Isaac McCherney
2423. Redner st. Phila. —

Replying to your letter of the 3d inst would say, that while I have a great many friends in the Pension Office that fact makes no difference with business before it. Any man who is entitled to a pension and complies with the law gets just as much attention and is just as certain of justice as if he were the greatest in the land. The office can only work on definite information, known, with sufficient proof. Your letter does not give me information sufficient to enable me to prosecute an inquiry. You say you enlisted three times —

1 — In Co D. First Ohio Vols. (1861)

2 — In the 77 - Penna — (Spring of 1862)

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3 – As lieutenant in an independent Company (no date given).

In regard to these please answer the following questions briefly and explicitly.

1 – Why were you not given a discharge from the three months service?

2 – At what date were you mustered out?

3 – Had the term of enlistment expired?

4 – Have you ever applied to the Adjutant General of Ohio for a discharge or a record of service?

5 – Were you sick at the time of discharge?

6 – Did you have any medical treatment after discharge from first service and before entering the second?

7 – Who besides yourself knows of such treatment?

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9— Were you regularly discharged from the 79th. Penna?

9— Have you the discharge, if not where has become of it?

10— What was the cause of discharge as stated in the discharge?

11— How do you know the Surgeon assigned other than the true one in his hospital record?

12— Whatever was the reason assigned by the Surgeon for your discharge? which you say was—

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How can your "friends" make an application for pension for you in 1863.

A persons "friends" cannot make an application for pension for him. He must do it himself. Please answer the following questions so that I may know what has been done and not spend time and money running after what has no existence.

1st Have you ever made an application for pension yourself? That is have you ever made ~~and filed~~ a sworn statement of the facts you rely on for support such a claim?

2nd Did you file such sworn application yourself or through an attorney?

3rd If by an attorney what is his name and address.

4th When and where did you make such application?

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For what reason.

5 – ~~In what capacity~~ did you claim a pension? That is did you claim it for sickness as a member of the 79 Penna or for injury as a member of the First Ohio?

6 – Did you furnish any testimony as to the facts and if so whom?

7 – If you have made more than one application, when, where, and through whom was the record made?

8 – When and how long were you in hospital at Green River, Kentucky?

9 – When were you at Gen. Hospital No. 1. Louisville?

If you will send me definite and distinct replies to these questions I will know what to do or advise to be done.

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I have learned that the longer one writes the less he is apt to know — unless indeed, he has brushed his recollection up by frequent retracings of those slippery journeys up the blood stained peaks of fame in company with those with whom he then kept step and touch of elbow. To those who for a score of years have retraced the Grand itinerary of the Army of the Cumberland marking each mile post with a more or less indelible ~~monument~~ epithet, hanging on every hill-top the spirit-bodies of a ghostly enemy, magnified by that curious glare that shines always behind us — the phosphorescent light of self-achievement — the way and the why have no doubt grown feint and easy; but to one who has only now and then been permitted

No such reason, obtains in this case, ~~of these controlling motives prevails~~ to induce me to make the very strenuous statement ~~I have~~ indicated. In fact, I am willing to admit that it is not even half-true but as a matter of sober earnest I do declare ~~that I~~ would rather stand behind the best battery of Krupp guns ever cast till the breech-pins grew hot, than have ~~to~~ recount ~~to you~~ ~~the~~ the members of the Society any fragment of the story of the illustrious achievements of the army of the Cumberland once which each, of ~~you~~ them knows so much better than I.

Thanking the Society for the honor conferred upon me, ~~and~~ congratulating them upon the kindly Providence which made their careful provision vain, and trusting that the gathering years may sit lightly upon every frosted brow as the heroes of yesterday go down to the grave which to-morrow shall heap high with ~~[illegible]~~ unfading laurels

I remain -

Your ~~[illegible]~~ comrade

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permitted to catch the scintillations which flash the stories told so oft that the point is always kept bright by being rubbed against reality, of the veteran who as important a factor in the ~~strife~~ struggle for the union as ~~the fo~~ a linch-pin is to a cart-wheel, — for such an one to try to discourse of those times to men on whose brows is written the conscious fact "quorum magna pars fuimus," is a refinement of torture which the laws of civilized warfare should sternly interdict.

I am not ~~able truthfully~~ exactly able to declare ~~to say~~ that I would rather face the fire of a hostile battery than the critical glances of such a gathering of heroes, ~~because~~ it would not be precisely true; and though I am not like the "first American" unable to tell a lie, yet I have made it a rule not to do so publicly unless there is an apparent necessity for ~~it~~ ~~doing~~ ~~it was absolutely necessary~~ ~~or I had something to gain by it~~ Neither

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If such admitted the third party has a right to be dismissed with costs.

It is evident, therefore, that the Judge cannot decide that the Judgment creditor has been delayed or hindered in his remedies by a mere failure of a third party to appear. In the case of a witness such ~~a~~ presumption may be made because he has the power of cross-examination, but with the third party the denial of indebtedness ends the inquiry. Damage is only possible when the indebtment on debt is admitted and a Judge must have evidence establishing at least prima facie, the admission of the indebtment or debt, before he has any ~~fact~~ ground on which to base an ~~judgment~~ order adjudging that there has

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been such damage. There is no such evi=
dence in the papers on which the
motion is based. Damage is alleged
in the application for the order to
show cause, but there is no evidence
to support the allegation. The court had
no right to infer that the third party would
admit an indebtedness or enlargement without
evidence of some fact tending to create
such a belief. Such fact might be stated
on information and belief but the mere
statement of counsel of his own belief
in a conclusion derivable from testimony
is no evidence of such fact. Mr Burlow
testifies as to his belief in damage and delay,
but damage and delay are legal conclus=

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