but this affiant was himself at Norfolk when the peace was proclaimed, & he recollects that said Maxwell came down after that event to [undeciphered], & presumes that he continued in the state service to the end of the war. This affiant knew him afterward [undeciphered] in Norfolk where he died
Given under my hand this 26th day of June AD 1833. T. Webb J.P.

NOTES:

For a discussion of the Pension Commissioner John H. Smith’s opinion regarding rangers, scouts,

and spies, see my appendix to the pension application of David W. Sleeth S6111.

The federal file contains a mostly undecipherable letter by William Maxwell of Halifax County VA regarding the service of his father, James Maxwell.

From E. M. Sanchez-Saavedra, *A Guide to Virginia Military Organization in the American Revolution*, p 161: “The *Cormorant* was a British ship captured by the French in 1781. David Ross, the Virginia state agent, purchased it for the state in 1782. It was sold at public auction in October 1783. Its bottom was copper sheathed.”