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MISTAKEN IN THE MAN:  
THE LIFE, DEATH, AND ESTATE TRIAL OF JOHN McCLELLAN

By

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B.A., Augustana College, Sioux Falls, SD, 2005

Thesis

presented in partial fulfillment of the requirements  
for the degree of

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Mistaken in the Man

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John McClellan was among the original founders of the Sioux Falls town site in Dakota Territory in the year 1857. During his lifetime, McClellan never spoke much about his family or his origins. After amassing considerable wealth selling land in the 1870s and 1880s, McClellan died in an elevator accident in 1899. His death left open the question of who would inherit his money and property. Three groups of claimants came before the local courts with the belief that John McClellan was, in some way, their relative. After eighteen years of litigation, none of the claimant parties could prove that the man who died in Sioux Falls was their relative by the name John McClellan. As a result, the courts escheated McClellan's estate to the state of South Dakota. Given the evidence presented by the claimants, the question remains as to whether or not this was the correct decision. By utilizing the archived materials from the McClellan estate trial, the two Sioux Falls newspapers of the day, and various other documents from throughout the United States, it was possible to thoroughly reexamine the cases presented by all three of the trial's claimant parties. The research material showed that each claimant had a relative named John McClellan, and all of their documented family stories seemed to fit the pattern of the Sioux Falls man's life. However, there were no solid means by which any of the three parties could prove that their relative was the same man who died in Sioux Falls in 1899. By recreating the story of John McClellan's life from numerous archival materials, and by reexamining the evidence brought forward during the estate trial, it is clear that the state of South Dakota was correct in its ruling that John McClellan died intestate. Ultimately, each claimant was mistaken in the identity of the John McClellan in Sioux Falls. This is the first time the story of John McClellan's life, as well as the estate trial following his death, has been told in detail.

## ACKNOWLEDGMENTS

Tracing the story of John McClellan and the trial for his estate would have been impossible without help. Learning the story of this man's life has been like reading a book with a few pages missing. Interspersed throughout the John McClellan story are other pages from different stories. I am deeply grateful to all those who have been of assistance as I researched and wrote this paper. Specifically, I would like to thank Bill Hoskins and the collections staff of the Siouxland Heritage Museums in Sioux Falls, South Dakota, for allowing me access to their copious archival material related to John McClellan as well as both the *Sioux Fall Daily Argus Leader* and the *Sioux Falls Press* for the years 1899-1918. I also would like to thank Harry Thompson and the Center for Western Studies in Sioux Fall for allowing me to read through the papers of Sioux K. Grigsby stored in their collection. My thanks also go to Dr. Gary Olson, professor emeritus at Augustana College in Sioux Fall, South Dakota, who first sparked my interest in the John McClellan story.

Others whom I wish to thank for their help in this project include the State Historical Society of North Dakota; the State Historical Society of Iowa; the Dubuque County Historical Society, Dubuque, Iowa; the Abraham Lincoln Presidential Library, Springfield, Illinois; the Community Library of Yankton, South Dakota; Charles A. Larson, attorney at law with Boyce, Greenfield, Pashby and Welk, LLP, in Sioux Falls, South Dakota. You have my thanks and gratitude.

Peter N. Olsen

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## INTRODUCTION

We do not know absolutely or without mistake the immediate cause of his death. It may have been intoxication; it may have been apoplexy; it may have been heart failure. No one but God was with him in his last struggle, and therefore it is only a question of conjecture. Let us cast over him the mantle of charity and give him the benefit of the doubt.

Rev. Howell Buchanan at John McClellan's Funeral  
August 8, 1899

August 2, 1899, passed like other summer days in the city of Sioux Falls, South Dakota. The crowded streets of this growing prairie metropolis bustled with usual activity. Amid the noises of people, horses, street cars, and city life, a solitary figure roamed the streets and talked with acquaintances in joking conversation. Unlike many of the residents who made a living in Sioux Falls, John McClellan was an individual who time and good fortune had turned into a self-made man. He came into his money by selling real estate during the Dakota land boom in the years following the Civil War, and as one of the city's longest-residing citizens he acquired a reputation as a likable man who was fond of jokes and stories. Yet despite his nonchalant exterior, McClellan was a secretive man who revealed precious little information about his personal life before coming to Dakota Territory. On this particular summer day, John McClellan's reluctance to discuss his personal history set into motion a chain of events that did not end for eighteen years. His lifetime's worth of silence had an impact on the lives of numerous individuals, both in Sioux Falls and as far away as Arkansas, Canada, and Ireland.

When daylight turned to darkness that evening, McClellan did not anticipate his death, nor did he know that his silence about his personal life would come to play a role in so many lives. He spent the evening drinking whiskey at a local saloon, as was his custom. At about ten o'clock, McClellan announced his intention to retire for the

evening. Though he may have been intoxicated, no one in the saloon seemed too concerned since it was well known in the community that McClellan was fond of alcohol. As an acquaintance of McClellan later stated, “John was a drinking man, as everyone was well aware, but there was never any doubt as to his ability to take care of himself.”<sup>1</sup> McClellan made his way across the street from Zentle’s store to his rooms in the Van Eps building. Shortly thereafter, a couple who also rented rooms from William Van Eps, Mr. and Mrs. Gus Brown, returned from an evening out to discover John McClellan groping around in the dark on the building’s ground level. Ignoring a sign that stated the building’s elevator could only be used when the operator was on duty, the Browns entered the lift and asked if McClellan would accompany them to the third floor where both parties rented rooms. Still feeling his way around the darkened hallway, McClellan refused the offer. When the Brown’s reached the third floor, they returned the elevator to John McClellan.

Early the next morning, August 3, the police watchmen made their final rounds for the night and stopped in front of the Van Eps building. As daylight entered the darkened elevator hallway, the officers noticed that something was not right. The elevator appeared to be caught between the first and second floors. The policemen entered the building and made a grisly discovery. John McClellan had, at some point the previous night, entered the lift and collapsed between its doors. The doors closed around his neck, and the elevator had climbed to the second floor. John McClellan was dead. Five days later, scores of friends and acquaintances from across the United States buried Sioux Falls’ longest-residing citizen in Mount Pleasant Cemetery. There was no family in attendance because McClellan never made any definitive remarks as to who his next of kin were or

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<sup>1</sup> “Knew John M’Clellan: E.W. Caldwell of Sioux City Knew John M’Clellan for Years,” *Sioux Falls Daily Argus Leader* 4 Aug. 1899.

where they might be located. Everyone knew he had come to the United States from Ireland, but, beyond that simple statement of fact, there was only hearsay and conjecture about McClellan's life prior to his arrival in Dakota Territory in 1857.<sup>2</sup>

Were it not for the fact that McClellan was a wealthy man who died intestate, with no legal will or named heirs, he likely would have rested in peace and soon been forgotten by the Sioux Falls scene. The reluctance of McClellan to provide anyone with a detailed account of his family history proved to be an explosive issue in the South Dakota courts over the next decade and a half. In the months following his death, an appraiser valued John McClellan's estate at approximately \$25,000 to \$30,000 in bank notes, mortgages, and stocks as well as \$10,000 in real estate interests.<sup>3</sup> Though these were the figures quoted in the *Sioux Falls Daily Argus Leader*, it seemed that no one was really sure about just how wealthy John McClellan had been. Other appraisals of his estate went as high as \$100,000. But regardless of the exact figure, there was no doubt that John McClellan had been a man of means in the Sioux Falls community. The assets of his estate amounted to a considerable sum in the late nineteenth century. Because of this, both the Minnehaha County court and the friends of McClellan agreed that a search should be made for any living relatives. If any potential family members came forward, they would be required to prove beyond a reasonable doubt that they were the true and surviving heirs to John McClellan.

In the early days of the probate court hearings, as McClellan's own acquaintances and business associates quarreled over who should be named administrator of his estate, three separate sets of claimants came forward as possible heirs. The applicants, who

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<sup>2</sup> "Killed by Elevator: 'Uncle John' McClellan Found Dead in an Elevator," *Sioux Falls Daily Argus Leader*, 3 Aug. 1899.

<sup>3</sup> "Case Commenced: Hearing for Application as administrator in McClelland Estate," *Sioux Falls Daily Argus Leader*, 23 Dec. 1899.



came to be known through the local newspapers as the “Irish claimants,” the “Canadian claimants,” and the “Arkansas claimants,” caused a stir in the Sioux Falls community with their petitions of entitlement to McClellan’s estate. Each group of claimants was represented by different Sioux Falls law firms. As existing records indicate, it was not below the integrity of these clients, or their attorneys, to bend the truth in their favor with the promise of being well paid by the assets of John McClellan’s wealth. Clearly each set of applicants had a relative named John McClellan, though perhaps not the same John McClellan who had died in Sioux Falls. Over the next eighteen years, the testimony and evidence brought before the courts indicated that none of the claimants was related to the John McClellan who initially arrived at the early Sioux Falls town site in 1857 and who died in 1899. The Irish claimants abandoned the case, and the Canadian claimants proved to be frauds. However, the case made by the Arkansas claimants and the Sioux Falls law firm Grigsby and Grigsby passed through all the lower state courts and ended on appeal before South Dakota’s Supreme Court.

Initially, the case of the Arkansas claimants appeared to be seamless. The John McClellan who settled in Dakota Territory first appeared in Iowa during the year 1856. The McClellan claimants from Arkansas provided evidence before the court which showed that their father abandoned the three brothers and their mother in 1854 shortly after emigrating to Canada from Ireland. The timeline for these two lives appeared to coincide. Was it possible that the father who abandoned his wife and three children was the same man who died in Sioux Falls in 1899? From all outward appearances, this could be true. Both the supposed sons, James S. McClellan and John C. McClellan, as well as their lead attorney Melvin Grigsby, led the court to believe that the man in Sioux Falls was their father. Unlike the other claimants, Arkansas claimants may have been aware of

the John McClellan in Sioux Falls prior to his death. They claimed to have sent him letters and may even have met with him a few times in the latter half of the nineteenth century. However, the state of South Dakota ultimately ruled against Melvin Grigsby and his clients by declaring that John McClellan had no apparent heirs. The state escheated what remained of the estate money and property in 1917, and the Arkansas claimants left South Dakota without inheriting a dime. The stress created by this case may also have been a factor in the declining health and eventual death of their attorney, Melvin Grigsby, in 1917.<sup>4</sup>

The state of South Dakota was ultimately correct in its judgment against the Arkansas claimants and in its declaration that John McClellan died intestate. Upon close examination of the material related to the case, there is no doubt of this fact. Though there were many coincidences between the lives of the Arkansas claimants' father and the John McClellan of Sioux Falls, they were two different men. One emigrated from Ireland and found his way to Iowa by the mid-1850s. The other also emigrated from Ireland with his young family at nearly the same time. The former settled in what became South Dakota, while the later abandoned his family and vanished from the pages of history. It was only by accident and coincidence that the stories of these two men converged in the hearings for the McClellan estate early in the twentieth century. The McClellan family of Arkansas wrongly believed that the John McClellan of Sioux Falls was their father.

The memory of John McClellan nearly vanished after the state finally declared that he died without heirs. Sioux Falls continued to expand, and there appeared to be a growing loss of interest in the man who had been among the first founding settlers of the town. As the years of the trial and subsequent appeals passed, the McClellan story,

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<sup>4</sup> "Letter from George Grigsby to Mother," 17 March, 1917, *Papers of Sioux K. Grigsby*, Center for Western Studies.

which had initially been prominent community news, became shorter and retreated to the back pages of the papers. Though the estate trial was the gossip of Sioux Falls in the months after McClellan's death, the story gradually faded from memory with every day that John McClellan lay in his grave. Despite the initial surge in public attention the case received, the life and story of the man named John McClellan was lost amid the clamor for his money, the legal dealings of lawyers, the print of the daily newspapers, and the deaths of his old acquaintances. People came to care more about the fate of his money than the memory of the man. As a testament to this fact, it was not until May, 1912, that a local resident noticed that the grave of John McClellan had no marker befitting the man who had once been a wealthy and well-liked citizen of the city.<sup>5</sup> With no friends remaining alive or relatives to tell his story, the life of John McClellan faded into obscurity. His name appeared only briefly in regional histories with those of the other early settlers of Sioux Falls and Dakota Territory. A few local historians were aware that he died mysteriously in an elevator accident. Fewer still knew the details of the ensuing legal battle for his estate.

At the present time, nothing has been written directly about the colorful life of the man who was among the earliest settlers (if not *the* earliest) to put his roots in Sioux Falls and claim the city as a home. Several Minnehaha County and South Dakota historians mention McClellan in their works, such as George W. Kingsbury's *History of Dakota Territory*, Doane Robinson's *History of South Dakota*, Dana R. Bailey's *History of Minnehaha County*, Wayne Fanebust's *Where the Big Sioux Bends*, and David Kemp's *The Irish in Dakota*. However, the information they provide about McClellan is only in relation to the larger picture of Sioux Falls and South Dakota history. There is no

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<sup>5</sup> "Receipt from Ballard and Sons to Astor H. Blauvelt," *Papers of the John McClellan Estate*, Siouxland Heritage Museums, Sioux Falls, SD.

biography that deals specifically with the life of this man. One of the difficulties with researching John McClellan is that he lived a life so subtle as to be nearly beyond documentation. The documents that do exist, mainly court papers and other records McClellan left during his lifetime to be gathered as evidence in the estate trial, can be found in various locations in Sioux Falls. Only someone who has set out to collect all the information from all the known sources available can accurately tell McClellan's whole story.

Until the present, Wayne Fanebust wrote the only biographical sketch of John McClellan's life. Of McClellan he says:

McClellan, like Artemus Gale from the Dakota Land Company, was to make Sioux Falls his permanent home. And like Gale, he amassed a considerable fortune due to his land holdings. McClellan departed Sioux Falls in August 1862, along with Fuller and the rest of the panic-stricken population, but returned in 1870. By 1873, he was selling real estate from an office at Sixth Street and Minnesota Avenue. He died on August 2, 1899, a victim of an elevator accident in the Van Eps building in downtown Sioux Falls at the age of 78. The *Sioux Falls Argus Leader* reported his death in modest fashion, noting that he had come to town in May of 1857, thus confirming the date set forth in Kingsbury's book. Two days after he died, an old-timer asserted that McClellan came to Sioux Falls in 1856 but this assertion is unsupported. At any rate, he saw Sioux Falls in its wild state and was part of its destruction, rebirth and progress for more than four decades.<sup>6</sup>

This is the extent of the treatment John McClellan has received by local historians. Yet despite Fanebust's thoroughness as a scholar in recording local history, his biography remains only a thumbnail sketch that is incomplete and, in one particular instance, wholly incorrect on an important matter of fact concerning the exact age of John McClellan.

McClellan was clearly not seventy-eight years of age at the time of his death. When

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<sup>6</sup> Wayne Fanebust, *Where the Big Sioux Bends*, (Freeman, SD: Minnehaha County Historical Society, 1985), 35.

his untimely elevator accident occurred, the residents of Sioux Falls widely believed that McClellan was in his middle or late seventies. This was an age quoted numerous times by the *Sioux Falls Argus Leader* in the days following McClellan's death. Since the question of his actual age was such a key factor in the McClellan estate trial, it is difficult to see how Fanebust missed this controversy as recorded in the local newspapers. All the documentary evidence submitted for the estate hearings, plus the research materials gathered for this paper, suggests that McClellan was approximately sixty-six to sixty-nine years of age at the time of his death. In its declaration that McClellan died intestate, the South Dakota Supreme Court relied heavily on this evidence. Fanebust's misrepresentation of McClellan's age is an easy mistake for a researcher to make. Unless one has an understanding of all the McClellan material scattered throughout the archives, hidden in the local newspapers, and set down as fact in the local histories, it is easy to become misled and confused. For this explicit reason, it is important that the life of Sioux Falls's elusive founding settler be examined in as great a detail as the extant documentary evidence will allow.

Were it not for the information gathered and produced during the estate trial, the trail of this reclusive man's life could have been lost forever. As he was never one to talk about his private affairs, especially his life before arriving in Dakota Territory, these old and fading documents gathered for evidence at the estate trial are all a modern-day researcher has to write a comprehensive history of John McClellan's known life. Today, these records are contained within two archival repositories in Sioux Falls, the Siouxland Heritage Museums and the Center for Western Studies. These records include transcripts of court testimony and depositions from throughout the estate trial's eighteen years of proceedings. Also in the archives are numerous pieces of hard evidence that documented

the life of John McClellan in Dakota Territory. These documents include land grant and military records, receipts for payment, and scores of additional documents that bear McClellan's signature. This material may have been lost without the lengthy estate trial which followed his death.

The men who participated in this case, particularly Melvin Grigsby, thought it would be widely remembered, and that the story of McClellan's life and the trial proceedings would be published in the decades to come. Until now, Grigsby's hopes have gone unfulfilled. Today, few in Sioux Falls know the name John McClellan, and fewer still are aware of the fight for his estate. For years this material languished in an archive. Now it is time for this story to be told and remembered.

## CHAPTER 1

THE LIFE OF JOHN McCLELLAN

In McClellan we have a man who survived the rigors and hazards, the bullets and arrows of pioneer life, only to die a violent death in an elevator in a store, a long time after the most dangerous elements of frontier life had vanished. There is some irony in it.<sup>7</sup>

Wayne Fanebust, *Where the Big Sioux Bends*

Beyond the most basic facts, nothing of McClellan's life prior to 1857 can be stated with certainty. He was a quiet man who went out of his way to avoid any discussions about his life before arriving in what became Dakota Territory. Though this reluctance to disclose personal information was later the bane of the South Dakota courts, few thought much of it during his early life in the territory. Even his closest friends, other Sioux Falls men McClellan knew for forty years, were ignorant of the most basic facts of his early life. Those who knew him best understood him to be well-educated but slightly aloof, quiet yet nonchalant and fond of a good story or joke. The life of John McClellan between his birth and his arrival in Iowa in 1857 remains shrouded in a mysterious vale of silence and a lack of historical documentation. All that can be said of McClellan's early life was that he was born between 1830 and 1833 in Ireland. It was likely that he did not even know his exact age beyond this approximation.<sup>8</sup> His family surname was originally "McClelland." John later omitted the letter "d" during the height of General George McClellan's popularity during the Civil War.<sup>9</sup> He emigrated from Ireland, likely one of

<sup>7</sup> Wayne Fanebust, *Where the Big Sioux Bends*, (Freeman, SD: Minnehaha County Historical Society, 1985), 34-35. All local and state histories refer to the organization McClellan joined as the Western Town Company; however, the technical name for this enterprise was the Western Townsite and Lot Company.

<sup>8</sup> This appears to be the correct range of years for McClellan's birth. During the estate trial, there was considerable controversy as to McClellan's exact age at the time of his death. Based on the documents left by his own hand (i.e. census records, military records, Masonic records, and land grant applications), he was likely born during this three year time frame.

<sup>9</sup> "Deposition of W.W. Brookings," *Papers of the John McClellan Estate*, Siouxland Heritage Museums, Sioux Falls, SD.

the many arrivals in the Americas during the years of the famine in Ireland. No evidence exists to pinpoint the exact time or place of his arrival. He always maintained he was a single man without a family or near relatives. Whatever his past, McClellan first appeared in Woodbury County, Iowa, in the spring of 1857. As nothing else is certain, it is only at this point that his story may truly begin.

The exact circumstances that brought McClellan to Iowa are unclear. However, his arrival coincided with the great land boom of the mid-1850s. Whatever his reasons, McClellan signed on with the Western Town Company, an infant land corporation chartered in Dubuque, Iowa, in October 1856.<sup>10</sup> His life and future prosperity were forever linked to his decision to join this group of land speculators. The company intended to establish a town site near the falls of the rapidly flowing Big Sioux River. As one earlier historian wrote, “exaggerated stories were broadcast throughout the neighboring states of the great importance of the water-power at the falls of the Sioux river.”<sup>11</sup> Whoever established a town near the falls stood to gain economically from the ability to harness the river as a source of energy, and the power of the river was a fact widely known throughout Iowa and Minnesota. The Western Town Company had already established its presence at what became the city of Sioux Falls in the autumn of 1856. McClellan and four other company members headed up the Big Sioux River from Sioux City late in the following spring to settle and make improvements upon the land. But before leaving Iowa, McClellan renounced all allegiance to English authorities and declared his intention to become a United States citizen on March 19, 1857.<sup>12</sup>

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<sup>10</sup> Fanebust, *Where the Big Sioux Bends*, 30.

<sup>11</sup> Doane Robinson, *History of South Dakota*, 2 vols. (n.p.: B.F. Bowens and Co., 1904), 166.

<sup>12</sup> John McClellan, “Statement of Intent to Become a United States Citizen,” March 19, 1857, *Papers of the John McClellan Estate*, Siouxland Heritage Museums, Sioux Falls, SD.



John McClellan linked his future so intimately with the city of Sioux Falls, it is impossible to separate those early years of his known life from a discussion of the events that transpired in the growing town site between the years 1857 and 1862. On about June 1, 1857, John McClellan arrived at the falls of the Big Sioux River. In his company were Jesse T. Jarrett, the Western Town Company's superintendent, as well as Barclay Jarrett, James Farwell, and Halvor Oleson. The men claimed 320 acres adjacent to the falls for the Western Town Company, and they gave the site the obvious, but unimaginative, name of Sioux Falls. A few weeks after their arrival, a second contingent of land speculators from the St. Paul-based Dakota Land Company arrived to establish a town site at the falls as well. When these men discovered that the Dubuque company already claimed the best land, they established their own town site on 320 acres to the south and christened it Sioux Falls City.<sup>13</sup>

Despite the presence of men from rival land companies, the relations between the two organizations at Sioux Falls remained warm and cordial throughout the late spring and early summer of 1857. In all the population of Sioux Falls consisted of five individuals that summer, three men from the Western Town Company, including John McClellan, and two from the Dakota Land Company. These five men had a reason to cooperate despite their differing company allegiances. Although representatives of the Sioux signed the Treaty of 1851, the local Yankton and Yanktonnais Sioux had not. They regarded the white settlers as intruders and trespassers in their territory, and the falls was a location frequently visited by bands of these tribes. The presence of a town site at such a location only increased the possibility of hostilities between the two differing cultures. Since the local bands of Sioux greatly outnumbered the isolated land company personnel, it was in

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<sup>13</sup> George W. Kingsbury, *History of Dakota Territory*, 4 vols. (Chicago: S.J. Clarke Publishing Company, 1915) 98-99.

the interest of the men from Dubuque and St. Paul to cooperate with each other for their mutual defense despite their rivaling economic enterprises.

As the first summer passed in Sioux Falls, the potential for hostilities proved to be real. One historian stated that a band of Yanktonnais under the leadership of Drifting Goose was the source for agitation between the Sioux and the settlers. He stated that “an attempt was made to pacify the Indians with presents of blankets, sugar and bacon, but the truce induced by this means was of short duration, and finally the palefaces were informed that they must leave ‘before another sunset’ or there would be trouble of a serious character.”<sup>14</sup> Though the exact date is unknown, the representatives of both town companies mutually chose to abandon their town sites in July 1857. John McClellan and his two companions, James Farwell and Halvor Oleson, loaded what items they could into a small boat and floated down the Big Sioux River to Sioux City.<sup>15</sup>

It is impossible to reconstruct the exact thoughts that went through John McClellan’s mind during his return to Iowa. Forced to abandon the Western Town Company’s interests at Sioux Falls, McClellan could easily have given up on his prospects with the company. He could have settled in Iowa or Minnesota, or, like so many before and after him, McClellan could have gone farther west and simply disappeared from the pages of history. The latter appears to have been the case for both of his boat mates on that return trip to Sioux City. Neither James Farwell nor Halvor Oleson returned to Sioux Falls in the years before the Sioux uprising of 1862. What made John McClellan return to Sioux Falls with other Western Town Company representatives on August 27, 1857? As one of the earliest settlers, McClellan had land interests. In fact,

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<sup>14</sup> Kingsbury, 99.

<sup>15</sup> Fanebust, 36.

by 1860 McClellan was worth an estimated \$900 in land holdings.<sup>16</sup> At this crucial turning point, McClellan chose to return to Sioux Falls with the Western Town Company. Like many others, he saw the economic potential of the town site. By the end of his life, his decision to make Sioux Falls a permanent home would, quite literally, pay off.

In 1857 Dakota Territory had not yet been established. Until 1858, the land around Sioux Falls remained a part of Minnesota Territory. When Minnesota attained statehood in 1858, the men of the two land companies resided beyond Minnesota's western boundary. McClellan and his comrades were squatters in an unorganized territory that existed outside the public domain of the United States. Nevertheless, it did not take long for the growing settlers in the Big Sioux Valley to establish their own form of extra-legal local government. At this early stage in the city's history, John McClellan was in an excellent position to attain some kind of local office for himself. However, he was content with the simplicity of life on the plains. Unlike many of the other early Dakota settlers who prospered, McClellan remained outside of politics for his entire life. He sought only to make money and had little regard for the power that often comes with wealth. Between the spring of 1858 and the autumn of 1861, McClellan stayed out of the political fray amongst the Dakota settlers. While friends and acquaintances squabbled for local offices, first in the unorganized territory and later in the newly created Dakota Territory, McClellan was content to farm his lands along the banks of the Big Sioux. His ambition in Dakota was purely economic.<sup>17</sup>

The promises of a new life and good land were just two of the many reasons settlers came to Dakota in the late 1850s and early 1860s. It was a time of both hostility and calm. With the growing settlement there came an increase in tensions with the local

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<sup>16</sup> *1860 Federal Census of Dakota Territory*, North Manchester, Indiana: The Hekcman Bindery, Inc., n.d.

<sup>17</sup> The *1860 Census* lists McClellan as a farmer in Minnehaha county.

bands of Yanktonnais. During the summer of 1858, Lean Dog and his band burned the fledgling Dakota Land Company towns of Medary and Flandreau to the north of Sioux Falls. The objective of the Sioux was to drive the settlers from the land, and they accomplished this in these two locales. When word of the burning reached Sioux Falls, the settlers immediately constructed a redoubt that they christened Fort Sod in honor of materials used to construct its defenses. Perhaps the show of strength and stability deterred Lean Dog from approaching Sioux Falls, and the summer passed without incident. The following year of 1859 proved to be quiet and without major incident. As one historian wrote, “it was called by one source an ‘uneventful year’ in which Indians stole a horse now and again to ‘break the monotony’. . . Politics and the renewed quest for national recognition also helped to relieve the monotony of a peaceful year.”<sup>18</sup> Finally, the year 1860 saw the creation of Dakota Territory.<sup>19</sup>

But the relative peace during those years in Dakota was followed by unrest throughout the rest of the United States. The coming of the Civil War brought many changes to Dakota, and to Sioux Falls in particular. The federal government authorized Dakota Territory to raise two companies of cavalry during the winter of 1861-1862. The governor of Dakota requested that the newly-formed organization be stationed in Dakota Territory. Of this decision, historian Doane Robinson wrote, “at the time this was thought to be a useless and expensive arrangement, intended to add to the power of the governor and keep some money in the territory as well as to afford a home market for a portion of the products of the country. No one took the quartering of soldiers in the

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<sup>18</sup> Fanebust, 52.

<sup>19</sup> Congress refused to create Dakota Territory prior to 1860 due to sectional differences and the slavery question which faced the United States government. Only after the secession of the Southern states did the Republican congress create Dakota as a free territory.

villages of the territory as a serious necessity.”<sup>20</sup> Nevertheless, Companies A and B of the First Dakota Cavalry Regiment remained in the territory.

Among those who enlisted as a private in Company A was John McClellan. He signed on for a three year enlistment with the troop in Yankton, the territory’s new capital city, on January 28, 1862. He declared his age to be 29 years at the time of his enlistment, and he received a one hundred dollar bounty for providing his own horse.<sup>21</sup> McClellan and the others spent the winter in Yankton learning the drill and discipline of life in the cavalry. On April 30, the two companies were officially mustered into military service by Dakota’s territorial governor, William Jayne. Since the regiment would not be departing down the Missouri River to contribute in the Civil War, the men — including John McClellan — could look forward to spending their three year enlistment near their homes, family, and, in McClellan’s case, property.

By enlisting in the army, McClellan stood in a good position to further secure his economic and property interests in Dakota Territory. The Sioux had scared him off in 1857, but he returned to Sioux Falls. The town site had been threatened again by the Sioux in 1858, and yet he chose to stay during this period of fluctuating population. He also chose to stay in Sioux Falls after the politicking of its citizens failed to secure the town as the territorial capital in 1860. In 1861 and 1862, Sioux Falls lost both citizens and prestige to other growing cities, such as the new territorial capital of Yankton, along the east bank of the Missouri River. Even as the population of the town dwindled from its height in the early 1860s, McClellan chose to tie his future to Sioux Falls. As a

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<sup>20</sup> Robinson, 203.

<sup>21</sup> Muster Roll and Military Records, *Papers of John McClellan Estate*, Siouxland Heritage Museums, Sioux Falls, SD. This is evidence which points to the notion that McClellan had only approximate knowledge of his own age. In 1862 he states his age as “29” before a mustering officer for the United States Army. In 1860 a census taker recorded his age as “30.”

member of the Dakota cavalry regiment, McClellan was in a position to take an active part in response to any future threats made by the Sioux, and as his time in Sioux Falls demonstrated, the Sioux had been responsible for nearly dislocating him from the city twice. As previously established, McClellan had no political ambitions, so he likely did not enlist out of patriotic fervor and a thirst for glory in battle. In fact, it seems he never distinguished himself from the rest of the rank and file in his battalion, nor did he ever attain a rank higher than private. It is also unlikely that McClellan would have enlisted if he thought the regiment would be sent to fight the rebellion to the south. McClellan could have easily left Sioux Falls at any number of times during the years of 1857-1862. Why would he abandon the place on which he staked his future to fight a war a thousand miles away? McClellan's life was in Dakota, and it was in Dakota that he intended to stay. Enlisting in the 1st Dakota Cavalry was a way to help protect his investments in the Sioux Falls community.

Perhaps McClellan was not alone in seeking the security of his property in Dakota Territory. A large number of those who enlisted alongside McClellan also had vested interests in the stability of the region. Of the men who mustered for service at Yankton, historian George Kingsbury wrote:

The company was claimed by some of the Yankton people as a local organization, though not more than one-third of its members had been residents of the future [Yankton] county prior to enlistment, the remainder coming from Clay, Cole, Bon Homme, Minnehaha [the location of Sioux Falls], and one from Nebraska...Taken collectively it was a fine body of men, physically, intellectually, and morally. Quite a number of the recruits were farmers *and nearly all claimholders* [emphasis mine].<sup>22</sup>

McClellan served his term in the First Dakota Cavalry in relative obscurity. In

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<sup>22</sup> Kingsbury, 191.

the regiment's only published official history, written by Company A's former orderly sergeant, McClellan received mention only once.<sup>23</sup> After his death, contradictory stories emerged about his skill in handling both a horse and a carbine. Stories of McClellan's military skills contradict each other so greatly that it is impossible to know exactly how good he was at the business of soldiering. Yet despite what others later claimed about McClellan, his service record indicates that he must have found military life endurable, if not agreeable, during his three year enlistment. In three years, he never missed a roll call, and, at his discharge in 1865, the army reimbursed him \$44.81 for his unused clothing issues.<sup>24</sup> There is little else that can be solidly documented about the specific exploits of McClellan's military career.<sup>25</sup>

However, a few general conjectures can be made about McClellan's service. After being mustered on April 30, 1862, McClellan reported with the rest of Company A to Fort Randall on May 20. The men of the company stayed at this location until July, at which time small detachments dispersed to different locations throughout the southeastern corner of Dakota Territory. One detachment under the command of Lieutenant James M. Bacon garrisoned the Sioux Falls town site during the summer. Though no evidence exists to substantiate the claim, it is possible that John McClellan may have been one of Bacon's soldiers. It would have been in McClellan's personal interest to be as close to Sioux Falls as circumstances would allow. Regardless of whether

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<sup>23</sup> English, A.M. "Dakota's First Soldiers: History of the First Dakota Cavalry, 1862-1865." *South Dakota Historical Collections*. vol. 9. Pierre: Hipple Printing Company, 1918.

<sup>24</sup> "Register of Enlistment and Military Service Record," *Papers of the John McClellan Estate*, Siouxland Heritage Museums. This evidence shows McClellan's shrewdness with money. Often soldiers left the army after the Civil War owing the government money for clothing. McClellan accumulated a small sum in clothing allowances.

<sup>25</sup> *Military Service Records for John McClellan, First Battalion Dakota Cavalry, Company A., 1862-1865 (Indian Wars)*, file #148, National Archives Records and Administration. Washington, D.C.

or not McClellan was in Sioux Falls during the summer of 1862, the events which unfolded at that place in August had an immediate influence on his life, both in terms of his military service and his economic interests in Sioux Falls.

One particular event that occurred on the outskirts of the city late in the summer would have a profound impact on McClellan's future prospects in the fledgling town. On August 25, Judge Joseph Ambidon and his son attended to their hay fields north of Sioux Falls when a party of Sioux attacked them. Though Lieutenant Bacon and others within the town later recalled hearing gunfire, they thought little of it on that August afternoon. Bacon speculated that someone from the town — either residents or his own troopers — was shooting game on the bluffs above town.<sup>26</sup> At the time, neither the lieutenant nor any of the citizens were aware of the hostilities taking place to the east in Minnesota. Only when Ambidon and his son failed to return from their work that evening did the residents become alarmed. Searchers found the body of Ambidon lying face down with a single, fatal bullet wound. The search party also found the arrow-ridden body of Ambidon's son nearby. Only when a courier arrived from the governor in Yankton on August 27, did the residents of Sioux Falls learn of the uprising in Minnesota. The courier brought orders for Lieutenant Bacon to evacuate the citizens of Sioux Falls and report to Yankton with his cavalry detachment. The panic created by news of the uprising and the killing of Ambidon and his son caused most of the population on the southeastern Dakota prairies to become refugees in the settlements along the Missouri River.<sup>27</sup> As a direct result of the uprising during the summer of 1862, the older residents of Sioux Falls, including John McClellan, would be unable to inhabit the town site again until 1870.

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McClellan spent the remainder of his military career on the Dakota plains. It was

<sup>26</sup> Kingsbury, 107.

<sup>27</sup> Robinson, 204-205.



likely that he was among the forty men in a detachment that returned to the abandoned Sioux Falls town site with Captain Nelson Miner during November 1862. The party escorted several civilians, including the former Western Town Company superintendent W.W. Brookings, back to Sioux Falls to retrieve property which they cached before the hasty retreat to Yankton in August. If McClellan was among the cavalymen on this journey, it would be the end of his documentable presence around Sioux Falls until his return in 1870. During the course of his enlistment in the First Dakota Cavalry, McClellan likely participated in all the major actions in which Company A took part. These included the building of the Crow Creek Agency on the Missouri River in 1863 and General Sully's expedition against the Sioux in 1864. Of the Dakota cavalymen, historian Doane Robinson wrote, "the Dakota boys, being trained frontiersmen, and having in the battalion about twenty Indian scouts, were usually kept on the scout and General Sully was unsparing of his praise of their conduct throughout the tedious campaign, which lasted until winter."<sup>28</sup>

As he spent the winter of 1864-1865 in garrison at Vermillion, Dakota Territory, John McClellan probably looked forward to his discharge in the coming spring and his return to Sioux Falls. However, this return to normalcy had to wait several more years. Despite the fact that Sully's military campaigns of 1864 and 1865 had removed a great deal of the hostile threat posed by the Sioux east of the Missouri River, the war department deemed it necessary and in the interest of the population to erect a fort adjacent to the falls of the Sioux River. This military outpost, named Fort Dakota, encompassed the entire Sioux Falls town site, which had been vacant since it was hastily abandoned in 1862. The government established a military reservation of twenty-five

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<sup>28</sup> Robinson, 219.

square miles around the perimeter of the post. The military allowed no civilians to settle or lay claim to these lands. On May 9, 1865, only a week after the creation of Fort Dakota, John McClellan received his discharge from military service when the enlistment period for Company A expired.

With his home and land holdings now enclosed by the military reservation of Fort Dakota, McClellan was once again in a position akin to his hasty retreat to Sioux City during the summer of 1857. At this juncture in life, it would have been easy for McClellan to relocate away from Sioux Falls and Dakota Territory. The only explanation of his continued presence in Dakota is his intention to return to Sioux Falls once the military closed Fort Dakota. As more settlers flowed into Dakota Territory in the years after the Civil War, it was only a matter of time before the War Department deemed Fort Dakota unnecessary and once again opened up the area around Sioux Falls to settlement. McClellan saw his future in Sioux Falls and had no plans to leave the place in which he had already staked an economic interest. His earlier land investments combined with an ever growing population in Dakota Territory almost assured him financial gain. By staying in the region, McClellan consciously chose to be in the right place at the right time. Fort Dakota closed in 1869. In 1870 McClellan returned to Sioux Falls to begin his life in that place anew for the third time.

During the interim, between 1865 and 1870, McClellan worked at various odd jobs which took him on business throughout Dakota Territory. After his discharge in 1865, McClellan was again in the employ of W.W. Brookings, his former Western Town Company superintendent. From May until November, McClellan worked for Brookings on the construction of a military road from Minnesota to Montana.<sup>29</sup> When McClellan left

<sup>29</sup> "Deposition of W.W. Brookings," *Papers of the John McClellan Estate*, Siouxland Heritage Museum, Sioux Falls, SD. A partial transcription of this deposition can also be found in the *Sioux Falls Press* and the *Sioux Falls Daily Argus Leader* on 27 Jan. 1900.

Brookings and the road project that autumn, his exact movements throughout the territory are uncertain until his return to Sioux Falls in 1870. Newspaper stories and advertisements show that McClellan claimed Yankton as his permanent home during those years away from Sioux Falls. On September 9, 1867, McClellan took out a petition to be made a member of the Masonic order at St. John's Lodge, no. 166. On this application, he lists his place of permanent residence as Yankton, D.T. However, it is also documentable that McClellan spent a considerable amount of time away from Yankton during the late 1860s. During the first quarter of 1868, McClellan worked as a laborer at the Crow Creek Indian Agency for Major J.R. Hanson. In July of that year the major paid him \$120 dollars for three months of service. Though the receipt was for services rendered between January and March, McClellan apparently was still at Crow Creek during the following summer.<sup>30</sup>

McClellan also did other contract work for the government before his return to Sioux Falls. During the early stages of his estate trial, *The Daily Argus Leader* received two letters from a pair of men who claimed to be acquaintances of a man named Alexander McGregor of Volin, South Dakota. McGregor claimed that he worked with McClellan transporting goods along the Missouri River during 1867-1869. In a letter to one of the law firms in Sioux Falls, McGregor stated that he "knew nothing about John McClellan before he came to Dakota." However, McGregor also revealed an anecdote of interest on which, by all extant evidence, the court failed to follow through. To the law firm of Aikens and Judge, McGregor wrote:

In the fall of 1867 McClellan was taken sick at [Fort] Berthold and was taken to the Military Hospital at Ft. Stevenson for treatment. His case was considered serious, and I with several others went to see him. He asked one Sid Marsh a fort trader for Derfie & Peck who was sub agent for Major Wilkenson at Berthold to write a will. Mr.

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<sup>30</sup> "Receipt to John McClellan from J.R. Hanson for services on Crow Creek Agency," July 14, 1868. *Papers of the John McClellan Estate*, Siouxland Heritage Museums, Sioux Falls, SD.

Marsh write [sic] it and when going back to Berthold I asked Mr. Marsh if McClellan was making a will and he said 'yes'. Whether this will has been preserved or not I don't know but if it were, it would be interesting to have.<sup>31</sup>

Though no other evidence exists to substantiate the claims made by McGregor and to link John McClellan to Fort Berthold, the historical record shows that there was an Indian trader named Wilkenson and another trader named Sid Marsh at Fort Berthold during this period.<sup>32</sup> Despite a lack of confirmed documentation, it is possible that McClellan delivered goods between Yankton and the string of forts along the Missouri River between 1866 and 1869. This could account for his known presence at Crow Creek Agency in early 1868.

But regardless of where his travels through the territory took him, the year 1869 saw McClellan in Yankton again preparing to return to Sioux Falls. The territorial legislature appointed him a commissioner for the road between Yankton and Sioux Falls via Swan Lake during the years 1869-1870. McClellan was responsible for the maintenance and upkeep of this thoroughfare. There is no record to indicate how or why McClellan received this duty from the legislature. In his life time, this was the only official government position he ever held. But no matter how McClellan came by this post, his selection indicates that he was more than likely familiar with the road between Yankton and Sioux Falls.<sup>33</sup>

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<sup>31</sup> "Letter from Alexander McGregor to Aikens and Judge," 10 July 1901. *Papers of Sioux K. Grigsby*, Center for Western Studies, Sioux Falls, SD.

<sup>32</sup> Philippe Régis de Trobriand, *Military Life in Dakota: The Journal of Philippe Régis de Trobriand, Commander at Fort Stevens*, ed. and trans. Lucile M. Kane, (St. Paul: Minnesota Historical Society, 1951).

Trobriand also wrote that there were large numbers of sickened laborers during the years 1867-1868. It is possible John McClellan may have been one of these men.

<sup>33</sup> "Records of the Ninth Legislature, 1869-70." *South Dakota Historical Collections*. vol. 25. (Pierre: South Dakota State Historical Society, 1950), 258.

In 1870, McClellan return to Sioux Falls after his three years of military service and five years of exile caused by the Fort Dakota military reservation. After the military reservation opened, there was a steady influx of settlers into the Sioux Falls area. The growth of Sioux Falls continued throughout the remaining decades of the nineteenth century. Just as the financiers of the Western Town Company and Dakota Land Company anticipated over a decade earlier, the city's location on the falls of the Big Sioux River ensured rapid growth and development. The eventual arrival of the railroad and Sioux Falls' designation as a "hub city" and distribution center added considerably to the city's importance in the years following Fort Dakota's closure. The old town site offered many prospects and a hopeful future in the 1870s and 1880s. Despite minor setbacks caused by the depressions of 1873, 1884, and 1893, Sioux Falls continually blossomed throughout the remainder of the nineteenth century. The revitalization of the old town site saw the arrival of settlers, both old and new alike. Among the pre-Sioux uprising settlers who returned "to the scene of their old labors" in 1870 was John McClellan.<sup>34</sup> Over the next several years, McClellan's continued presence in Dakota, and his persistent intent to claim Sioux Falls as his home, paid off financially.

During the following spring, McClellan filed with the federal government for a right of preemption on the land he occupied prior to the establishment of Fort Dakota. As witnesses, two other long-time Dakota residents, J.L. Phillips and Amos F. Shaw attested that they had "known [McClellan] for thirteen years" and that he was

a single man over the age of twenty-one and a citizen of the United States." Their affidavit continued by stating that "McClellan lived on said land and cultivated the range from the time he entered upon it in the year 1858 until the year 1861 when he entered the U.S. military service and served until the spring of the year 1865 about which time said land

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<sup>34</sup> Dana R. Bailey, *A History of Minnehaha County, South Dakota*, (Sioux Falls: Brown and Saenger, 1899), 33.

was included in the military reservation of Fort Dakota. In January 1870 after the military reservation was abandoned he returned to the same and has lived there until the present time.<sup>35</sup>

The land McClellan claimed as his own in the years before Dakota became a territory was officially his in the eyes of the federal government, and later that same year McClellan platted this parcel of land as his first addition to west Sioux Falls. Within three years of his return, McClellan had already established his real estate business with an office at the present-day junction of Sixth Street and Minnesota Avenue. From this office, McClellan sold or rented land to an ever-growing city population. By the early 1880s, McClellan expanded his business beyond Sioux Falls to include other locations in Minnehaha, Lincoln, and Davison Counties.<sup>36</sup>

The amount of money that changed hands in some of McClellan's transactions between 1870 and his death in 1899 was considerable. As an example, in dealings with his friend William Van Eps, McClellan pocketed over \$8,400 between 1880 and 1887.<sup>37</sup> Thirty years after his arrival with the Western Town Company, McClellan could be described as one of Sioux Falls' wealthier citizens and a self-made man. He platted two additions to the city of Sioux Falls. He also had other interests scattered throughout the city and eastern Dakota Territory. Unfortunately, an accounting of McClellan's total land holdings during his lifetime remains incomplete. However, the records preserved in the archives of the Siouxland Heritage Museums in Sioux Falls indicate he had no want for money by the late 1870s and early 1880s. Contained in these records were receipts for

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<sup>35</sup> "Proof of Right of Pre-Emption," Affidavit dated 12 May 1871, *Papers of the John McClellan Estate*, Siouxland Heritage Museums, Sioux Falls, SD.

<sup>36</sup> Records for the taxation of these properties in the *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

<sup>37</sup> "Warranties of Deeds for the years 1880, 1882, and 1887 between John McClellan and William Van Eps," *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

numerous parcels of land which McClellan either sold or leased. While his real estate business expanded, McClellan invested his growing wealth in local businesses. These interests included the State Trust and Bank and the Sioux Falls Brewery, of which McClellan would later hold the vice-presidency.<sup>38</sup> At the time of his death, the list of McClellan's financial investments ran several pages in length. He was a man who owned a large expanse of land in a place where the population expanded tremendously in a short period of time. The Dakota Boom treated John McClellan well.

Even with his considerable wealth, McClellan remained a private man who lived a solitary and quiet life. Unlike several of his wealthy and notable Sioux Falls contemporaries, McClellan never entered politics. He had the means to live a comfortable lifestyle outside of the public spotlight, and this was exactly what he did. He always refused to answer questions regarding his personal history. When local historian Dana R. Bailey attempted to interview McClellan for his history of Dakota Territory, McClellan refused to offer much information about himself. He spoke freely with Bailey about his life in Dakota, but McClellan offered only vague statements about to his experiences prior to 1857 such as living in the north of Ireland, immigrating to Canada, and spending a year in Iowa before traveling up the Big Sioux River.<sup>39</sup>

McClellan's modesty and recalcitrance went beyond his unwillingness to disclose personal information. He also lived the life of a reclusive hermit. Ironically, McClellan never owned his own home or dwelling place. During his first years in Sioux Falls, he reportedly lived with several others in the old Fort Dakota enlisted men's barracks.<sup>40</sup>

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<sup>38</sup> *Sioux Falls City Directory: 1888-89* (St. Paul: Chas. Pettibone & Co., Publishers, 1888), 102.

<sup>39</sup> "Testimony of Dana R. Bailey," *Papers of the John McClellan Estate*, Siouxland Heritage Museums, Sioux Falls, SD. See also "Will Take Case to the Supreme Court," *Sioux Falls Daily Argus Leader*, 30 Dec. 1899.

<sup>40</sup> Kingsbury, 241.

McClellan boarded at a handful of rooming houses and apartments through his final decades in Sioux Falls. By the late 1890s, he roomed in the apartment building owned by his long-time friend William Van Eps.<sup>41</sup> In these rooms he spent the final decade of his life. Though the initial inventory of his estate included a large sum of investments and property, McClellan owned few personal possessions. A list of his personal effects at the time of his death showed the following items in his apartment: a shotgun and case, a pair of gold-bowed spectacles, a revolver with two grips, a tin box containing his financial paperwork, two trunks and their contents of clothing, an overcoat, a pocket book, \$15 in bills and \$1.70 in pocket change.<sup>42</sup> Though a man of considerable means by the end of his life, McClellan continued to live the spartan lifestyle of a frontiersman.

Perhaps it was difficult for McClellan to adjust to the rapid changes around him. He had seen Sioux Falls in its infancy during the 1850s and 1860s. By the 1880s and 1890s, Sioux Falls grew into an adolescent metropolis in a sea of prairie homesteads. He had seen the city transform from a squatter camp of stone and sod huts into a busy center that sought to emulate all the luxuries and finery of well-to-do eastern cities. McClellan helped build the city, yet the city life did not suit him. He made himself a fortune selling land and making shrewd local investments, but he had no desire to spend his wealth. During his years in Dakota Territory, he always looked out for his economic interests. Only after he made a fortune did McClellan consider traveling to other parts of the country with friends and business associates. However, the rich city life may have bored him. About a decade before his death, McClellan began to drink hard liquor in excess. None of his friends or acquaintances recalled him being a heavy drinker before the final years of his life. The problem became so acute, McClellan's friend, R.H. Booth,

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<sup>41</sup> *Sioux Falls City Directories, 1890-1899.*

<sup>42</sup> "Telling Points," *Sioux Falls Daily Argus Leader*, 28 Dec. 1899.



feared that one morning he would find McClellan lying dead in the street.<sup>43</sup>

McClellan sought help for his growing problem, and he spent three weeks during 1891 at the Keeley Institute in Dwight, Illinois. The Keeley Institute had a facility in Sioux Falls at the time, but McClellan opted to leave the city in favor of treatment at the Illinois location. Perhaps he feared the social stigma attached to alcoholism. At Dwight, McClellan could treat his alcoholism without being under the eyes of the local populace.<sup>44</sup> McClellan returned from the Keeley Institute and in all outward appearances appeared to be cured. He drank nothing for several months. But then, slowly, he fell back into his old habits. McClellan's friend R.H. Booth later recalled that McClellan was sober for awhile, but "finally he got to drinking beer, and I told him if he drank only beer in moderation he would be all right." But Booth advised McClellan that he ought to "steer clear of whiskey."<sup>45</sup> By the year of his death in 1899 McClellan no longer heeded Booth's warning, and he slipped back into an alcoholic stupor.

A sharp decline in health also marked McClellan's final decade. To link McClellan's abuse of alcohol with his failing health is only speculation, nevertheless it seems a likely candidate. As the newspaper articles in *The Sioux Falls Daily Press* and *The Daily Argus Leader* indicate, it surprised few citizens that alcohol was possibly a contributing factor to McClellan's death. In his final years, McClellan began to lose his eyesight. Acquaintances recalled that he began to wear glasses sometime in the early 1890s. As his vision worsened, McClellan also became forgetful. There was a story

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<sup>43</sup> "Testimony of R.H. Booth," *Papers of the John McClellan Estate*, Siouxland Heritage Museums, Sioux Falls, SD. See also "Another Star Witness," *Sioux Falls Press*, 1.3.1900.

<sup>44</sup> *Keeley Institute Records*, Abraham Lincoln Presidential Library, Springfield IL. These records show only that John McClellan received treatment for drunkenness from 24 Feb. to 18 March 1891. McClellan friend R.H. Booth also underwent treatment for tobacco abuse from 13 March to 18 March 1891. No further information exists in these records regarding the particularities of McClellan's treatment.

<sup>45</sup> "Testimony of R.H. Booth," *Papers of the John McClellan Estate*, Siouxland Heritage Museums, Sioux Falls, SD. See also "Another Star Witness," *Sioux Falls Press*, 1.3.1900.

known to several people in the community involving the loss of McClellan's pocket watch. McClellan left the watch at the shop of J. Agrant for repair work. Apparently, McClellan forgot that he had given his watch to Agrant for repairs, and he hired one William Todd to search for his time piece for a sum of \$40. McClellan initially paid Todd a quarter of the agreed fee as a down payment. When Todd returned to collect the remaining payment, McClellan had forgotten all about his lost watch and his contract with Todd.<sup>46</sup>

Physical ailments wracked John McClellan in the last years of his life as well. Undoubtedly life on the prairie had been hard on him, particularly his early years with the Western Town Company and in the army. Life during the early years of Sioux Falls had not been easy, and it was well known to McClellan that W.W. Brookings had both feet amputated due to frost bite during the party's first winter in Sioux Falls. There were stories printed in the *Sioux Falls Daily Press*, as well as in court testimony, about McClellan undergoing a similar ordeal sometime in the late 1860s or early 1870s; however, the details of McClellan freezing his feet — and whether or not he had the toes of his left amputated, as one individual claimed — remain in relative obscurity.<sup>47</sup> There may have been some truth to the stories because McClellan walked with the assistance of a cane during the last decades of his life.<sup>48</sup> But foot problems seemed the least of McClellan's concerns in the 1890s. He was prone to convulsions. In the days before his death, R.H. Booth remembered McClellan as being "quite shaky." These shakes occurred

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<sup>46</sup> "Hearing Still Grinds," *Sioux Falls Press*, 5 Jan. 1900.

<sup>47</sup> As an example: "About John McClellan," *Sioux Falls Press*, 4 Jan. 1900. D.H. Hawn claims McClellan froze his feet during the winter of 1870 while on the prairie. This story, like others has little or no supporting evidence.

<sup>48</sup> No one is clear exactly when John McClellan began using the cane. In one of the only two known images of John McClellan, c. 1890, he stood in a group of men hunched over a cane.

periodically throughout the last five or six years of his life.<sup>49</sup> But despite his declining health, McClellan still found energy to travel throughout the 1890s. Aside from his “vacation” to Dwight, Illinois, McClellan traveled to Cuba with William Van Eps in 1896. He also periodically visited old friends from the early days of Sioux Falls who time and circumstance had scattered across the United States. In fact, the morning that the police found McClellan hanging in the elevator, he planned to board a train and visit his old friend Joseph Carpenter in Vancouver, Washington.<sup>50</sup>

Old John McClellan had no notion of what that fateful night of August 2 held for him as he walked back to his rooms in the Van Eps building. While the public in Sioux Falls reacted with horrified interest to the way that McClellan died — being crushed in an elevator only a few steps from his apartment — few could say they were caught by surprise. According an inquest conducted by coroner and McClellan-friend C.V. Booth, the ultimate cause of death was strangulation. McClellan apparently passed out between the elevator doors, and when it began its ascent to the second floor, McClellan’s body was caught between the floor of the elevator and the ceiling of the ground level. Exactly what caused McClellan to pass out at that particular moment between the elevator doors will always remain a mystery. Some speculated it was alcohol poisoning that caused him to faint. Others claimed he may have suffered a heart attack.<sup>51</sup>

No matter the cause, on the late night of August 2 or the early morning of August 3, 1899, John McClellan died suddenly and accidentally. McClellan died intestate — that is, with no will or named heirs. That afternoon, the Minnehaha County probate court of

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<sup>49</sup> “Testimony of R.H. Booth,” *Papers of the John McClellan Estate*, Siouxland Heritage Museums, Sioux Falls, SD. See also “Another Star Witness,” *Sioux Falls Press*, 1.3.1900.

<sup>50</sup> “Killed by Elevator,” *Sioux Falls Daily Argus Leader*, 3 Aug. 1899.

<sup>51</sup> *Ibid.*

Judge William Wilkes appointed E.J. Tabor as special administrator for McClellan's estate (at Tabor's own request) until the court could decide what to do with his considerable wealth.<sup>52</sup> At the time, few could imagine that it would take the next eighteen years to settle John McClellan's estate. The people of Sioux Falls assumed that McClellan's rightful heirs would be found, whether in Ireland or Canada. However, McClellan's reluctance to disclose information about his past finally caught up to him.

When McClellan died, so did all the definitive answers to the questions posed by his mysterious appearance in Iowa during 1857. Many people came forward and claimed to be relatives of the John McClellan who died in Sioux Falls. Nearly every lawyer in the city of Sioux Falls would, in some way, become connected to the McClellan estate case. Greed motivated some of these lawyers and their clients; although, all the claimants initially believed they were related to John McClellan in some way. All the suspected claimants tried their hardest, by means both deceitful and honest, to have the courts name them as the rightful heirs and administrators of McClellan's fortune. John McClellan was not even in his grave before Judge Wilkes' country probate court saw the petitions E.J. Tabor and other Sioux Falls banking interests to be named as special administrators of his estate. Though the life of the quiet man who had called Sioux Falls his home for over forty years ended abruptly and tragically, his curious death set the stage for a court battle that lasted for the next eighteen years.

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<sup>52</sup> Tabor was an employee of the Sioux Falls Bank and Trust, a venture in which McClellan had invested a large amount of capital.

## CHAPTER 2

A QUESTION OF AGE

In 1857, at the time we set out for Sioux Falls, although I am not a very good judge of ages, I should say John was about 27 years of age, although he might have been two or three years younger and again he might have been four or five years older.

W.W. Brookings

Court Deposition quoted in the *Daily Argus Leader*

January 27, 1900

On the afternoon following John McClellan's death, the *Daily Argus Leader* ran a lengthy story that included both a summary of the accident as well as a brief history of the old Irishman's life in Sioux Falls. One of the items mentioned in this story was McClellan's age, which the newspaper reported as seventy-nine years.<sup>53</sup> Many residents of Sioux Falls knew McClellan to be an old man, but no one could say exactly how old he was. The best guesses among McClellan's close friends ranged from seventy-five to eighty years old. Although the *Daily Argus Leader* made no mention of a source, it seems probable that the reporter acquired his information about McClellan's age from William Van Eps.<sup>54</sup> Van Eps and McClellan had been close friends ever since they first encountered each other in Yankton sometime during the late 1860s. In Sioux Falls, McClellan entered into real estate sales and Van Eps opened a grocery business. Over the three decades the men knew each other, they conducted numerous business transactions, which included a loan from McClellan to Van Eps for the sum of \$15,000 in order that the latter might build a new store.<sup>55</sup> In his final years, McClellan roomed in the apartments on

<sup>53</sup> "Killed by Elevator," *Sioux Falls Daily Argus Leader*, 3 Aug. 1899.

<sup>54</sup> As owner of the building where the accident took place, Van Eps was likely on the scene to give information to the reporter. Other information credited to Van Eps appeared in the article.

<sup>55</sup> See the *Sioux Falls Daily Argus Leader* and *Sioux Falls Daily Press* for the trial dates, Dec. 1899-Jan. 1900. This unpaid loan became the subject of considerable controversy as to Van Eps's motives during the estate hearing.

the third floor of Van Eps's building.<sup>56</sup> If anyone knew McClellan well in the post-Civil War years, it was William Van Eps. In 1896, before McClellan's death, he and Van Eps embarked on a trip to Cuba. As the two men prepared to leave the United States at Key West, Florida, they both filled out passport information. According to what Van Eps told the *Sioux Falls Daily Argus Leader*, he clearly remembered that McClellan stated he was seventy-six years old.<sup>57</sup>

The question of McClellan's actual age became one of the central issues of his estate trial over the next eighteen years. When the Minnehaha County probate court began its quest to find anyone who might be a living heir to John McClellan, it searched for families in Ireland who claimed to have a relative by that name who migrated to the United States by way of Canada during the 1850s and who would have been about eighty years old in 1899.<sup>58</sup> Of the three major claimant groups, two had a relative named John McClellan who fit this profile. It came as a surprise to nearly everyone that McClellan was, in actuality, probably no older than sixty-nine at the time of his death. That McClellan was in his late sixties is both provable and factual. This question of McClellan's age is key to understanding the events which transpired in the courtroom and the ultimate decision of the South Dakota Supreme Court to escheat the estate. The applications made by both the Irish claimants and the Arkansas claimants failed principally because the John McClellan of Sioux Falls was about a decade younger than

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<sup>56</sup> *Sioux Falls City Directory: 1890-91*. (Sioux Falls: Chas. Pettibone & Co., Publishers, 1890).

<sup>57</sup> "Fixing His Age," *Sioux Falls Daily Argus Leader*, 3 Jan. 1900.

<sup>58</sup> ^1880 *Census of Dakota Territory, Minnehaha County, Sioux Falls*.

It was widely believed by the residents of Sioux Falls that McClellan had lived in Canada for a time before entering the United States. The 1880 census lists John McClellan's place of origin as Canada. This stands in contrast to the 1860 and 1870 records on which McClellan indicated Ireland as his place of origin. Given the 1880 census and the information attested to by those who knew McClellan, there is little reason to doubt that he lived in Canada for a time; however, the exact circumstances surrounding his life there remain beyond documentation.

their missing relatives with the same surname.

By using evidence that was available to the court, as well as other sources overlooked by the court, it is easy to show that McClellan's age range was approximately sixty-six to sixty-nine years at the time of his death. There is a sampling of documents from throughout McClellan's lifetime which give his age, and they include census records, military records, and Masonic records. In the court records there also exists a wealth of witness testimony with regards to McClellan's age. This chapter will utilize these documents to establish once and for all-time that McClellan was at least a decade younger than the local newspapers reported him to be. If McClellan was seventy-nine years of age in 1899, then the decision made by the Supreme Court must be considered fallacious. Therefore, in order to disprove the claims made by the three claimant parties in the following chapters, it is important to establish that the Supreme Court was correct in its judgment. Despite the fact that several witnesses during the estate trial claimed McClellan was in his late seventies, these documents prove beyond any doubt that McClellan was only sixty-six to sixty-nine years old at the time of his death in 1899.

The oldest document that offers a clue to John McClellan's age is the Dakota Territorial census of 1860. When the census-taker inquired as to McClellan's age on August 24 of that year, he stated the nice and round figure of thirty years.<sup>59</sup> This indicated that McClellan was born no earlier than 1830. Surprisingly, this information never appeared during the estate trial. There is no mention of the 1860 Dakota Territorial census, or any subsequent census information, in either the *Daily Argus Leader* or the *Sioux Falls Daily Press*. When it became clear that determining McClellan's age was the

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<sup>59</sup> 1860 Federal Census of Dakota Territory.

It is also worthy to note that, in 1860, McClellan still recorded his last name "McClelland." John McClellan dropped the "d" at the end of his name by the early 1870s. Documents exist throughout the 1860s with McClellan signing his name with both spellings.

major issue facing the court, no lawyers for any of the claimants appear to have consulted this valuable source of information. While different law firms consulted different sources of documents that might be to their client's benefit, the personal correspondences for all the firms involved are silent on the matter of census material. In particular, this information could have been useful to U.S.G. Cherry's case in representation of the Canadian claimants. This group of petitioners showed that their John McClellan was born in the year 1831, a date which fits nicely into the range under examination in these documents. If the attorneys for the other two claimants, the Irish and Arkansas claimants, ever sought census information, the ages offered by McClellan to the census-takers were repressed as detrimental to their cases, which required McClellan to have been born in about the year 1820 or 1821.

Subsequent census records for 1870 and 1880 also indicated that McClellan was born sometime between 1830 and 1833. The 1870 census demonstrated why McClellan's age cannot be fixed to an exact date. The census data from that year showed that McClellan told a census-taker that he was thirty-seven years old.<sup>60</sup> When contrasted with the 1860 census information, this poses an intriguing problem. How is it possible for a man to be thirty years old in 1860 and only thirty-seven years old in 1870? The logical answer seems to be that even John McClellan was unaware of exactly what year he came into this world. Apparently, McClellan must have felt younger during some years than others. This is a recurring theme throughout the documentation McClellan left during his life, and although McClellan appears to be uncertain of his exact age, all the sources showed that McClellan must have known he was born sometime between 1830 and 1833. The age given by McClellan on every existing document fits tightly into this

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<sup>60</sup> *1870 Census of Dakota Territory*, Sioux Falls, Minnehaha County.



specific range of years. In 1880, McClellan listed himself as fifty years old. No census information is available from the year 1890, and this was the last time McClellan's age appeared beside his name in the population records for Minnehaha County, Dakota Territory.<sup>61</sup>

Fortunately, other documents do exist, such as Masonic and military records, all of which showed that McClellan consistently believed he was born sometime between 1830 and 1833. That John McClellan was a Mason is a well-established fact. At the news of his death, the *Daily Argus Leader* reported that "Mr. McClellan was a Mason and it is likely that order will take charge of the funeral."<sup>62</sup> Canadian claimant attorney U.S.G. Cherry first acquired the Masonic documents to aid in his client's case in December of 1899. These papers continued to show the trend previously developed in this section. In his 1867 petition to be made a Mason of St. John's Lodge No. 166, McClellan stated his age as thirty-five years old.<sup>63</sup> Likewise, when McClellan petitioned for membership to the lodge in Sioux Falls in 1874, he listed his age as forty-two years.<sup>64</sup> Sioux Falls resident T.H. Brown testified to the authenticity of this document. On the witness stand, Brown stated that he recognized the document and that he "wrote the body of the application . . . the figures 42 as being his age at the time" and the words "real estate dealer." Comically, Brown also recalled that McClellan "was sober when he signed the application."<sup>65</sup>

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<sup>61</sup> 1880 *Census of Dakota Territory*, Sioux Falls, Minnehaha County.

<sup>62</sup> "Killed by Elevator," *Sioux Falls Daily Argus Leader*, 3 Aug. 1899.

<sup>63</sup> "Petition by John McClellan to be made a Mason," Yankton, D.T., 9 Sept. 1867, *Papers of the John McClellan Estate*, Siouxland Heritage Museums, Sioux Falls, SD.

<sup>64</sup> "Petition by John McClelland for membership in the Minnehaha Lodge, Sioux Falls, D.T.," 28 January 1874, *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

<sup>65</sup> "Court testimony of T.H. Brown," 30 Dec. 1899, *Papers of the John McClellan Estate*, Siouxland Heritage Museums. See also "Will Take Case to the Supreme Court," *Sioux Falls Daily Argue Leader*, 30 Dec. 1899.

But before John McClellan was a Mason, he was a soldier. In January of 1862, McClellan enlisted in Company A, First Dakota Cavalry Regiment in Yankton, Dakota Territory. He provided the enlisting officer with the age of twenty-nine.<sup>66</sup> There is no reason for McClellan to have lied about his age in order to join the military. On the whole, records indicate that the First Dakota Cavalry was an “old” regiment. Many of the settlers who enlisted with McClellan were in their late twenties or thirties, and some where even over forty years old. Once again, this age varies from the statement that he was thirty years old at the time of the 1860 census; however, his birth year still remains within the 1830-1833 time frame. The military record, the two Masonic records, and the three census records all demonstrate beyond doubt that John McClellan believed he was born between 1830 and 1833, and there are no other records in existence, either in 1899 or today, that suggest this is anything other than the truth. According to the paper trail left in his own life time, John McClellan was between sixty-six and sixty-nine years old at the time of his accidental death.

Chronologically, it is only after McClellan’s death and the subsequent estate trial that an historian researching his life first encounters the notion that he was older than sixty-nine years. As previously stated, the first speculation that McClellan was an older man came in the *Daily Argus Leader* article that covered McClellan’s death. As the estate hearings unfolded, several residents of the Sioux Falls area testified that McClellan was older than the documents of his life indicated. Among those residents were men like Fred Huston who said he remembered a conversation during which McClellan remarked “that

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<sup>66</sup> “Register of Enlistment for Company A, 1st Dakota Cavalry.” *Papers of the John McClellan Estate*, Siouxland Heritage Museums. An official, notarized copy John McClellan’s service record was requested from the War Department on 15 Aug. 1908.

he was 77 years of age” in 1898.<sup>67</sup> Not surprisingly, Fred Huston was a witness called by Aikens and Judge, the law firm who represented the Ireland claimants. As the case of the Ireland claimants rested heavily on proving that John McClellan was approximately seventy-nine years old, they brought to the courtroom a great deal of age testimony like that of Huston. However, the reliability of this testimony as historical truth is questionable. To highlight this point, one must look no farther than the cross examination of Huston by U.S.G. Cherry. When Huston stated on the stand that “he never forgot an age,” Cherry immediately asked him if Huston could say how old he himself was, and if he could recall a conversation the two of them had in the train depot of Freeman, South Dakota, in the year 1898. Huston was unable to answer either question.<sup>68</sup>

This one particular incident of Fred Huston’s cross-examination by U.S.G. Cherry highlights the major problems of relying on witness testimony in the McClellan estate trial. Frequently, witnesses made claims about conversations they had with John McClellan in which he revealed some fact that was pertinent to the estate hearings. Often times, this witness material lacked any sort of historical corroboration, and the court viewed it as hearsay. It is impossible to know if a witness simply had a faulty memory, invented or exaggerated a story about events which may or may not have actually happened, or were outright asked to lie in court by one of the opposing attorneys. It is particularly difficult to understand why so many witnesses claimed that John McClellan was older than the historical record indicates. In the face of overwhelming evidence to the contrary, it must be said that these witnesses were, at best, simply confused or mistaken and, at worst, perjuring themselves in court. McClellan’s friend R.H. Booth even went so

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<sup>67</sup> “Testimony of Fred Huston,” 31 Dec. 1899, *Papers of the John McClellan Estate*, Siouxland Heritage Museums. See also “Heirs in Ireland,” *Sioux Falls Daily Argus Leader*, 31 Dec. 1899.

<sup>68</sup> *Ibid.*

far as to say that John McClellan told him the exact month and year in which he was born. On the witness stand, Booth stated that he “had a conversation with him regarding his age . . . He told me he was born in either April or June 1820.” Booth claimed to remember the conversation because it was the first time he learned that McClellan was five years older than himself.<sup>69</sup> Like Fred Huston, the known historical record offers a strong rebuttal against Booth’s testimony.

However, the course of the estate hearings revealed that perhaps there was a lone document that could place McClellan’s final age at about seventy-nine years. William Van Eps, McClellan’s long-time friend, testified that the two of them took a trip to Cuba together in February of 1896. Their port of departure from the United States was Key West, Florida. But before leaving, the two comrades needed to secure passports. Van Eps stated to the court that he clearly recalled McClellan stating his age as seventy-five years old. Van Eps was adamant about this recollection. He included that both men “had to swear to statements made when we received our passports. We sailed to Cuba in the steamer *Morgen* . . . we did not make application elsewhere than at Key West for our passports.”<sup>70</sup> It is impossible to say whether or not this passport existed anywhere other than in the mind of Van Eps. Van Eps also recalled seeing the passport among McClellan’s personal effects when the court-appointed special administrator, E.J. Tabor, inventoried McClellan’s apartment and personal papers. But Tabor had no recollection of finding such a document among McClellan’s effects. Even though the existence of this passport is an unresolved mystery, it would still be hard to ignore the previous three decades of material to which John McClellan signed his name and stated his age. Since

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<sup>69</sup> “Testimony of R.H. Booth,” 3. Jan. 1900. *Papers of the John McClellan Estate*, Siouxland Heritage Museums. See also “Another Star Witness,” *Sioux Falls Daily Press*, 3 Jan. 1900.

<sup>70</sup> “Testimony of William Van Eps,” 3 Jan. 1900. *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

this is the *only* piece of evidence that could potentially place McClellan's birth in the early 1820s, the issue seems moot. There is a strong possibility that this passport never existed, and if it did, Van Eps was incorrect about its contents.

But before Van Eps can be accused of providing false information before the court, the question must be asked of whether he stood to gain by making false statements. In general, the actions of William Van Eps following McClellan's death were anything but ethical. Van Eps owed McClellan a considerable amount of money in 1899, a total sum of \$16,000 plus six percent interest. In the days which followed McClellan's death, it was the duty of special administrator E.J. Tabor to take stock of McClellan's belongings, papers, and notes of debt. When Tabor entered McClellan's rooms one afternoon, he discovered Van Eps, C.V. Booth, and two other men rifling through McClellan's papers. A tin box containing McClellan's financial papers sat open on the table. All McClellan's papers were inside the tin except for three notes of debt totaling \$16,000 and signed by William Van Eps. These notes were in the pocket of C.V. Booth. He ultimately turned the notes over to Tabor. It is unclear why Booth separated them from McClellan's other financial papers. Van Eps' presence in McClellan's rooms at the time also poses problems. Though Van Eps owned the building in which McClellan lived, it was odd that he entered McClellan's former rooms and began to search through the deceased man's personal property before Tabor took an inventory of the estate. Was he looking for something? Did he intend to remove his notes of debt from McClellan's papers and erase any record of the money he owed? Although the circumstances of Van Eps' presence in McClellan's apartment were suspicious, there is no evidence of any wrong-doing.<sup>71</sup>

As the trial progressed, the actions of William Van Eps are shrouded by further

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<sup>71</sup> "Telling Points," *Sioux Falls Daily Argus Leader*, Dec 28, 1899.

unethical activity. It may have been pure coincidence that he was in McClellan's rooms when C.V. Booth pocketed those notes of debt. However, Van Eps continually looked after his own interests during the course of the estate trial. From the outset, he allied himself with the Irish claimants in their bid for administration of the estate. As the case of the Irish party rested squarely on the idea that McClellan was seventy-nine years old at the time of his death, it came as no surprise that Van Eps gave his testimony about McClellan's age in their favor. In Mary McClelland and Margaret Hamill, the Irish claimants, Van Eps saw his chance to look out for his own interests. He convinced the two elderly Irish woman to have him named administrator of McClellan's estate if they won the trial. When Judge William Wilkes announced his findings in favor of the Irish claimants in February 1900, he also named Van Eps as administrator of McClellan's estate. As administrator, Van Eps controlled the moneys of the estate, which begs the question of whether or not he intended to pay his debt once he became administrator. Although he stated in court that "he stood ready to take up the notes and pay them in full," this was not to be.<sup>72</sup>

Once Van Eps had control of the estate, he made no effort to pay off the loans. As administrator for two old women on the other side of the Atlantic Ocean, he was in complete control of the estate. When Van Eps passed away on the morning of July 12, 1906, he had not offered a single penny of his money to pay the debt he owed the McClellan estate.<sup>73</sup> As the McClellan estate case was still under appeal when Van Eps died, the court appointed a new special administrator, George T. Blackman. Within a

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<sup>72</sup> "William Van Eps Denies Bribery Insinuation," *Sioux Falls Daily Argus Leader*, Jan 4 1900.

<sup>73</sup> There is an accounting of the Van Eps estate in the John McClellan files at the Siouxland Heritage Museums. The most logical explanation for its presence is to show that Van Eps was fully capable of paying off his debts at the time of his death. This accounting lists Van Eps's total worth as \$239,026.21 at the time of his death.

matter of months, Blackman ordered Van Eps's widow to pay her husband's debt plus the interest it had acquired during his tenure as administrator. On May 21, 1907, Inez Van Eps finally settled her husband's debt to McClellan by paying the estate \$24,000 in cash.<sup>74</sup> Though he had promised to pay the money, it is clear from his actions that Van Eps had no intention of paying this debt. In hindsight, his actions in the courtroom and his bid for administration of the estate make his motivation clear. The passport he swore existed never materialized for court examination, and it is impossible to know what secrets its pages contained. Van Eps may have truly believed that McClellan was seventy-nine years old; but in the process, he also looked after his own financial interests in the case. However unscrupulous and unethical the actions of William Van Eps, there is no smoking gun which points to any illegal activity on his his part.

The story of Van Eps's unscrupulous activity was merely a sideshow and diversion to the major events of the McClellan trial. The major question before the Minnehaha County probate court of Judge William Wilkes during the winter of 1899-1900 was still McClellan's age. While Sioux Falls residents like Van Eps had reason to believe that McClellan was older than he actually was, there were also witnesses whose testimony coincided with the facts already demonstrated in this chapter. Unlike Van Eps, these witnesses stood to gain nothing from the estate. One such witness was the highly respected W.W. Brookings, the former superintendent of the Western Town Company as well as McClellan's oldest-known friend. Brookings left Dakota Territory and returned to his native Massachusetts in the years following the Civil War. The lawyers for the parties vying for McClellan's estate all viewed Brookings as someone who might be able to shed light on the foggy questions of McClellan's mysterious life. As the two men had

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<sup>74</sup> George T. Blackman, "Accounting of the John McClellan Estate," 1 June, 1907. *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

known each other since 1857, it seemed likely that Brookings might be privy to information that could enlighten the court. The lawyers for the claimants prepared a deposition with dozens of pertinent questions to be sent to Brookings in Massachusetts. As the daily newspapers in Sioux Falls showed, the court postponed closing arguments for three weeks as it eagerly anticipated the return of the Brookings questionnaire.<sup>75</sup> When Judge Wilkes finally read the Brookings deposition in the courtroom on January 27, 1900, its contents shocked all involved in the case. As a writer for the *Daily Argus Leader* reported, “the affidavit is more of a negative document than anything else. There are several parts of the deposition which does not fit very well with the testimony of some of the claimants.”<sup>76</sup>

The most striking controversy in the Brookings deposition was in regards to McClellan’s age. The testimony of McClellan’s friends Van Eps, R.H. Booth, and others convinced many in Sioux Falls that McClellan was in his late seventies when he died. The statements Brookings provided to the court differed by about ten years. Brookings stated that he “never heard him state his age.” Nevertheless, he speculated that “in [August] 1857, at the time we set out for Sioux Falls, although I am not a very good judge of ages, I should say John was about 27 years of age, although he might have been two or three years’ younger and again he might have been four or five years older than that.”<sup>77</sup> Brookings was also in his late twenties at the end of the 1850s, and it seemed to him that he and McClellan were similar in age. The statements made by Brookings coincide well with the documents from McClellan’s life. If McClellan was about twenty-seven years

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<sup>75</sup> See stories “Only Talk Left Now,” *Sioux Falls Press*, 6 Jan. 1900; “The Deposition Is Here,” *Sioux Falls Press*, 27 Jan. 1900; “A Big Difference,” *Sioux Falls Daily Argus Leader*, 27 Jan. 1900.

<sup>76</sup> “A Big Difference,” *Sioux Falls Daily Argus Leader*, 27 Jan. 1900.

<sup>77</sup> *Ibid.*



old in 1857, then it makes sense that he listed himself as thirty in the 1860 census. The other census records, military records, and masonic records all corroborate the statements made by Brookings. Yet the question remains as to why these documents differed from the memories of those who knew McClellan best during the last years of his life.

Brookings remembered McClellan as a young man entering adulthood and filled with vigor and the thirst for life and adventure. McClellan's friends from Sioux Falls painted a picture of a stooped, aging man wracked by alcoholism and weakness.

One answer that seems valid is that McClellan aged poorly during his lifetime. Brookings remembered a young man who got around well on his own with brown hair and a full, dark beard.<sup>78</sup> This is far from the image of McClellan later in life. Friends such as Van Eps and others recalled McClellan had grey streaks in his hair as early as 1870. There are only two identified images which remain of John McClellan. Both photographs, dating from the 1880s or early 1890s, show a greatly stooped man with a full, white beard. In one image, McClellan stands in front of the Cataract Hotel with William Van Eps and a large group men. If he was ten years younger than everyone believed, it could never be guessed from this image. McClellan gazes out from the picture, and his face appears to be that of a man who has lived a full and complete life. With shoulders hunched forward, he relies on the support of a cane to brace his stance. If the picture was taken in the 1880s, McClellan should have only been in his fifties. However, the man in the picture looks ancient. Since he spoke of himself so rarely, perhaps it was easy for his friends to be mistaken by his appearance.<sup>79</sup> Undoubtedly, his hard life on the Dakota plains, as well as his increasing dependence on alcohol, contributed to his

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<sup>78</sup> Ibid.

<sup>79</sup> Photo of John McClellan and William Van Eps in front of Cataract Hotel, Sioux Falls. Listed as "Exhibit 58." *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

premature aging. That McClellan became forgetful in the years before his death is a fact that was also well-established. The documents of McClellan's life show that he was never certain of his exact birthday. He knew he was born sometime between 1830 and 1833. As he grew older, perhaps his memory began to slip, and he forgot how old he thought he should be. Perhaps he was intoxicated when he made statements to friends about his age.

Countless conjectures can be made to explain why there is a discrepancy between what friends claimed McClellan told them and the age remembered by W.W. Brookings and recorded in the documents left during McClellan's life. The truth will never be known. But what seems certain is that the remembrances of McClellan's friends, such as William Van Eps and R.H. Booth, were incorrect. Likewise, the information in the Sioux Falls newspapers in the days following McClellan's death was also incorrect. In creating thumbnail biographies of McClellan, some Sioux Falls historians have relied on these sources and taken their words for truth. However, the pre-1899 evidence is more certain. If McClellan was in his late-twenties in 1857, as Brookings believed, he would have been almost seventy when he died in 1899. This age coincides with every extant document that John McClellan left for posterity. All these records, with the possible exception of the missing passport, indicate McClellan believed he was born between 1830 and 1833. Although his ages vary by a few years on some documents, this range was consistent.

There should be no doubt that McClellan was between sixty-six and sixty-nine years when he died. This was a belief the South Dakota Supreme Court held when it issued its final opinion on the McClellan estate case. As will be seen in the following chapters, this evidence figured prominently in the dismissal of the cases brought by the Irish claimants and the Arkansas claimants. If the Supreme Court was wrong in its

estimation of McClellan's age, then the case by both claimants would still remain strong. However, all the documents examined in this chapter point to the justification of the state supreme court's decision. John McClellan died intestate, and none of the claimants made an adequate case to prove otherwise.

The mystery of McClellan's exact age will never be solved. Even with the documents that provide an accurate range of dates, it is impossible to say precisely when he was born. No date of birth marks the grave of John McClellan. Instead, the only epitaph bears the date of McClellan's appearance in Dakota and the beginning of his life in Sioux Falls: 1857.

## CHAPTER 3

THE IRISH CLAIMANTS

I had my belief that John McClellan of Sioux Falls was about 78 years of age at the time of his death and this uncle of Margaret Hamill and Mary McClellan was born at a time which would fit the age.

Paul T. Wilkes  
*Sioux Falls Daily Press*  
January 5, 1900

When John McClellan's estate first appeared in the Minnehaha County probate court of Judge William Wilkes in the days following his accidental death, no one knew that it would take nearly two decades to establish the fact that he had no apparent heirs. As McClellan died intestate, Judge Wilkes, along with many of McClellan's other friends, thought it was a wise idea to seek out possible relatives in Canada and Ireland. The consensus among those who knew McClellan best was that he had been born in County Armagh, emigrated to Canada, and then entered the United States. Today, there is no existing evidence to back these claims, nor did any exist in the fall of 1899. The notion that McClellan came from Ireland's County Armagh, if factual, cannot be proven beyond a reasonable doubt. Nevertheless, this was a widely believed and accepted fact among McClellan's closest friends, including William Van Eps, R.H. Booth, and John Powers, of whom the last was himself an Armagh native. With no other evidence as to where McClellan was born, Judge Wilkes deemed that it was necessary and proper to send a court representative to Armagh to learn of any possible heirs could be found. At the time, no one considered that McClellan may have come from some other county in Ireland.

As the court's representative to Armagh, Judge Wilkes chose his own son, Paul T.

Wilkes, to search for McClellan heirs. Accompanying the younger Wilkes was John Powers, the Minnehaha County resident who was a friend of McClellan's and claimed to know that John McClellan was born in Armagh. Upon arriving in Ireland, Wilkes met with Thomas Kilpatrick, the constable for County Armagh, and together the men immediately set to work searching for any potential heirs. Based on the information he acquired from McClellan's friends in Sioux Falls, Wilkes had a specific set of criteria with which to examine the story of those who claimed McClellan as a relative. Wilkes was under the impression that McClellan had left Ireland for Canada sometime in the early 1850s. He also believed, as did everyone at the time, that McClellan was seventy-nine years old at the time of his death. With this fallacious information, no one at the time could have realized that Wilkes sought the wrong man. The John McClellan who died in Sioux Falls was only in his late sixties, and despite what friends claimed McClellan had told them, there was no evidence to tie him to County Armagh. Even if it could be proven that McClellan hailed from Armagh, the issue of his age alone is enough to discredit any heirs found by Paul T. Wilkes and Thomas Kilpatrick during the autumn of 1899.<sup>80</sup>

It was unfortunate that the fictional man Wilkes sought — a John McClellan who immigrated from Armagh to Canada in the 1850s and who would have been in his late seventies in 1899 — actually existed. There were many families in County Armagh with a relative named “John McClelland.” In his report to the Minnehaha County court, Wilkes acknowledged that

the name ‘John McClelland’ I found in numerous of the different McClelland families, but in most instances, the rights relied upon by claimant was disposed of in my mind by certain facts as to age, the date of leaving Ireland, subsequent information received as to the business and the

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<sup>80</sup> “Six Seeking It,” *Sioux Falls Daily Argus Leader*. 15 Nov. 1899.

residence of John McClelland, under whom a claimant asserted heirship. I mean that upon the facts presented to me the conclusion was irresistible in the instances that the man named could not be the John McClellan deceased who came to Sioux Falls about the year 1857.<sup>81</sup>

However, one pair of women claimed to have an uncle that fit the criteria Wilkes had in his mind. Mary McClelland and Margaret Hamill were peasants who lived in Armagh. They told Wilkes that their Uncle John had left home in the early 1850s. He went to Canada, where the family lost track of him. He would be seventy-eight years old in 1899. Based solely on this information, Wilkes believed he had found the heirs to John McClellan's estate. As he later told the court during the estate trial,

From all the evidence at my command, I never found but one John McClellan, the uncle of Mary McClellan and Margaret Hamill, who left Ireland at a time to fit in with the age of 78 years, which I understood from old residents in Sioux Falls to be about the age of the deceased at time of death. There were no records kept of birth in Ireland at the time this John I speak of left home.<sup>82</sup>

Likewise, John Powers deeply believed that Wilkes had located McClellan's heirs. Exactly what Powers based this assumption on is unknown, though the two women apparently left a strong impression on him. Nevertheless, the two men returned to Sioux Falls from Armagh during the late autumn of 1899 and presented the material from their fact finding expedition to the Minnehaha Country probate court of Judge William Wilkes. Though Mary McClelland and Margaret Hamill desired him as their attorney, and even signed documents requesting his representation, Paul T. Wilkes delegated their case to the Sioux Falls law firm of Aikens and Judge. His further involvement in the case would have been a conflict of interest, most notably because the case was under examination in his

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<sup>81</sup> Paul T. Wilkes, "Report on the Trip to Ascertain Next of Kin," *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

<sup>82</sup> "Testimony of Paul T. Wilkes," 5 Jan. 1900, *Papers of the John McClellan Estate*, Siouxland Heritage Museums. See also "Hearing Still Grinds," *Sioux Falls Daily Press*, 5 Jan. 1900.

father's courtroom. Nevertheless, the stage was set for the "Irish claimants," as the Sioux Falls newspapers began to call Mary McClelland and Margaret Hamill, to enter their petition for the McClellan estate.

But by the time Paul T. Wilkes presented his information before his father's court in mid-November 1899, there were other groups seeking control of McClellan's money. Aside from the Sioux Falls creditors and banking interests, there was another family that claimed John McClellan as a relative. These petitioners, whom the local newspapers called the "Canadian claimants," were led by a woman named Mary Vine from Toronto, Canada, who claimed to be a sister to John McClellan. The arrival of the Canadian claimants made it clear that there would be a fight for the McClellan estate. Had Mary Vine not appeared on the scene, it was possible that the estate might be given to Mary McClelland and Margaret Hamill with few questions asked. But as the temperatures dropped and the Dakota autumn turned into winter, the heat began to rise as both sets of claimants made their cases before Judge Wilkes' court.

From the outset, Judge Wilkes was in a legally precarious predicament. He had no way to know that there would be other petitioners to the McClellan estate when he sent his son to Ireland the previous summer. That Judge Wilkes gave his own son a commission on behalf of the court indicates that he anticipated little trouble in locating heirs. What he did not anticipate, however, was that other parties would come forward with equally strong claims to McClellan's estate. The judge trusted his son's judgment more than he should have. Throughout the court proceedings from the winter of 1899 to 1900, Judge Wilkes revealed a pointed bias toward the Irish claimants. Wilkes' favor of Mary McClelland and Margaret Hamill was due in large part to William Van Eps. Above all else, Van Eps was an ardent capitalist, and his economic presence in Wilkes'

courtroom likely carried significant weight. In fact, the primary financier for Paul T. Wilkes' heir-seeking excursion to Ireland was Van Eps. Van Eps reimbursed the younger Wilkes a sum of \$1,966.60 on his return from Ireland on November 20, 1899.<sup>83</sup> Throughout the trial in the county probate court, there were also rumors that the Irish claimants had hired Paul T. Wilkes to act secretly as their attorney. Though there is no evidence to substantiate this claim beyond rumors in the newspapers, it nevertheless sheds doubt on the objectivity of the proceedings that occurred in Judge Wilkes' court.

To his credit, Judge Wilkes allowed all the parties interested in the McClellan estate an adequate time to prepare their cases. However, he made his decision very early in the court proceedings. Court records and reports of the trial in the *Daily Argus Leader* and the *Sioux Falls Daily Press* portray the judge as belittling, sarcastic, and even outright hostile toward the case made by attorney U.S.G. Cherry and the Canadian claimants. The most notable example of this behavior occurred when Judge Wilkes' son took the stand in the courtroom. Cherry began to question the young man about the financing of his trip to Ireland. Before Paul Wilkes could reply, his father entered the conversation and answered the question for Cherry and indicated the involvement of Van Eps in the mission to Ireland.<sup>84</sup> It is out of place for a judge to answer questions for a witness under examination, particularly if that witness is his own son. One can only imagine the tone of voice with which Judge Wilkes addressed Cherry. This one episode demonstrates the contempt Wilkes displayed for the case made by the opposing claimants, and it was clear from the outset that his decision would support the findings of his son's trip to Ireland.

After the attorneys produced all their evidence, called all their witnesses, and

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<sup>83</sup> George T. Blackman, "Accounting of the John McClellan Estate," June 1, 1907. *Papers of the John McClellan Estate*, Siouxsland Heritage Museums.

<sup>84</sup> "Hearing Still Grinds," *Sioux Falls Press*, 5 Jan. 1900.



closed their cases, Judge Wilkes announced his inevitable decision in favor of the Irish claimants. Based on the evidence admitted to the court, there was no smoking gun to indicate whether the Irish or the Canadian claimants were the rightful heirs of John McClellan. There was no single piece of evidence that Wilkes could point to with his decision. Instead, he relied on the doubts raised by the story of the Canadian claimants. That this party made fraudulent claims was obvious from the outset. In his final ruling, Wilkes decreed that “The matter of heirship yet remains an unsettled question. The evidence is not conclusive . . . To establish the succession is a matter not so readily solved as I at the out set believed to be the case.”<sup>85</sup> In other words, Wilkes could only point to where the Canadian claimants made a faulty case, not to where the Irish claimants prove their legitimacy beyond a reasonable doubt.

Nevertheless, Wilkes attempted to lend his decision an air of credibility by pointing to John McClellan’s age. The missing John McClellan who was a brother to the Canadian claimants would have been within the important age range of sixty-six to sixty-nine years of age, thus in actuality making him the more likely candidate at the time for the John McClellan who died in Sioux Falls. As will be shown in the following chapter, it was the case of the Canadian claimants and U.S.G. Cherry who first brought the issue of John McClellan’s age into the courtroom in the form of Yankton and Sioux Falls Masonic records. But Judge Wilkes overlooked this obvious fact when he issued his opinion at the trial’s conclusion. “If he was not about 78 or 79 years old the case of the claimants Mary McClelland and Margaret Hamill must fall,” he told the court. Then he added, “at this time I am constrained to accept the showing that such was his true age and that of all the claimants now before the court, Mary McClellan and Margaret Hamill have made the

<sup>85</sup> “Opinion of Judge William Wilkes,” 2.8.1900, *Papers of the John McClellan Estate*, Siouxland Heritage Museums. See also “Judge Wilkes Decides in Favor of Ireland Heirs,” *Sioux Falls Daily Argus Leader*, 8 Feb. 1900.

better prima facie case.”<sup>86</sup> That people such as William Van Eps, R.H. Booth, and John Powers believed John McClellan was in his late seventies was all the evidence Wilkes required. He blatantly turned a blind eye to the statements of age recorded in McClellan’s Masonic applications. Little could Wilkes realize that over the next decade, the issue of John McClellan’s actual age would occupy a strong place in the state supreme court’s ruling that McClellan died without known heirs. Unfortunately, Judge Wilkes never saw the case’s final outcome. He died in 1909, years before the South Dakota Supreme Court issued a final ruling in 1917.

But Judge Wilkes’ initial ruling on the case named William Van Eps as administrator of the McClellan estate, even in spite of Van Eps’s debt of \$16,000 (plus interest) to John McClellan. The role of Van Eps in the estate trial cannot be underplayed. The Irish claimants originally petitioned for the attorney Y.H. Atkinson of Yankton to be named as administrator of the estate. But only a month before Judge Wilkes issued his ruling, word came from Ireland that Mary McClelland and Margaret Hamill desired to have Van Eps named as administrator if the court ruled in their favor.<sup>87</sup> The correspondences of the Irish claimants’ attorneys, Aikens and Judge, showed that there was a strong economic motivation behind the two women’s decision to name Van Eps as administrator. During the course of the trial in Judge Wilkes’ probate court, it became clear to everyone involved that this case would continue through the processes of appeals. The trial began on December 23, 1899, and within a week the Canadian claimants announced their intention to appeal if the outcome was not in their favor.<sup>88</sup> Naturally, the Canadians appealed when Judge Wilkes ruled against them, and as the

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<sup>86</sup> Ibid.

<sup>87</sup> “Only Talk Left Now,” *Sioux Falls Press*, 6 Jan. 1900.

<sup>88</sup> “Will Take Case to the Supreme Court.” *Sioux Falls Daily Argus Leader*, 30 Dec. 1899.

appeals process would be long and expensive, the Irish claimants needed a local ally who could financially support their continued bid for estate administration. Mary McClelland and Margaret Hamill were two commoners from the north of Ireland, and it was unlikely that they would be able to afford such expenses. As one of their attorneys plainly wrote, “our clients are in humble circumstances . . . they would be unable to pay the costs of these proceedings.”<sup>89</sup> This concern over money greatly concerned Aikens and Judge. Like the attorneys for the other claimants, Aikens and Judge stood to gain nothing if they lost the case. As Van Eps was a wealthy capitalist, and already greatly interested in the case due to his own debt, he was a logical choice as an ally for the Irish claimants.

Throughout the appeals processes, money was an issue for the Irish claimants, and it was a major contributing factor in their decision to abandon their petition for McClelland’s estate in 1906. Following the Canadians’ appeal of the ruling made by Judge Wilkes in the Minnehaha County probate court, the trial moved to South Dakota’s Second Circuit Court under the jurisdiction of Judge Joseph W. Jones in Canton, South Dakota. With an unusual and unprecedented trial by jury, the court of Judge Jones ruled that the Canadians had not received fair treatment in the Minnehaha County court, and therefore the court granted a new trial to the Canadians and the Arkansas claimants, the latter a family of newly arrived petitioners who claimed that John McClelland was their estranged father. As Aikens and Judge, attorneys for the Irish claimants, prepared their case for the South Dakota Circuit Court of Judge Campbell in the spring of 1901, they realized that money was already a pressing issue. Thomas Kilpatrick wrote again from Ireland to the law firm stating that “it would be impossible for [Mary McClelland and Margaret Hamill] to raise money for an appeal; but it would appear . . . to be a great pity

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<sup>89</sup> “Letter from Thomas Kilpatrick to Aikens and Judge,” 17 Apr. 1900, *Papers of Sioux K. Grigsby*, Center for Western Studies.

to let [the Canadian claimants] have such an easy victory.” As if to convince Aikens and Judge that further appeal would be in their continued interest, Kilpatrick added, “seeing that in the event our clients success you would be entitled to one fourth of the estate I trust you will think it worth your while to proceed with an appeal, and as Mr. Van Eps is largely interested in the estate I am sure he would be willing to bear a share of the expense.”<sup>90</sup>

Despite the fact that the case was under appeal, Van Eps remained as administrator of the McClellan estate until his death on July 6, 1906. The death of Van Eps marked the withdrawal of the Irish claimants from the McClellan estate case. The ruling made in Judge Campbell’s circuit court in 1901 stated that none of the three sets of petitioning claimants were heirs to the estate of John McClellan.<sup>91</sup> With their financier deceased, the law firm of Aikens and Judge saw that they were no longer capable of funding their case in further appeals. It was also obvious that the courts did not believe that the John McClellan of Sioux Falls was the same John McClellan who was an uncle to Mary McClelland and Margaret Hamill. Since the trial in Judge Wilkes’ county courtroom in January 1900, proving that their uncle was the John McClellan of Sioux Falls had become impossible as the two men were a decade apart in age. Rather than dig themselves deeper into debt with an increasingly futile case, Aikens and Judge chose not to appeal the decision of Judge Campbell. Aikens and Judge clearly saw a fact that most attorneys fighting for the estate realized — the John McClellan case simply became too expensive to pursue with further appeals.

When Paul T. Wilkes found Mary McClelland and Margaret Hamill during the fall

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<sup>90</sup> “Letter from Thomas Kilpatrick to Aikens and Judge,” 31 Oct. 1900, *Papers of Sioux K. Grigsby*, Center for Western Studies.

<sup>91</sup> *McClellan et al. v. State of South Dakota*, South Dakota Supreme Court, 38 S.D. 588, 162 N.W. 383 (17 Apr. 1917).

of 1899, their case had the appearance of strength and righteousness. Armed with the knowledge that he had found the heirs of the only John McClellan who left Armagh and would then be in his late-seventies, the young Wilkes returned to report the news to the people of Sioux Falls. Though the Irish claimants received great support from John McClellan's friends in Sioux Falls, their case never had much substance and suffered fatal flaws from the outset. Paul T. Wilkes went to Armagh because that was where McClellan's friends said he was born. Other than these word-of-mouth recollections, which numerous friends and acquaintances swore to in court, there were, and still are, no means to verify this. More important, Wilkes sought traces of a John McClellan who would have been in his late-seventies by 1899. That the John McClellan of Sioux Falls was a decade younger is a now-established fact that is beyond refute. It was only by sheer coincidence that Wilkes found traces of a John McClellan who matched his pre-established profile. This profile doomed the chances of the Irish claimants from the outset. When it became apparent that the John McClellan of Sioux Falls was a younger man, the claims of Mary McClelland and Margaret Hamill to the estate became baseless.

One cannot help but wonder who the uncle of the Irish claimants was, and where this other John McClelland met his fate. Like so many other individuals, including Mary McClelland and Margaret Hamill themselves, he simply disappeared. How many men named John McClellan immigrated to the United States from Ireland at the middle of the nineteenth-century? That the uncle of Mary McClelland and Margaret Hamill was a different John McClellan establishes another important fact to consider in the cases made by the Canadian and Arkansas claimants: there were multiple John McClellans roaming across America at the middle of the nineteenth-century.

## CHAPTER 4

THE CANADIAN CLAIMANTS

C.P. Bates . . . ridiculed the claim of Mrs. Vine, saying that she was simply mistaken in the man.

*Sioux Falls Daily Press*  
January 29, 1900

Where was John McClellan before 1857? This was the key question underlying the John McClellan estate trial, but unfortunately the answer remained elusive. Numerous Sioux Falls residents recalled that McClellan mentioned something to them about arriving in Canada after his departure from Ireland. Some of these stories become more specific and included a journey to Iowa by way of New York. However, there was not a single piece of solid evidence to confirm these oral tales sworn to by men such as McClellan's friends John Powers, R.H. Booth, William Van Eps, and W.W. Brookings.<sup>92</sup> If McClellan were ever in Canada, his presence remains untraceable. Given these stories, it was not surprising that a set of Canadian claimants with the surname McClellan came forward and petitioned for administration of the estate. At the outset, the case made by the Canadian claimants seemed plausible. Undoubtedly, the Canadian family had a member named John McClellan who disappeared sometime in the late 1850s, and unlike the missing man who was kin to the Irish claimants, this John McClellan fit precisely into the age profile as shown by the documentary evidence left by the Sioux Falls pioneer. If it were not for a singular piece of highly damning evidence, the Canadian claimants might have won the McClellan estate trial. Their case was fraudulent from the outset, and ultimately the court saw through their murky deception.

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<sup>92</sup> *Papers of the John McClellan Estate*, Siouxland Heritage Museums. Testimony by these individuals all reveals similar stories about a journey from Ireland to Canada to New York to Iowa. None is specific the details of McClellan's journey.

The case of the Canadian claimants had its origins with a South Dakota woman named Margaret Carouthers. Before being married, Carouthers bore the family name McClellan. She knew John McClellan of Sioux Falls and was aware that she had an uncle of the same name who disappeared from Canada sometime in the middle of the nineteenth-century. She claimed that she often wondered if she was a relative to the John McClellan who lived in Sioux Falls. After McClellan died, Carouthers filed a petition for administration of the estate claiming to be a niece of John McClellan, though she had no proof of her assertion. When she inquired into her family history, she learned that her uncle John McClellan had, in fact, left Canada and disappeared sometime in the late 1850s. She acquired this information from her aunt and uncle, Mary Vine and William McClellan, who were sister and brother to the family's missing John. The two siblings immediately sent inquiries to Judge William Wilkes about the late John McClellan of Sioux Falls. By the time young Paul T. Wilkes returned from his heir-finding mission to Ireland in November 1899, Mary Vine had already petitioned the court for control of the estate. The claims made by these two parties that winter, and the courtroom fight which followed, set a chain of events into motion which did not end for another eighteen years.

It is clear that Mary Vine, William McClellan, and the rest of their family (collectively referred to as the "Canadian claimants" by the local newspapers of the day due to the family's strong connections to that country) entered into this court case with the best of intentions. Namely, they sought to discover the truth about their missing brother. Along with their petitions for administration of the estate, the Canadian claimants included a bible with a handwritten family history as well as affidavits containing facts about the family and the life of their brother John. However, their motivation soon slipped from a heartfelt inquiry about their brother to a deceitful

manipulation of facts in order to gain control of the estate. There is no doubt that, in the end, greed was the primary motivating factor in the case presented by the Canadian claimants. They, along with a Sioux Falls attorney named U.S.G. Cherry, attempted to deceive the courts with perjurious testimony and to suppress evidence that was not in the interest of their case. The judgment of the South Dakota circuit court was correct. The John McClellan of Sioux Falls and the John McClellan who was a brother to the Canadian claimants lived two different lives.

Despite their obvious and irreconcilable differences (to be highlighted later), the two John McClellans bore strikingly similar early lives. This fact aided greatly in the courtroom deception of the Canadian claimants. As established in the previous chapter, many Sioux Falls residents believed that John McClellan had been born in Ireland's County Armagh. The family of the Canadian claimants also originated in Armagh before migrating to Canada in the early 1850s. In fact, Paul T. Wilkes testified before the court that he had discovered evidence of the Canadian brother during his trip to Ireland. However, Wilkes told the court he immediately dismissed any thought that this man and the McClellan in Sioux Falls were one and the same. Mary Vine's brother was too young to fit into the age profile Wilkes pre-established based on what Sioux Falls residents believed about John McClellan, namely that he was in his late seventies at the time of his death.<sup>93</sup>

As recorded in the family Bible, Mary Vine's brother John was born on September 27, 1831.<sup>94</sup> This fact by itself increased the strength of the case made by the Canadian claimants. As previously established, the age of the John McClellan in Sioux Falls was about ten years younger than the residents of the city believed. All

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<sup>93</sup> "Evidence All In," *Sioux Falls Daily Argue Leader*, 5 Jan. 1900.

<sup>94</sup> "An Air of Heirs," *Sioux Falls Daily Argus Leader*, 16 Nov. 1899.



documentation pointed to his being born sometime between 1830 and 1833, though it appears he was unaware of his exact age. It was U.S.G. Cherry, the attorney for the Canadian claimants, who first introduced the issue of McClellan's exact age into the trial in Judge Wilkes' court. Cherry uncovered the documents McClellan signed for admission to the Yankton and Sioux Falls Masonic lodges during the late 1860s and early 1870s. This evidence, combined with the later deposition of W.W. Brookings, clearly strengthened the Canadian case and brought the issue of McClellan's age into question.<sup>95</sup> While it is clear that Cherry attempted to suppress evidence that would damage his case, it does not appear that he doctored either of these documents. Other evidence that would be beyond Cherry's powers of manipulation, such as the military records in the War Department and the U.S. federal census records, clearly show that the Masonic records are legitimate documents from John McClellan's life.

But no matter what the court and the people of Sioux Falls chose to believe about McClellan's age, Judge Wilkes had his own reasons to be biased against Cherry and his clients. First, it was Wilkes' own son who found the Irish claimants in County Armagh. He trusted his son's judgment and from the outset was in favor of Mary McClelland and Margaret Hamill. Second, and more important, it was clear to Judge Wilkes that Mary Vine and William McClellan had blatantly lied about their family history. In an affidavit sent to Wilkes before the trial, William McClellan succinctly wrote that his brother John "left Niagara in 1860, went to Colorado," and "was last heard [from] when crossing the mountains with a mule train" thirty years before the death of the man in Sioux Falls.<sup>96</sup>

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<sup>95</sup> "Telling Points: Making a Strong Case." *Sioux Falls Daily Argus Leader*, 28 Dec. 1899.

<sup>96</sup> "Affidavit of William McClellan," 11 Nov. 1899. *Papers of the John McClellan Estate*, Siouxland Heritage Museums. Interestingly, the research by this writer turned up a John McClellan who appeared in Colorado Territory in the early 1860s. This could possibly be Mary and William McClellan's estranged brother.

From the outset, this note made it clear to Judge Wilkes that the John McClellan from Canada and the John McClellan in Sioux Falls were two different men. How could McClellan live in Sioux Falls between 1857 and 1862 if he left Niagara-on-the-Lake, Canada, in 1860? All of the local Sioux Falls and Minnehaha County histories as well as the records of the Western Town Company positively placed John McClellan in Dakota Territory before 1860. Also, John McClellan clearly wrote his declaration to become a United States citizen in Woodbury County, Iowa, in 1856. Mary McClellan later claimed that her brother had been seriously ill at the time he wrote the affidavit, and that he erred in dates as a result of his delirium.

In court, Mary Vine proved to be a strong witness who was not easily bullied by the cadre of lawyers who repeatedly questioned her, including one day's long session of five grueling hours. It was from the witness stand that she gave a full accounting of her brother John's life as far as she knew. She stated that he "left home after a bitter quarrel with [her] brother William. John had been doing what he not ought to. He was slightly intoxicated. There had been a beef killed on our grounds . . . and the quarrel grew out of weight." She continued by saying that William ordered John to leave. Her brother then went to Toronto where he enlisted in the 100th of Foot, a regiment of regulars in the British Army, which he promptly deserted after only serving fifty-five days of his ten year enlistment.<sup>97</sup> From Toronto, Vine said her brother went first to Niagara. From there he went west, and the family heard very little from him after that. Mary Vine contended that all of these events took place in the spring of 1856.<sup>98</sup> When questions arose as to the

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<sup>97</sup> "Attestation of John McClelland for the 100th Regiment of Foot," *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

<sup>98</sup> "Testimony of Mary Vine," 26 Dec. 1899, *Papers of the John McClellan Estate*, Siouxland Heritage Museums. See also "Family History: Mrs. Vine Gives Some in the McClelland Case," *Sioux Falls Daily Argus Leader*, 26 Dec. 1899.

earlier letter from her brother William which indicated John left home in 1860, Vine pleaded ignorance. She claimed that neither she nor her brother was completely informed as to the exact chronology of the family history until just before the trial commenced in December.<sup>99</sup> Because of this contradicting information, Judge Wilkes remained skeptical of the Canadian claimants throughout the proceedings in his court.

It quickly became clear to U.S.G. Cherry and his clients that Wilkes held an unfavorable opinion of their case. On December 30, 1899, only a week into hearings that would last for another month, Mary Vine declared her intention to carry the case all the way to the supreme court if necessary. Ironically, that same day local historian Dana R. Bailey testified before the court that it was impossible for John McClellan to have left New York in 1860.<sup>100</sup> The Masonic records and the deposition of W.W. Brookings should have added tremendous weight to the Canadian's claims. Though the Canadian claimants made a strong showing on the question of McClellan's actual age, too many doubts lingered about the chronology of their story. Did their brother John leave home in 1856 or 1860? At the time of the trial in Judge Wilkes' court, there was no way to positively say which statement bore the greater truth.

As if to add to the confusion, when the trial came to its conclusion in February 1900, a new set of claimants appeared and stated that John McClellan was their father. These new applicants (who became known as the "Arkansas claimants") immediately made a strong case which greatly impressed the Sioux Falls media. If the Canadians had been wounded by Judge Wilkes' blatant bias against them, the arrival of James S. McClellan and the Arkansas claimants dealt a fatal blow to Mary Vine's claims. Because of the fickleness of sensationalism, the local newspapers turned their attention to the case

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<sup>99</sup> "Canadians Heirs Got Dates Mixed," *Sioux Falls Daily Argus Leader*, 29 Dec. 1899.

<sup>100</sup> "Will Take the Case to the Supreme Court," *Sioux Falls Daily Argus Leader*, 30 Dec. 1899.

under development by the newer Arkansas claimants and the law firm Grigsby, Wright, and Grigsby. Though Mary Vine had sworn to fight, the case of the Canadians had faltered beyond credibility by the time Judge Wilkes issued his ruling on February 8, 1900, and despite U.S.G. Cherry's attempt to salvage his clients' case over the next several years, new evidence emerged which forever quashed any notion that the Canadians were the true heirs to John McClellan's estate.

The ruling made by Judge Wilkes condemned the Canadian claimants on numerous points of their testimony, but his words were most striking in regard to their confused chronology. In his address to the court, Wilkes stated, "In the matter of fixing the date when this brother John left his home at Niagara On The Lake and his subsequent whereabouts the evidence of these claimants is wholly unsatisfactory." He continued by chastising the contradictory evidence presented by Mary Vine and her brother William's affidavit. "William McClellan," Wilkes told the courtroom,

has not appeared at this hearing. He was the first of the family that communicated with the court concerning this matter, and his affidavit was mailed immediately upon his learning of the death of John McClellan of Minnehaha County...In this affidavit it is stated that the missing John McClellan of that family left Niagara in 1860. If that statement be true it is impossible that the John McClellan of that family is the John McClellan of Minnehaha County; because the whereabouts of the deceased John McClellan has been well accounted for from the summer or fall of 1856 up to the time of his death.<sup>101</sup>

But despite these harsh words by Judge Wilkes, U.S.G. Cherry immediately announced that he and his clients intended to follow through with their earlier threats to appeal the case on the ground that they had not received a fair trial in Sioux Falls.

During the fall of 1900, the Circuit Court of Judge Jones heard the arguments for a new trial in a Canton, South Dakota, courtroom. Jones agreed with Cherry's point-of-

<sup>101</sup> "Judge Wilkes Decides in Favor of Ireland Heirs," *Sioux Falls Daily Argus Leader*, 8 Feb. 1900.

view, and he granted a new trial to the Canadian claimants. He also believed that it would only be fair to hear the case made by the Arkansas claimants, as they had missed the trial in Minnehaha County court. However, unlike the hearings before Judge Wilkes in Sioux Falls, the trial in Canton took place before a jury. This was done at the request of the Arkansas claimants, and both the Irish and the Canadian claimants opposed the notion that the case be presented before a jury.<sup>102</sup>

While the Canadians offered more testimony, new witnesses, and countless additional depositions, the substance of their case differed very little from the presentation before Judge Wilkes. There was no strikingly new evidence that proved beyond a reasonable doubt that they were, in a matter of fact, the true heirs to John McClellan. However, Cherry and Mary Vine played to the sympathies of the jury. Despite their contradictory presentation in Minnehaha County court, the jury awarded the Canadians control of the McClellan estate on October 13, 1900. Of course, this was far from the end of McClellan estate trial. In the words of the *Sioux Falls Daily Press*, “perhaps no legal battle in the state of South Dakota has been fought with such insistence as has this . . . this will not be the last of the now famous case.”<sup>103</sup>

As all three parties prepared for another round of legal battling, a piece of evidence emerged which proved beyond doubt that the Canadian claimants had presented a fraudulent case. The contradictory testimony presented in Judge Wilkes’ court prompted the firm of Aikens and Judge, attorneys for the Irish claimants, to pursue the matter of John McClellan’s supposed enlistment into the British Army. William McClelland had stated that his brother John left home in about 1860 and disappeared. Mary Vine later

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<sup>102</sup> “M’Clelland Case: A Special Jury Will Be Empanalled to Try Issues of Fact,” *Sioux Falls Press*, 26 Sept. 1900.

<sup>103</sup> “The Canadians Get It,” *Sioux Falls Press*, 13 Oct. 1900.

recanted on her brother's sworn statement and said her brother left in the spring of 1856 and enlisted in the British 100th of Foot Regiment in Toronto. It was this contradiction on which Aikens and Judge wished to shed light. If Mary Vine had lied about her brother's departure, the case of the Canadian claimants would become void. The attorneys for the Irish claimants used their Irish counterpart, Thomas Kilpatrick, to secure information from the War Office in London.

The information Kilpatrick received from London proved to be highly detrimental to attorney U.S.G. Cherry and the Canadian case. A letter from the War Office to Kilpatrick stated that "John McClellan enlisted for the 100th regiment on 16th February 1859, and deserted on the 12th of April 1859. His number was 1262 and his rank was private."<sup>104</sup> This document proved that the Canadian claimants had presented a false case almost from its inception. Worse still, their attorney knew his clients made false claims. In a letter to Aikens and Judge accompanying his findings, Kilpatrick wrote, "You will see by the Commanding Officer's letter that he furnished a copy of John McClelland's attestation paper to Mr. Cherry in April [1900], so he has kept it up his sleeve ever since and has suppressed this most important evidence."<sup>105</sup> Later, Aikens and Judge received photographed and officially notarized copies of this particular John McClellan's enlistment record from 1859 which they submitted as evidence against the Canadian claimants in the trial granted by appeal in June 1901.<sup>106</sup>

This proved that the John McClellan who was a brother to Mary Vine could never have been the same John McClellan who staked his future with the Western Town

<sup>104</sup> "Letter from the War Office in London to Thomas Kilpatrick," 7 Nov. 1900, *Papers of Sioux K. Grigsby*, Center for Western Studies.

<sup>105</sup> "Letter from Thomas Kilpatrick to Aikens and Judge," 12 December, 1900, *Papers of Sioux K. Grigsby*, Center for Western Studies.

<sup>106</sup> These photographed copies, as well as the affidavits swearing to their authenticity are in the *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

Company and Sioux Falls. Judge Wilkes was right to criticize the Canadian claimants for their confused chronology. The initial statements made by William McClellan were more closely tied to the truth than those of Mary Vine. Under examination, Mary Vine specifically said her brother enlisted with the 100th of Foot in Toronto during the spring of 1856 and promptly deserted. If this was true, then it may have been possible for the John McClellan in Sioux Falls to be her brother. However, as the War Office in London indicated, the 100th of Foot did not recruit in Toronto during the year 1856. But it did sign on personnel during the spring of 1859, and one of those recruits happened to be a John McClellan who was born in 1831, the same year as Mary Vine's brother. This same soldier promptly deserted after only fifty-five days of service in the British army.

This was undoubtedly a different John McClellan than the man who came to Sioux Falls. The whereabouts of the John McClellan in Sioux Falls are well accounted for from the spring of 1857 until his death in 1899. Like the Irish claimants, the case of Mary Vine was one of mistaken identity. But unlike her counterparts across the sea, both she and her attorney knew that they needed to deceive the court if they were to win control of the estate. In this they failed miserably before Judge Wilkes, due in part to his own bias and in part to their mixed stories. While a jury may have found their story sympathetic, the case of the Canadian claimants failed on appeal in the circuit court of Judge Campbell. These military records played a major role in the destruction of their credibility. That the two John McClellans were nearly the same age, that they both supposedly emigrated from County Armagh to the United States by way of Canada was purely coincidental. The muster roll records of from the 100th of Foot prove this beyond refute.

Judge Campbell also made an important ruling in general regarding the McClellan

case in 1901. Of all three parties, he determined that none bore any relation to the John McClellan in Sioux Falls. As no heir could be determined, he ruled that John McClellan of Sioux Falls died intestate. His remaining money and property were to be escheated to the state of South Dakota. It was at this point that both the Irish and Canadian claimants failed to make further appeals. Mary McClelland and Margaret Hamill lacked the financial support to continue contesting the case. The Canadian claimants proved themselves to be frauds. Only the Arkansas claimants remained, and they would fight the case to a bitter end in 1917.

Why did this final set of claimants fight a losing case for nearly eighteen years?



## CHAPTER 5

THE ARKANSAS CLAIMANTS

. . . we have shown that we do not care for the Estate, both John and myself are advanced in years, so far as we are concerned the State can have it and we will give them title to the same if they will pay the expenses of the suit . . .

Letter from James S. McClellan to Melvin Grigsby

October 28, 1908

The case presented by James S. McClellan and his attorneys Melvin and Sioux K. Grigsby lasted for nearly eighteen years under various appeals within South Dakota's court system. This chapter contends that, despite their longevity in the courts, the McClellan family from Arkansas had no greater claim to the estate of John McClellan than either the Irish or Canadian claimants. On the surface, much of the evidence presented by the Arkansas claimants pointed to a direct connection between the family of James S. McClellan and the mysterious John McClellan of Sioux Falls. But on closer examination of the remaining court materials, newspaper accounts, and the personal papers of an attorney belonging to James S. McClellan, it is clear that factors other than family kinship drove both the clients and their attorneys to push this case to its limits. While economics may not be the only force pulling at the fabric of history, money's voice of power echoes loudly throughout the entire history of the case presented by the Arkansas claimants. The personal correspondences and contracts between James S. McClellan, his attorneys Melvin Grigsby, Sioux K. Grigsby, and James' uncle, Robert Wilson, all tell a story of a case based on false pretense of kinship. As the case dragged on, the primary motivation behind the attorney's appeals would not be to win his clients control of the estate administration. Rather, the final years of the trial saw Melvin Grigsby simply struggling to win the case to pay his own expenses and attorney fees.

This case began with the connection of the law firm Grigsby, Wright, and Grigsby to the John McClellan estate trial. It seems reasonable to guess that by late January 1900, Sioux K. Grigsby thought he was wasting his time with the McClellan estate case. The John McClellan estate trial had progressed slowly for the last several weeks. As the county probate court of Judge William Wilkes closely examined the cases presented by the Irish and Canadian claimants, the young Grigsby found himself with little to do in the courtroom. Wilkes had appointed him as an attorney for any non-resident heirs shortly after McClellan's death the previous summer. When the court convened for the estate hearings, the young Grigsby found himself as the only clientless attorney connected with the proceedings. Both the *Daily Argus Leader* and *The Sioux Falls Press* frequently indicate that Grigsby was in attendance during the hearings, though he appears to have rarely questioned any of the Canadian or Irish witnesses. As yet, he had no stake in the case's outcome, and when the cold month of January came to a close, Grigsby seemed eager for the court to finish its business and appoint *anyone* as administrator of the McClellan estate. On a rare occasion when he addressed the court, Sioux Grigsby said that he hoped someone completely without association with the case would be appointed as the administrator, his logic being that a third party administrator would perhaps be satisfactory to all the petitioners. Perhaps, he thought, this would bring about a quick end to this courtroom circus.<sup>107</sup> Sioux K. Grigsby did not yet know it, but his fate would soon be linked with that of a man from Arkansas who claimed that John McClellan was his father.

Only a few days before Grigsby made his statements about finding a non-partisan estate administrator, Judge Wilkes received an package from James S. McClellan of Little

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<sup>107</sup> "Case Is Closed," *Sioux Falls Press*, 28 Jan. 1900.

Rock, Arkansas. The package contained a copy of a marriage certificate, a family bible, and a scrap book. A letter to Wilkes also accompanied these items in which James S. McClellan stated that he could positively prove that the John McClellan of Sioux Falls was his father.<sup>108</sup> When this evidence arrived on Wilkes' desk, it seemed unlikely that the judge would allow him to present his material because the hearings were only days away from conclusion. Both Judge Wilkes and the Sioux Falls newspapers immediately took a dim view of the claims made by James S. McClellan. As the *Sioux Falls Press* reported, "It is quite apparent, however, that the Little Rock claimant has very little on which to base his claims as an heir, although he asserts most positively that he will be able to prove this, if he is given an opportunity."<sup>109</sup> There was also speculation within the Sioux Falls community that because he was a latecomer to the trial, McClellan had plenty of time to familiarize himself with all the details of the hearings in November and December of 1899. This was an accusation that surfaced many more times over the next eighteen years. Given the materials later presented by the Arkansas claimants, it is possible that James S. McClellan spent time reviewing the details of John McClellan's life as recorded in the Sioux Falls newspapers following his death. The testimony and evidence he presented in court later that spring conveniently fit all of what the papers reported on the known life of John McClellan.

But by February 1900, just days after making their claims public, it appeared as if these newcomers to the estate trial would be unable to have their say in court. On February 8, Judge Wilkes issued his ruling in favor of the Irish claimants and named William Van Eps, McClellan's old friend and champion of the Irish claimants' case, as

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<sup>108</sup> "Another M'Clellan Bible and Heir are in Evidence," *Sioux Falls Daily Argus Leader*, 26 Jan. 1900. See also "Case is Closed," *Sioux Falls Press*, 28 Jan. 1900.

<sup>109</sup> "Still Another Heir," *Sioux Falls Press*, 27 Jan. 1900.

administrator of the estate.<sup>110</sup> James McClellan quickly made an appeal on the grounds that his case had not been heard by the court. A month later, Judge Wilkes realized that he had erred by not allowing the Arkansas claimants to give their story. On the afternoon of March 15, Judge Wilkes “handed down a lengthy opinion holding that he had jurisdiction to re-open the case and hear the testimony of James McClellan. The court claimed that the statutes gave him power to act in this manner . . .”<sup>111</sup> Despite his earlier ruling in favor of the Irish claimants, Wilkes decided to hear what the Arkansas McClellan’s had to say in regard to their connection with the John McClellan in Sioux Falls.

Until this time, the Arkansas claimants had no attorney to look after their interests in this case. The decision to allow James S. McClellan and his family to present their argument sealed the family’s connection to the law firm of Grigsby, Wright, and Grigsby for the next seventeen years. As the attorney for non-resident heirs, Sioux K. Grigsby spent the previous winter sitting at the lawyers’ bench in the courtroom without any clients to represent. When it became clear that the Arkansas claimants would be able to present their case, it was only logical that the young Grigsby should become their attorney. James S. McClellan and his family were from out-of-state, and there were few other qualified attorneys in Sioux Falls who were not already somehow connected with the other estate claimants. What was more, Grigsby was nearly always present in the courtroom during the previous trial, and he knew the cases presented by the opposing attorneys. The younger Grigsby enlisted the aid of both his partners: S.H. Wright and his father, Melvin, who was an aging veteran of both the Civil War and the recent Spanish

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<sup>110</sup> “Judge Wilkes Decides in Favor of Ireland Heirs,” *Sioux Falls Daily Argus Leader*, 8 Feb. 1900.

<sup>111</sup> “An Interesting Story,” *Sioux Falls Press*, 16 March 1900.

American War.<sup>112</sup> Together, the firm and the Arkansas McClellans presented a good story. But the next seventeen years were to be a time filled with stress, anger, and bitter disappointment for both the law firm and its clients.<sup>113</sup>

At surface depth, the Arkansas claimants told a story that strongly suggested that the late John McClellan of Sioux Falls was the same man who had abandoned his young family in Canada in the mid-1850s. By his own admission, James S. McClellan had an atypical childhood. The youngest of the three McClellan brothers was born on August 18, 1851, in the Canadian province of New Brunswick. His parents, John and Hannah McClelland, were Irish immigrants who arrived in Canada sometime in the late 1840s. James had two older siblings, John C. and William S. McClellan. Also living with the family were two of Hannah's older brothers, Joseph and John Cruickshank. In New Brunswick, James' father and his wife's brothers entered into a construction business. However, by 1854 it was clear that the three men had irreconcilable differences, and the business fell apart. One night, under the influences of stress and alcohol, James' father started a fight with his wife's brothers. During the course of the argument, Hannah McClellan sided with her brothers and against her husband. The dispute between James' father and the Cruickshank brothers quickly turned physical and ended only when the drunken McClellan announced in the presence of his entire family that he intended to disown his wife and all his children. He packed his bags, said he planned to travel west through America, and walked out the front door. He left Hannah and the three children in New Brunswick. James and his brothers, William and John C. McClellan, grew up with the words of their father condemning them as bastard children ringing in their ears.

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<sup>112</sup> Melvin Grigsby served with the Second Wisconsin Cavalry during the Civil War. He was a prisoner at Andersonville in Georgia and later wrote a book about his wartime experiences entitled *The Smoked Yank*.

<sup>113</sup> "Contract and Agreement Between Melvin Grigsby, Sioux K. Grigsby with James S. McClellan, John C. McClellan, and William McClellan," Oct. 1901. *Papers of Sioux K. Grigsby*, Center for Western

According to the brothers James and John, this was a story their mother made sure the boys never forgot.<sup>114</sup>

According to what James S. McClellan told the Sioux Falls courts during the spring of 1900, his family was unaware of their father's location until late 1864 or early 1865 when they "accidentally" discovered his whereabouts in Dakota Territory. As the family story went, the two oldest McClellan brothers (John C. and William S.) ran away from their mother in Canada and traveled to Boston in order to enlist in the Union Army. When Hannah McClellan learned that her two boys had run off to fight in a war, she was livid and immediately set out for Boston to find her two sons. Both boys, still minors, were illegal aliens, and Hannah believed she could easily regain custody of her wayward children. She sought the help of her brother, a newspaper reporter named Joseph Cruickshank, in locating her sons. Joseph traveled to Washington, D.C., during the winter of 1864-1865 to search the War Department records for the missing boys. According to the testimony James S. and John C. McClellan gave in 1900, it was while searching through rosters for all the McClellans in the Union Army, that Joseph Cruickshank learned of the presence of a man in Dakota Territory named John McClellan. If this family story is to be believed, James S. McClellan and his brothers knew that the mysterious Sioux Falls settler was his father as early at 1864 or 1865.<sup>115</sup>

Like many of the stories related by the Arkansas claimants regarding the John McClellan of Sioux Falls, there was some truth to the story of the two brothers enlisting in Boston. Military records indicate that both John C. McClellan and William S.

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<sup>114</sup> "Melvin Grigsby's handwritten interview notes with James S. McClellan, John C. McClellan, and William S. McClellan." n. date, (most likely early 1900), *Papers of Sioux K. Grigsby*, Center for Western Studies.

<sup>115</sup> "Testimony of James S. McClellan" 16 March 1900, *Papers of the John McClellan Estate*, Siouxland Heritage Museums. See also "An Interesting Story" *Sioux Falls Press*, 16 March 1900; "Told a Straight Story," *Sioux Falls Press*, 18 March 1900.

McClellan enlisted in the Second Massachusetts Cavalry in September 1864 only to be discharged in January 1865.<sup>116</sup> Whether or not Uncle Joseph Cruickshank learned of the whereabouts of their father through War Department records remains in dispute.

Nevertheless, it seems unlikely. A search of a database for Civil War soldiers revealed that there were eighty-nine known John McClellans serving in the Union army between 1861 and 1865. Of that number, eleven were with regiments raised in the trans-Mississippi west which included units from California, Kansas, Minnesota, Iowa, Dakota Territory and Colorado Territory.<sup>117</sup> Also, if Joseph Cruickshank examined the records carefully, he would have discovered that the John McClellan in Dakota Territory was about a decade younger than his estranged brother-in-law. This particular fact would return to haunt the Arkansas claimants throughout their trial appeals. How Joseph Cruickshank settled on the John McClellan in Dakota Territory as the family's father is a mystery.

But the the stories recalled by both James S. and John C. McClellan did not end with the discovery of their father in Dakota Territory. The story of the McClellan family, as told by the two brothers from the witness stand, continued with the unlikely tale that William, the middle brother, had an encounter with his father in Dakota Territory in 1869. His brothers testified that William, who had died in 1888, enlisted again, the time in the regular army, upon turning twenty-one years of age in 1867. He was assigned to the Seventh Cavalry, but he deserted from the regiment in the spring of 1869. According to the story William allegedly told his family, he left Ft. Leavenworth and traveled up the Missouri River into Dakota Territory with a government surveying

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<sup>116</sup> National Park Service, *Civil War Soldiers and Sailors System*, [database online]; available from < <http://www.itd.nps.gov/cwss/regiments.cfm> > ; internet; accessed 1 Oct. 2007.

<sup>117</sup> *Ibid.*, available from < <http://www.itd.nps.gov/cwss/soldiers.cfm> > ; accessed 1 Oct. 2007.

expedition during the summer of 1869. Sometime in early October, William McClellan claimed to have encountered his father. However, neither James nor John could remember the exact location of this chance encounter. According to John C. McClellan, his brother met their father at “some government post,” and “he may have mentioned Yankton.”<sup>118</sup> James S. McClellan’s recollections of the exact location were even less refined. He simply recalled that William “told us about joining a surveying crew and going into Dakota and visiting military posts and Indian agencies. On this trip he saw and talked with father.”<sup>119</sup>

To confirm the story, the McClellan brothers produced before the court a letter allegedly written by William to his mother, Hannah McClellan, during the late autumn of 1869. The letter, dated November 10, said that William was in Chicago and living under the assumed name Henry Wilber.<sup>120</sup> In this letter, William/Henry informs his mother that he “got a chance to go north up river with an outfit that was going to Dakota . . . I found Father, he would hardly believe me at first. He explained a lot of things I did not understand before . . .”<sup>121</sup> In regards to the information this letter revealed, William’s comments about his father were vague. At no time does William write of the specific location at which he found his father, and the letter offered no more substance than his brothers could provide the court with their family stories. It was also possible that this letter was a forgery produced by the McClellan brothers in an effort to bolster their case. Ultimately, the court ruled this letter to be evidence of a hearsay character, and it was not

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<sup>118</sup> “Told a Straight Story,” *Sioux Falls Press*, 18 March 1900.

<sup>119</sup> “An Interesting Story,” *Sioux Falls Press*, 16 March 1900.

<sup>120</sup> According to James S. and John C. McClellan, their brother William used two aliases after his desertion from the Seventh Cavalry. The first was Henry Wilber, the second Walter Standish.

<sup>121</sup> “Letter from William S. McClellan (aka Henry Wilber) to Hannah McClellan,” 10 Nov. 1869, Siouxland Heritage Museums.



admitted to the court record.

A closer examination of the facts relating to William McClellan's story, as told by his brothers, reveals that there is some truth to the information James S. and John C. McClellan testified to in court. A search of the National Archives military records reveals that there was, in fact, a William S. McClellan who was born in Canada and enlisted in the Seventh U.S. Cavalry at Boston on July 6, 1867.<sup>122</sup> What was more, this same William S. McClellan deserted from the Seventh Cavalry not once, as his brothers stated, but twice. The muster rolls for Company C indicated that William S. McClellan first deserted on May 5, 1868, at Fort Hayes. Officials apprehended him in Colorado Territory a few weeks later, and the army sent McClellan to Fort Leavenworth for trial. He was imprisoned in that facility, but released to the custody of his regiment during the autumn of 1868. In all likelihood, McClellan was present during the Seventh Cavalry's campaign against Black Kettle's Cheyenne on the Washita River. When spring came, McClellan deserted once again on May 13, 1869, and was never caught.<sup>123</sup> It was therefore possible that William S. McClellan traveled into Dakota Territory during the summer and autumn of 1869. But could the young deserter have met with the John McClellan who settled in Sioux Falls?

The answer is likely no. By the autumn of 1869, John McClellan was once again in Sioux Falls after the army abandoned the Fort Dakota military reservation that had been established on the town site following the Civil War. It was true that John McClellan had spent his years after service in the First Dakota Cavalry around Yankton

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<sup>122</sup> *Military Service Records for William S. McClellan, Seventh U.S. Cavalry, Company C, 1867-1869 (Indian Wars)*. file #20, entry #664, page 287, year 1867, vol. 6566. National Archives Records and Administration. Washington, D.C.

<sup>123</sup> "Register of Enlistment, Company C, 7th U.S. Cavalry." *Papers of the John McClellan Estate*, Siouxland Heritage Museums. The S.D. courts sought these records in an attempt to confirm or deny the validity of the McClellan brothers' claims.

or in government employ along the Missouri River, possibly as far north as Ft. Bertold. Payment records clearly indicate that McClellan left government service in March of 1868, possibly after a prolonged illness while at either Fort Bertold or Fort Stevenson on the Missouri River.<sup>124</sup> Because of these known facts, it seems unlikely that William S. McClellan could have had a run-in with the John McClellan of Sioux Falls along the Missouri River in 1869. No solid evidence exists to put the alleged son and his potential father in the same place along the Missouri River sometime in early October of 1869, as the letter from William indicated.

It was also unfortunate that William S. McClellan could not testify on his own behalf during the estate hearings. His death in 1888 made it convenient for his brothers to tell any tale they desired about his exploits after deserting from the army. As the military records have shown, there was truth to what James S. and John C. McClellan said about their deceased brother while testifying at Sioux Falls in 1900. However, there was no way they could prove beyond all doubt that their stories of an encounter with their father along the Missouri River were true. If the allegation were true, and James S. McClellan had been reading accounts of the hearings in the Sioux Falls papers, it would have been possible for this story to have been fabricated and woven into the known facts of the family's history.

The story James S. McClellan told the court about himself was no more convincing than that of his deceased brother. As with the story he told of William, the things James S. McClellan said about his own life on the stand were substantially true; however, he could in no way connect himself to the John McClellan of Sioux Falls

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<sup>124</sup> "Payment voucher from J.R. Hanson to John McClellan," Crow Creek Indian Agency, D.T., 14 July 1868, Siouxland Heritage Museums. See also "Letter from T.J. Douhit to The Editors of the *Sioux Falls Argus Leader*," 19 June 1901; "Letter from Alexander McGregor to to Aikens and Judge of Sioux Falls," 10 July 1901. Both in the *Papers of Sioux K. Grigsby*, Center for Western Studies.

beyond any reasonable doubt. Like his brother, James S. McClellan enlisted just before his twenty-first birthday in 1872.<sup>125</sup> However, the younger McClellan found that life in the cavalry suited him much better than it did his listless sibling. James S. McClellan did more than simply survive a five year term of service in Company H, Third U.S. Cavalry. He excelled at the business of soldiering. During his enlistment, he rose through the enlisted ranks from private to first sergeant, the highest ranking enlisted man in his company. So respected was James McClellan that Colonel Richard I. Dodge promoted him to acting sergeant major during his Black Hills expedition of 1875. For most of his enlistment period, McClellan kept a journal in which he recorded the occurrences of soldier life. Though he reveals precious little personal information in these pages, he nevertheless leaves the impression that he was a man well-suited to the rigors of life in the cavalry. During his enlistment, McClellan participated in campaigns against the Sioux in what became the states of Wyoming, South Dakota, and Nebraska. After five years of exemplary and faithful service, James S. McClellan mustered out of the army at Fort Robinson, Nebraska, in 1877.<sup>126</sup> After the army, James S. McClellan returned to his family in Boston, and after traveling the country with his brother William for a year, James and his mother relocated to Little Rock, Arkansas. James S. McClellan became a well-respected man in both the local Little Rock community and the state of Arkansas. By the close of the century, he was married to a neighbor's daughter, Margaret Boone. He was the foreman for the planing mill of Charles T. Abeles, and a lieutenant colonel in the Arkansas state militia.<sup>127</sup>

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<sup>125</sup> *Military Service Records for James S. McClellan, Third U.S. Cavalry, Company H, 1872-1877(Indian Wars)*. file #1831. National Archives Records and Administration. Washington, D.C.

<sup>126</sup> *Journals of James S. McClellan*, (Rare Books and Manuscripts Division, New York Public Library, New York, NY).

<sup>127</sup> "Melvin Grigsby's handwritten interview notes with James S. McClellan," n. date (probably 1900), *Papers of Sioux K. Grigsby*, Center for Western Studies.

But despite the Arkansas claimants' lack of concrete evidence, Sioux K. Grigsby saw an opportunity in the stories of James S. McClellan and his family members. Grigsby had sat clientless through the hearings of the previous winter. He was familiar with the claims and testimony of all the parties involved, and he saw the McClellan family as a means by which his law firm would finally have a stake in the court proceedings. Exactly when James S. McClellan, his brother John C., and nephew William S. (the oldest son of James' late brother of the same name) began negotiating with Sioux and his father Melvin Grigsby is uncertain, though by March 21, 1900, a contract had been drawn up. This contract indicated that, upon winning administration of the the John McClellan estate, James S. McClellan would pay the firm Grigsby, Wright, and Grigsby \$5,000 for their services. The balance of the estate was to go to the Arkansas claimants.<sup>128</sup>

It was clear from this early contract that both the claimants and the Grigsby's believed that James S. McClellan had the potential to make a strong case. What neither party counted on was that the lower courts of South Dakota would deem the majority of their evidence, including the letter of William S. McClellan, as hearsay evidence. In the court of Judge Jones in October of 1901, James McClellan felt that the judge had reviewed their case poorly. It was the opinion of Judge Jones that James S. McClellan could not prove that he knew his father resided in Sioux Falls at any time prior to the McClellan family's entry into the estate trail. The court ruled that letter William McClellan allegedly wrote from Chicago in 1869 was hearsay. The same held true of the story the McClellan brothers told about their uncle, Joseph Cruickshank, learning of their father's presence in Dakota Territory in late 1864. There was simply no way the

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<sup>128</sup> "Contract and Agreement Between Melvin Grigsby, Sioux K. Grigsby with James S. McClellan, John C. McClellan, and William McClellan," Oct. 1901. *Papers of Sioux K. Grigsby*, Center for Western Studies. See also "Letter from James S. McClellan to Melvin Grigsby," 25 Sept. 1901, *Papers of Sioux K. Grigsby*, Center for Western Studies. This later contract references and voids the earlier contract of 21 March 1900. No known copy of this early contract exists.

Arkansas claimants could prove their stories were true.<sup>129</sup>

Part of the reason the Arkansas claimants believed they had a strong case was because their father and the John McClellan of Sioux Falls were the same age. James S. McClellan maintained that his father was born in 1821, a date which would make him approximately seventy-nine years old in August of 1899.<sup>130</sup> The marriage certificate from county Meath, Ireland, which the Arkansas claimants supplied to the court also seems to indicate that their father would have been born during the early 1820s.<sup>131</sup> These facts coincided with the belief of many in Sioux Falls (and widely reported in the local newspapers) that John McClellan had been about seventy-nine years old at the time of his death. It should be remembered that the Irish claimants also claimed that their relative named John McClellan would have been about the same age. Mary Vine and the Canadian claimants stated that their John McClellan would have only been in his late sixties in 1899. The issue of John McClellan's actual age did not become an issue until shortly after James S. McClellan made his initial contact with the Sioux Falls courts in January of 1900.

John McClellan's age became a factor that haunted the Arkansas claimants and their attorneys throughout their appeals. The evidence gathered by the Canadian claimants indicated that the John McClellan of Sioux Falls had been born sometime between 1830 and 1833. It has earlier been shown that the assumptions of the Sioux Falls populace were in error regarding John McClellan's actual age. His military records,

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<sup>129</sup> "An Abandoned Family," *Sioux Falls Press*, 6 Oct. 1900, See also "The Jury is Getting It," *Sioux Falls Press*, 11 Oct. 1900.

<sup>130</sup> "Melvin Grigsby's handwritten interview notes with James S. McClellan, John C. McClellan, and William S. McClellan (junior)," undated (probably 1900), *Papers of Sioux K. Grigsby*, Center for Western Studies.

<sup>131</sup> "Certificate of Marriage between John McClellan and Hannah Cruickshank,," 26 Feb. 1846. *Papers of the John McClellan Estate*, Siouxland Heritage Museums. The certificate indicates that both McClellan and his bride were "of full age" at the time of their wedding vows.

masonic records, and government census records all reveal that John McClellan was no older than sixty-nine at the time of his death. Of the many factors against the Arkansas claimants, the age issue was key in their failure to present a preponderance of evidence in their favor. Age was chief among the reasons why, after numerous appeals, the South Dakota Supreme Court ruled against James S. McClellan in 1913.<sup>132</sup>

So why did the Arkansas claimants continually appeal their case for nearly seventeen more years after their failure before Judge Jones' circuit court in October 1900? The answer to this question lies in the paper trail of correspondences between Melvin Grigsby and James S. McClellan. Clearly, money became a large and motivating factor in Melvin Grigsby's continual involvement in the case.

In late 1901, a year after their failure in Judge Jones' court, James S. McClellan, along with his brother and nephew, set up a new contract with the Grigsbys. The terms James laid out stipulated "that on winning the case," he and his family "will require \$15,000.00 to come our side" and that the balance of the estate money would go to Grigsby and Grigsby.<sup>133</sup> In 1901, the John McClellan estate still contained a large sum of both liquid and property assets. Melvin and Sioux Grigsby likely saw this opportunity as a chance to earn a large sum of money. However, their new contract with the McClellans contained an additional stipulation. From October 1901 onward, the Grigsbys were to be responsible for all expenses in the case. James S. McClellan concluded his letter with this contract proposal by telling the Grigsbys that he thought "the terms were fair . . . considering the fact that you will be put to a great deal of expense

<sup>132</sup> *McClellan et al. v. State of South Dakota*, South Dakota Supreme Court, 38 S.D. 588, 162 N.W. 383 (17 Apr. 1917). This document clearly explains the court's argument on the issue of John McClellan's age.

<sup>133</sup> Grigsby's partner S.H. Wright moved away from Sioux Falls in 1901 to open his own practice in Chamberlain, S.D. From 1901 onward the firm was known simply as Grigsby and Grigsby. Correspondences indicate that Wright continued to act on behalf of the Arkansas claimants into the summer of 1901. However, it appears he had no involvement with the McClellan case beyond that time.

and trouble . . . but feel confident that you will win out in spite of the obstacles which have as far worked against us.”<sup>134</sup> Melvin Grigsby drew up the new contract, and within a matter of weeks he and his son were working under the new agreement.

If Melvin Grigsby had known the amount of money he would spend while trying to prove his clients’ case during the next sixteen years, perhaps he would not have signed the new contract and taken on the expense. But in October of 1901, it seemed as if his clients might yet be able to prove their case. The age question aside, Melvin Grigsby believed his clients still had a strong case. The appeals he made to the State of South Dakota centered on the fact that the evidence his clients provided had not been admissible as evidence. Eventually, in 1906, the courts allowed the alleged 1869 letter from William S. McClellan to be entered into evidence as a means of showing that the McClellan family was aware that their father had been in Dakota Territory in 1869.<sup>135</sup> Nevertheless, the courts already stood against the Arkansas claimants on the issue of John McClellan’s actual age. In 1906, the courts ruled that there were no known heirs to the John McClellan estate. Both the Irish and Canadian claimants failed to appeal this decision. The death of the court appointed administrator, William Van Eps, on July 12, 1906, ended the appeals of any claimant outside of James S. McClellan’s camp.<sup>136</sup> The Arkansas claimants were left to appeal a case that it seemed they could no longer win.

As Melvin Grigsby’s court expenses began to add up over the years, his fate seemed linked to the positive outcome of his clients’ waning case. Grigsby and Grigsby’s

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<sup>134</sup> “Letter from James S. McClellan to Melvin Grigsby,” 25 Sept. 1901, *Papers of Sioux K. Grigsby*, Center for Western Studies.

<sup>135</sup> *In re McClellan Estate, S.D. 1906*, South Dakota Supreme Court, 20 S.D. 498, 107 N.W. 681.

<sup>136</sup> When Van Eps died, the state appointed George T. Blackman as administrator. Blackman immediately required Inez Van Eps to pay her husband’s debt of \$16,000 (plus interest) to the McClellan estate. Blackman continued as estate administrator until the remaining property and money were finally turned over to South Dakota in 1917.

gamble to win was no longer an issue of proving the relationship of its clients so much as it was an attempt to make ends meet financially. In 1908, James S. McClellan wrote to his lead attorney and indicated that they should attempt to make a settlement. He said that he and his relatives “do not care for the Estate...so far as we are concerned, the State [of South Dakota] can have [the money] . . . if they will pay the expenses of the suit.”<sup>137</sup> Unfortunately, the state was unwilling to grant payment of Grigsby’s expenses, and the case continued on under appeal.

In a last effort to show that his clients were the children of John McClellan, Melvin Grigsby hired a Manhattan handwritten expert named Albert Osborn to prove that the writing of the Sioux Falls man and that of the Arkansas claimants’ father were from the same hand. Osborn compared various documents with the known signature of John McClellan and two documents provided by the Arkansas claimants, the 1846 marriage license and a family scrap book that reportedly contained their father’s signature.<sup>138</sup> To Osborn’s trained eye, the evidence was conclusive: the handwriting of the Sioux Falls John McClellan and that on the Arkansas claimants’ documents were not from the same individual. In a flurry of letters between December 1912 and January 1913, Grigsby tried to convince Osborn that he was mistaken. Pleading, Grigsby wrote to Osborn:

I have worked on [the McClellan case] faithfully for thirteen years and myself and my son, who is my partner, have advanced upwards of \$6,000.00 already in our efforts on behalf of our clients...I write these things to you these things, because in my limited acquaintance with you, I came to the conclusion that you would do your utmost to assist in establishing justice, after you had your mind made up as to which side

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<sup>137</sup> “Letter from James S. McClellan to Melvin Grigsby,” 27 Oct. 1908, *Papers of Sioux K. Grigsby*, Center for Western Studies.

<sup>138</sup> The copies of these documents (as well as the originals) are located in the *Papers of the John McClellan Estate*, Siouxland Heritage Museums.



ought to prevail.<sup>139</sup>

On his last hope, Grigsby asked if there was anyway Osborn would consider the evidence as inconclusive. Grigsby wrote that he had even dug out some of his own old writing from when he had been in the Union army fifty years earlier and claimed that it looked nothing like his present writing. Grigsby pleaded with Osborn and begged the handwriting expert to reconsider his findings. Perhaps, Grigsby thought, it was possible that the writing on the marriage certificate from 1846 could look vastly different from the writing on the documents belonging to John McClellan in Sioux Falls? Osborn replied that his conclusions were final, and he apologized for any inconvenience Grigsby and Grigsby would incur from his unfavorable findings.<sup>140</sup>

Melvin and Sioux Grigsby were left with no new evidence to present the court when the McClellan estate case came up for appeal in 1913. The public's interest in the case had dropped off dramatically since 1900, and the *Sioux Falls Press* simply reported that "the testimony of about 100 witnesses will be placed in the record, but much of this will be testimony given at previous trials of this case which was not been in the courts for about 13 years. Three sets of claimants have at one time or another tried to secure the estate."<sup>141</sup> Neither James S. McClellan or John C. McClellan could provide the court with any new information regarding the identity of their father, and they could in no way account for the difference age between him and the John McClellan of Sioux Falls. In his final effort to wrestle administration of the estate from the State of South Dakota, Melvin Grigsby declared that the evidence the state relied on to fix John McClellan's age — the

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<sup>139</sup> "Letter from Melvin Grigsby to Albert Osborn," 27 Dec. 1912, *Papers of Sioux K. Grigsby*, Center for Western Studies.

<sup>140</sup> "Letter from Albert Osborn to Melvin Grigsby," 13 Jan. 1913, *Papers of Sioux K. Grigsby*, Center for Western Studies.

<sup>141</sup> "M'Clellan Case Again on Trial," *Sioux Falls Press*, 9 Dec. 1913.

military and Masonic records — ought to be considered hearsay. However, the state supreme court ruled that these documents were admissible and stood against the case made by Grigsby's clients.

Following the grossly unsuccessful hearings of December 1913, Melvin Grigsby began to receive mail from a man named Robert Wilson in Glenwood, Minnesota. Wilson had been loosely associated with the case of the Arkansas claimants since March of 1900. He was a cousin to James S. McClellan, and his mother Ruth McClellan had been a brother to James' runaway father. Robert Wilson had been promised a sum of \$3,000 in October of 1900 if the courts decided the case in favor of the Arkansas claimants.<sup>142</sup> Thirteen years later, Wilson knew that he would never see any of the money his cousin had promised him. None of the letters he wrote to Melvin Grigsby that spring still exist, but it seems likely that he threatened to expose the relationship claims of James S. McClellan as a fraudulent. Grigsby must have notified James of his cousin's intent because on May 23, 1914, the would-be heir wrote to Robert Wilson with the words

. . . you have been nagging Grigsby again, now it is to be wondered at that he gets exasperated — It would look as though good common sense would inform you that when a person is doing the best they can, they are apt to get very much irritated under a cross fire from the Brush . . . you will refrain from nagging at Grigsby or anyone else . . .<sup>143</sup>

Plainly stated, McClellan wanted his cousin to leave his attorneys alone.

But Robert Wilson had had enough of the case and the lies his cousin and Melvin Grigsby had been touting since they first realized that the John McClellan of Sioux Falls could not be James' father. Within days, Wilson wrote a long and damning reply on the

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<sup>142</sup> "Contract Between Robert Wilson and James S. McClellan, John C. McClellan, and William McClellan," 8 Oct. 1900, *Papers of Sioux K. Grigsby*, Center for Western Studies.

<sup>143</sup> "Letter from James S. McClellan to Robert Wilson," 23 May 1914, *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

back of the same letter his cousin had sent to him. The contents of this letter pointed specifically to the fact that both James S. McClellan and Melvin Grigsby knew that the claims they made in court were illegitimate:

I see from the tone of your letter that I have been pretty well onto your tactics for the last while, and I know them now as well as I did 13 or 14 years ago, and I can see through them all. I . . . know that none of you ever thought the John McClellan of Sioux Falls, nor Grigsby either[,] that he was your father, & I knew of all the crooked helling of G. & some of your witnesses & that G. of course was able to pay well for the perjury when you agreed to let him have 1/2 the estate of John McClellan of Sioux Falls if he won, & that you were the heirs . . . he was mistaken in the man. I could never swear that my uncle John was the John of Sioux Falls.<sup>144</sup>

This letter confirmed what the courts had declared all along. The Arkansas claimants were not the heirs to the John McClellan estate, and both Melvin Grigsby and James S. McClellan were less than scrupulous in gathering evidence for their case.

In January of 1900 James S. McClellan might have believed that there was a chance the deceased John McClellan of Sioux Falls was his father. But as the case progressed and it became clear that the courts were not in his family's favor, McClellan turned total control of the case's expenses over Melvin Grigsby. Grigsby saw this opportunity to receive a windfall and went after it with all his energy and through whatever means were available, deceitful or not. When it became clear the case would fail, Grigsby had already expended a considerable sum of money with little to show for his efforts. By 1914, no one believed John McClellan was a relative of the Arkansas claimants, and Robert Wilson had threatened to expose Melvin Grigsby.

This case took a physical and emotional toll on Melvin Grigsby. Just as the

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<sup>144</sup> "Letter from Robert Wilson to James S. McClellan," 25 May 1914, *Papers of the John McClellan Estate*, Siouxland Heritage Museums. This letter is written on the back of the previous letter. It also bears stamps indicating that it was filed in evidence by the Minnehaha County Clerk of Courts a month after it was written. Exactly how it came to be in evidence is unknown.

estate was finally escheated in February 1917, he died suddenly of a heart attack while visiting a spa in Mississippi. The Arkansas claimants' case had consumed Grigsby's final years. In a letter to his mother, Grigsby's son George wrote, "I feel so miserable that I didn't come before and help father out – especially with that damned McClellan case."<sup>145</sup> While the McClellan case was not Melvin Grigsby's immediate cause of death, it seems likely that the toll of nearly seventeen years of litigation and expenses had worn him down.

It is unknown exactly how much money the firm Grigsby and Grigsby spent in its attempt to prove that John McClellan was the father of the Arkansas claimants. However, the firm never received a penny in payment for their services from the estate or from James S. McClellan. In a tiny notice, the *Sioux Falls Daily Press* indicated that in September of 1917, Sioux K. Grigsby put up an effort to obtain reimbursement for court fees. Payment to his firm was never made. On September 17, 1917, George T. Blackman, the special administrator for the state, turned over the final accounting of the John McClellan estate to the state of South Dakota.<sup>146</sup>

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<sup>145</sup> "Letter from George Grigsby to Mother," 17 March, 1917, *Papers of Sioux K. Grigsby*, Center for Western Studies.

<sup>146</sup> George T. Blackman, "Vouchers and Final Report of Administrator." 17 Sept. 1917, *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

## CONCLUSION

May I remind you that this is a celebrated case. It will be written about in book form.  
Melvin Grigsby, 1912

The story of John McClellan came to an end in a way similar to its beginning. His departure from the collective memory of the Sioux Falls community was just as subtle as his arrival at the newly-founded townsite in 1857. All remembrances of McClellan vanished as those who claimed to have known him passed away in the early twentieth century. By 1913, the Sioux Falls newspapers showed a decreased interest in the McClellan case, and when the estate was finally escheated to the state of South Dakota in late 1917, there was no news story to mark the closure of the long court battle. The public that had been so enamored by the case in the months following McClellan's death no longer cared, and in the final accounting, a small sum of \$16,256.04 plus various properties in and around Sioux Falls, went quietly into the hands of the state.<sup>147</sup> Most of McClellan's liquid assets had been spent in the upkeep and taxation of his properties during the course of the trials and appeals.<sup>148</sup> None of the claimants nor their attorneys ever saw a penny of McClellan's money as reimbursement for their court expenses.

Not a single claimant party was able to prove any relation to John McClellan. As the extant documentation shows, John McClellan was clearly between sixty-six and sixty-nine years of age at the time of his death. Though many in Sioux Falls believed McClellan to be an older man, the paper trail he left during his lifetime leaves little room to doubt that he was only in his late sixties when he died. This single fact erased all claims made

<sup>147</sup> "Vouchers and Final Report of Administrator (George T. Blackman)," *Papers of the John McClellan Estate*, 17 Sept. 1917, Siouxland Heritage Museums, Sioux Falls, SD.

<sup>148</sup> Most of the yearly fiscal receipts for funds spent from the McClellan estate are located in the *John McClellan Estate Papers*, Siouxland Heritage Museum. They give an accounting of how the administrator spent the estate money on McClellan's property between the time of his death and the escheating to the state.

by both the Irish and Arkansas claimants in their bid for administration of the estate. Both of these parties claimed that their relative named John McClellan was born in or about the year 1821, and neither could account for the discrepancy in age. The Irish claimants abandoned the case after 1901 when it was clear that the courts would not favor their appeal. The Arkansas claimants appealed for more than a decade in their effort to control the estate and ultimately failed because of age. The final claimant party, the Canadians, showed themselves to be outright frauds. Though their relative named John McClellan was nearly the same age as the man from Sioux Falls, it was impossible for the two men to be one and the same. Military documents provided to the court showed that the Canadian John McClellan enlisted in the British army at Toronto in 1859, a time when John McClellan was publicly known and acknowledged as a member of the newly founded Sioux Falls community. Ultimately, the preponderance of evidence and the burden of proof stood against all the claims any party made against the estate. Therefore, the South Dakota courts were correct and just in their declaration that John McClellan died intestate. All the claimants were, as Robert Wilson wrote his cousin James S. McClellan, “mistaken in the man.”<sup>149</sup>

John McClellan of Sioux Falls first entered history at Sioux City, Iowa, in 1856 with no known or documentable past. Other than the obvious statement that he was Irish, it is impossible to say exactly where McClellan came from before he signed on with the Western Town Company and traveled to the falls of the Big Sioux River. He always professed that he was a single man and never left any clue as to the identity of his family. In the growing city of Sioux Falls, he found a life that suited him and a small corner of the world that he was able to call his own. McClellan’s life and the early history of Sioux

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<sup>149</sup> “Letter from Robert Wilson to James S. McClellan,” 25 May 1914, *Papers of the John McClellan Estate*, Siouxland Heritage Museums.

Falls wove themselves together in such away that they are impossible to separate. He helped make the city what it became (indeed, what it is today), and in return Sioux Falls made him a wealthy man.

Most people in Sioux Falls go about their daily lives with little thought or regard for one of original men who called the town home. All that remains of John McClellan's legacy are a marble grave marker in Mount Pleasant Cemetery and the short street which bears his name. With no relatives in the city to remember his names and accomplishments, McClellan's personal history and the story of the long estate trial quickly retreated into obscurity. The preserved records and evidence from trial have assured that McClellan did not vanish completely. Without the copious court records in the Siouxland Heritage Museums and the Center for Western Studies in Sioux Falls, the entirety of McClellan's story could have been relegated to a footnote.

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