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Report : Petition of L. Mitchel

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IN THE SENATE OF THE UNITED STATES.

JUNE 27, 1882.—Ordered to be printed.

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

REPORT:

[To accompany bill H. R. 3581.]

The Committee on Pensions, to whom was referred the bill (H. R. 3581) granting a pension to Lizzie M. Mitchell, having carefully considered the same, submit the following report:

The House Committee on Pensions, in their report, have correctly stated the facts of the case, which your committee adopt as their own. Their report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3581) granting a pension to Mrs. Lizzie M. Mitchell, having had the same under consideration, beg leave to submit the following report:

Upon examination of the papers in this case, your committee adopt substantially the following report made at the last session of Congress, and recommend the passage of the bill:

"We find from an examination of the papers submitted to the committee and originally filed at the Pension Office that the petitioner is the widow of Capt. John Mitchell, of the First United States Infantry, who served faithfully in the Army of the United States, both before and during the war of the rebellion. When the First and Forty-third Regiments of United States Infantry were consolidated, Captain Mitchell, then brevet lieutenant-colonel, was examined by a board of officers and found to be so severely wounded as to be unable to do active duty. He was placed on 'waiting orders,' and afterwards sent on several details with recruits to the forts in the Indian Territory and other remote points. Just after the performance of one of these duties he returned to Fort Leavenworth, laboring greatly with his wound, and died at that point November 13, 1869. The widow has made an earnest attempt to obtain a pension, but in view of the record the Pension Office declines to admit her. This record is the certificate of the assistant surgeon of the post, in which the cause of the death of the soldier is given as 'alcoholism' and disease not incident to the service and line of duty. The petitioner has filed with your committee a mass of evidence of the most respectable character, which is undoubtedly entitled to credence, and from a thorough examination of the same, your committee believe that she is entitled to the relief she seeks.

"Briefly recapitulated, the evidence against the record made by the surgeons at Fort Leavenworth is about as follows:

"The commanding officer of the deceased officer's regiment, in a eulogistic letter, says: 'His death was undoubtedly owing to the effect of wounds received during his gallant and efficient service in the Army.' One of the lieutenants of his company, who was present with him at Fort Leavenworth at the time of his death, states as follows:

"I know Captain Mitchell to be a strictly temperate man in every respect, commanding the respect of those under him and the confidence of those above him. The last time I met him was on recruiting service at Fort Leavenworth, in 1869. The principal duty which he was performing was conducting recruits across the plains to posts on the remote frontiers, a duty most arduous and trying in its nature, and re-

quiring the officers in charge not only to perform their duties efficiently and discreetly but to exercise a paternal care over the inexperienced recruits. If my opinion should be of any weight, from knowing Captain Mitchell so long and intimately as I have, I should unhesitatingly assign the cause of his death to wounds received in action.'

"Thomas Hill, who was the body-servant of the officer from 1864 until his death, states:

"He was badly shot in one arm, so that I had to be near and assist him. Knew his character and habits well; they were good. The captain was not a drinking man in the sense in which that term was understood; he was always present for every duty, even more so than any of the lieutenants under his command.

"I was with Captain Mitchell at Fort Leavenworth before and at the time of his death. The captain had been on duty about two weeks when he died. He was suffering from cold, and was not well when he was ordered to take recruits out to Fort Scott. When he returned he was suffering very much with a cold, and was otherwise very unwell. His friends tried to get him to remain in the house and not to do so much duty, but after returning from his trip he took his tour as officer of the day, which entirely prostrated him. He was taken down sick, and never left his bed. The assistant surgeon came to see him on Friday, the 12th, but did not appear to think he was very sick. I was uneasy about him, and I thought he was sicker than the assistant surgeon seemed to consider him. In the afternoon of the 13th the assistant surgeon came to see the captain, but did not appear to consider him very sick.

"I asked the assistant surgeon what was the matter with the captain. He replied: 'It was very strange; I do not know exactly, but think it is from having been wounded so severely and so often during the war.' The captain suffered very much from the wounds.'

"Dr. Edward W. Lee, surgeon P. F. W. and C. Railroad, certifies that—

"He was acquainted with the deceased officer from the latter part of 1866 to the time of his death. During that time he had frequent opportunities of observing his habits, and that at all times his condition was such as became an officer and a gentleman; at no time did he seem unfit to do his duty. He was suffering from necrosis of the bones of the right leg, and at times a blood-vessel would ulcerate through, causing profuse hemorrhage. There was an ulcer on the leg all the time, and several pieces of bone came through at different times. He had been wounded no less than four times. The right elbow was excised from injury, and he had a bullet in the left hip. These injuries undermined his health.

"I saw Captain Mitchell for the last time alive (September, 1869) on his way to the West, and from my observation I can truthfully say that his physical condition was such as to unfit him for the exposure that he subsequently underwent. I had an opportunity to examine the body after its arrival at Chicago, and considering that no special means were used for preservation, the condition of the remains would preclude the notion that the cause of death was alcoholism.'

"Corroborating the testimony as to the good character and even habits of the deceased are letters from several general officers who had personal and intimate knowledge of the deceased. The surgeon who made the record in 1869 has been written to, and we find the following memoranda in the case:

"Maj. David S. Magruder, surgeon, U. S. A., under date of February 7, 1878: 'That it is not possible to give any information about the case of Capt. John Mitchell, as at this date he has no recollection of it whatever.'

"B. J. D. Irving, surgeon and brevet colonel, U. S. A., in a statement written at Fort Wayne, Mich., January 24, 1871, says that in the summer and autumn of 1866, when he was serving as post surgeon at Fort Leavenworth, Kans., he knew Captain Mitchell during a period of six or seven months, and that his habits were good—those of a temperate man; that he was badly crippled from severe wounds, but was looked upon as one of the most promising and efficient young officers at the post.

"The evidence of the body-servant above referred to shows that this surgeon had never seen or attended the captain except immediately before his death, when he expressed ignorance of the immediate disease.

"The record of the Adjutant-General's office gives the following showing of the wounding of this officer:

"Wounded August 11, 1860, shot in left hip, rifle bullet, in engagement with Goshute and Bannocks in the Ute territory. 2d. Antietam, right hand and face, September 17, 1862, by premature explosion of 12-ton gun. 3d. On or about November 14, 1863, pistol wound received in right leg accidentally by horse falling through bridge near Rappahannock Station, Va. 4th. Wounded in right elbow in action on Quaker's Road, near Boydton Plank Road, Va., March 14, 1865. Operation, resection head of ulna and radius, union of extremities of these bones and humerus motion very slight.'

"Your committee, after a thorough consideration of the case, believe that the arbitrary record made by the surgeon has done great injustice to the petitioner, and that

while the Pension Office is precluded from action in her behalf by that record, her case is entitled to the consideration and action of Congress. We therefore report favorably upon her prayer, and recommend the passage of the bill."

Your committee, in adopting the report made by the House Committee on Invalid Pensions, think it proper to say that in a case where "chronic alcoholism" is alleged to have been the cause of death it is highly proper that evidence should be received as to the general reputation of the deceased for sobriety and temperate habits for some time prior to his death. "Chronic alcoholism" is not the result of a single spree, or even of a series of periodical sprees, but becomes a disease of the system by long-continued drunkenness; therefore, when reputable men make oath that the deceased bore the reputation of being a temperate man up to the time of his death, when their association with the deceased was of such a character that they must have had knowledge of long-continued drunkenness, had it existed, their evidence is entitled to great weight. Your committee report the bill (H. R. 3581) back with a recommendation that it pass.

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