

Southern Campaign American Revolution Pension Statements & Rosters

Pension application of John McNickle¹ R74

f19VA

Transcribed by Will Graves

5/15/13

[Methodology: Spelling, punctuation and/or grammar have been corrected in some instances for ease of reading and to facilitate searches of the database. Where the meaning is not compromised by adhering to the spelling, punctuation or grammar, no change has been made. Corrections or additional notes have been inserted within brackets or footnotes. Blanks appearing in the transcripts reflect blanks in the original. A bracketed question mark indicates that the word or words preceding it represent(s) a guess by me. Only materials pertinent to the military service of the veteran and to contemporary events have been transcribed. Affidavits that provide additional information on these events are included and genealogical information is abstracted, while standard, 'boilerplate' affidavits and attestations related solely to the application, and later nineteenth and twentieth century research requests for information have been omitted. I use speech recognition software to make all my transcriptions. Such software misinterprets my southern accent with unfortunate regularity and my poor proofreading fails to catch all misinterpretations. Also, dates or numbers which the software treats as numerals rather than words are not corrected: for example, the software transcribes "the eighth of June one thousand eighty six" as "the 8th of June 1786." Please call errors or omissions to my attention.]

Statement of the Claim of the heirs of John McNickle a surgeon in the Virginia Navy in the revolutionary war –

This is a claim for half pay under the act of Congress of the 5th July 1832 –

The main question in this case, viz., Did Dr. McNickle serve in the revolution in such a way as to entitle him to the provisions of the Act of the 5th July 1832, is not now before the Department – That question has undergone a rigid scrutiny and has been decided favorably to the heirs –

The question now to be discussed is this; Is the evidence of heirship filed with the department, sufficient to authorize payment to be made? – I maintain that it is not only sufficient, but it is perfectly conclusive, and if viewed in connection with the history of the case, establishes beyond the possibility of doubt, that the persons claiming are the true and only heirs of Dr. McNickle –

First. It has been known to many persons engaged in the prosecution of claims for land bounty against the State of Virginia for at least __ years past, that Dr. McNickle was entitled to a large amount of land bounty from that state – In 1833 a list of offices in title to lands was published to the world by order of the Virginia legislature. On this list is the name of Dr. John McNickle, as one entitled – Notwithstanding the general notoriety thus given of the existence of this claim, no person has ever yet come forward and claimed, or even pretended to claim to be the heirs or representatives of Doctor McNickle save the present claimants – Neither have the industrious & persevering researches of many active agents, then able to find any others. Many of them have informed me that all the information that they have yet, was that Doctor McNickle's relations resided in the State of New York, & that sometime after the revolution, he went there & never returned – This information I received between 3 & 4 years ago, from 2 old soldiers who had been personally acquainted with the Doctor – I immediately wrote to Silas Would Esquire commission merchant of New York, & requested him to advertise for the 8 years. He did so in the newspapers of the City of New York & immediately, Mrs. Bard, one of the claimants & a lady of high respectability came forward & stated herself & sisters & nephews & nieces to be the only heirs of Dr. McNickle. I prosecuted their claim against Virginia & recovered it & payment was made to the persons before named – Previous to this they went before the Surrogates court in the City of New York & carried evidence which satisfied the court that Dr. John McNickle of the Virginia Navy had no sister or but one brother, viz. Neal McNickle & that they were the only descendents of said Neal – This is a true history of the case, which I state of my own knowledge – There is another fact which it may not be improper to state – About

¹ Va. Half Pay See N. A. Acc. No. 837—Virginia State Navy John McNickle (Y S File Va. Half Pay)

2 years after I had found the heirs by advertising, another gentleman, not knowing that they had been found used the same means, and he was thereby conducted to the same persons, as I was informed – The simple fact that such notoriety has been given to a valuable claim which wanted claimants & that no person has ever come forward after many years notice, to assert his right, is of itself a strong circumstance; but if that fact be considered in connection with the formal decision of a court, made after full investigation & examination of evidence, the conclusion is irresistible that the present claimants are the only true heirs – The evidence on which the court gave the certificate of heirship was the affidavits of John Canady² & Charles Higdon³ of Virginia Michael Gaty, & an old lady (think a Mrs. Mary) & others of New York – the 2 first state that they knew Doctor McNickle well in Virginia, and that he went sometime after the war to New York where his relations resided – candidate stated that he often heard him speak of his brother Neal – Those in New York prove the connection between the Doctor & Neal, and the heirs at law of the latter – I have never known any other evidence of heirship than a courts certificate required in such cases, unless there was a controversy as to heirship between different parties as to identity –

With all the difference for the opinions of the department, I would beg leave to add a remark or 2 upon the departments construction of the act of the 5th of July 1832 – That act directs payment to be made to the officer or his legal representatives – the question here arises, who is the legal representative of a deceased officer? To this question I have the evidence of the Treasury Department itself – In the case of Lieutenant John von, the heirs at law made application for the amount of half pay due, and they were informed that payment could not be made to any but the legal representative, and by legal representative was meant executor or administrator – This is the written decision in that case, & it appears to me to be sound. If the provisions of the act of 1832 intended to confer a bounty or gratuity then there could be no doubt but the government would have a perfect right to direct payment to be made in any way and to whom it might think proper. But such is not the fact. That act was intended to direct the payment of a debt justly due for a valuable consideration. I cannot perceive then upon what sound principle the government can undertake to scrutinize heirship at all – It appears to me that the only questions to be asked are these: Is the person demanding payment the legal representative of the officer? Has he taken letters of administration and given security to a sufficient amount; if payment be made to one thus qualified, the public treasury is properly secured even against fraud. If there be any controversy about the heirship, the parties can have a fair and full investigation before the proper tribunal. If by fraud or mistake payment should be made to wrong persons, then there is a responsible person between the public treasury & the right ones. In the case of Doctor McNickle the administrator has given security in an amount nearly four times as large as the amount claimed of the government.

The foregoing is respectfully submitted by the attorney in fact for the heirs.

S/ Robt. Hord [Robert Hord]

Pension Office March 7, 1836

I certify that from an examination of the claim of the Heirs of the late Doctor John McNickle, deceased I am satisfied that he was a Surgeon in the Virginia State Navy and continued therein until the reduction of said Navy in 1781, and survived until the month of

² I'm guessing this MAY be the same man as [John Cannaday VAS190](#)

³ [Charles Higdon S5538](#)

September 1817; that he died without issue and intestate; that the case is embraced by the provisions of the act of 5th July 1832; that the claim should therefore be allowed at the rate of \$182.50 per annum from the 22nd of April 1783 to the first of September 1817; and that the amount should be paid to Robert Hord, of Virginia, attorney of William S Scott, administrator of said McNickle deceased.

[no signature]

[Note: There all files in the VSL online collection relating to a John McNickle or McNickoll, Surgeon, but the access to the actual images of these documents was blocked on the date I tried to access them. I imagine that the affidavits of Higdon and Canady are in that file.]