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### Report : Petition of J. Sturtevant

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IN THE SENATE OF THE UNITED STATES.

MAY 9, 1882.—Ordered to be printed.

Mr. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1373.]

The Committee on Pensions, to whom was referred the bill (H. R. 1373) granting a pension to James K. Sturtevant, have examined the same, and find that the House report, which is as follows, correctly sets out the facts of the case:

This claim has been under investigation in the Pension Department, and on the 6th of March, 1880, was rejected, on the ground that "claimant was not in the United States service so as to entitle him to a pension under the pension laws."

An examination of the evidence presented to the committee establishes the following state of facts:

1st. It is shown by letter of Second Auditor, dated Washington, D. C., 1879, that James K. Sturtevant enrolled October 18, 1855, in Capt. O. Humason's company (B), First Regiment Oregon Mounted Volunteers, and was discharged May 19, 1856, as per General Order No. 32 of that date, and that he performed further service in Capt. A. V. Williams's company, Oregon Mounted Volunteers, from June 18 to August 11, 1856, as shown by the records of the War Department.

2d. James K. Kelley, one of the supreme judges of Oregon, under oath, states that in 1855 he was commissioned lieutenant-colonel of the First Regiment of Oregon Mounted Volunteers, and as such officer was in command of five companies of that regiment, including Company B, Capt. Orlando Humason; that James K. Sturtevant was a private in said Company B; and that on the 7th day of December, 1855, an engagement took place with hostile Indians along the Walla Walla Valley, in Washington Territory, in which said Sturtevant was dangerously wounded—so dangerously that the surgeon of the regiment reported he could not recover; that he was sent to hospital and finally recovered; that the said Sturtevant was wounded in said engagement, in the line of his duty, by a gunshot in his breast, and that the captain and first lieutenant of said Company B are both dead.

3d. James McAuliff, on oath, states that he was second lieutenant of Company B, in said regiment, and further fully corroborates the statement of Lieut. Col. James K. Kelley.

4th. Stoev Hemenway, M. D., upon oath, states that he had, under an appointment from the Pension Department, personally examined James K. Sturtevant, an applicant for pension, and certified that he had been wounded by a gunshot in right breast, passing through body, which incapacitates him for performance of heavy manual labor.

5th. It further appears from the records of the War Department that the First Regiment of Oregon Mounted Volunteers were called into service by order of the governor of Oregon to quell Indian disturbances, and that they were afterward paid by the United States under act of March 2, 1861, granting them the same pay and allowances as regular troops.

The foregoing are the facts, and may be regarded as showing clearly a meritorious case.

It seems the Pension Department, in construing the act of March 2, 1861, have held that the term in said act "and allowances" does not include pensions, and for that reason alone have rejected this claim. Without inquiry, or any expression of opinion as to the correctness of that decision, we have no hesitation in saying the records and

the proofs submitted to us show that this is a just and meritorious claim, and that the claimant, Mr. Sturtevant, is entitled to a pension.

We therefore respectfully return the bill with a favorable report, and do recommend its passage.

Your committee concur with the House of Representatives in regarding this as a meritorious case, and recommend the passage of the bill referred to them.

C