

2-6-1885

## Report : Petition of H. Dougherty

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2140.]

*The Committee on Pensions, to whom was referred the bill (H. R. 2140) granting a pension to Hugh Dougherty, have examined the same, and report:*

This soldier entered the military service September 20, 1862, and was discharged May 29, 1865, as second lieutenant of Company K, Thirteenth Kansas Volunteers. On the 15th of July, 1880, he made application for pension, which was rejected January 24, 1884, for want of hospital record and inability to furnish medical evidence. Claimant avers that he contracted rheumatism in hip and back August, 1863. Cause, exposure to weather, the tents being blown over at night during a rain-storm, and he was obliged to lie all night in the rain, causing the first attack of rheumatism. Again, in the chase after the rebel General Cooper, in the Cherokee Nation, during two weeks of rainy weather was obliged to lie out unprotected by tents.

Patrick Langan and Thomas L. Seip, two neighbors, testify that they were personally and intimately acquainted with him from 1859 till time of his enlistment; that for the two last years they worked with him almost daily, and that he was a sound, able-bodied man.

Capt. P. H. McNamara, of Company K, says:

In August, 1863, Hugh Dougherty was disabled in the line of his duty by the tents being blown over in a storm, and the claimant lying out all night in the rain, from the effects of which said claimant contracted rheumatism in the back and afterwards in the right hip, which was afterwards aggravated by hard marching and exposure whilst marching through the Indian Territory after Confederate General Cooper, without tents. I know these facts from having been present in person.

J. J. Locker, probate judge of Atchison County, a gentleman whose integrity is unquestioned, testifies, on 25th of July, 1883:

He has known Hugh Dougherty intimately for the last nineteen years, but the more particularly since discharge; that he has seen him, on the average, weekly in the years 1866, '67, '73, '74, '75, '76, '77, and '78, and almost daily in the years 1863, '69, '70, '71, and until August in 1872, and in 1879, '80, '81, '82, and to date. I know that he has frequently been laid up from work by reason of rheumatism in back and legs. I remember distinctly of meeting him in January, 1866, and of his then complaining of rheumatic pains in back and legs, and of his positive assertion at the time that although entitled to pension he should never apply. He was then better off financially than now. I have noticed that the disability is increasing on him, and has gradually ever since he left the service.

Dr. J. M. Linley, an eminent physician of Atchison, testifies that he treated him for rheumatism in 1871, and has occasionally ever since.

Several of his near neighbors and friends testify that they have known him intimately since his discharge, and that he has been afflicted with rheumatism ever since. Claimant says that he was treated by Surgeon Grimes while in the service, but that physician died in 1877. The Adjutant-General's report shows that in September and December, 1863, he was borne on the rolls at different times as "present, sick."

The evidence in this case is of a high order, and seems ample, with the exception of proof of medical treatment up to 1871. He is unable to prove medical treatment in the service, because Surgeon Grimes is dead. He testifies that for six years after his discharge he endeavored to treat himself, with the help of his wife. He was examined August 9, 1882, by Medical Examiner A. P. Tenney, who reports him three-fourths disabled.

This case was reported adversely by this committee in March, 1884, but, upon a further examination, the proof of superior officers shows the time and cause of the disability in the service. Although slight at first, it never left him, but continued to increase, he being cared for several years by his wife until he was compelled to employ a physician, and finally became a permanent disability.

Your committee have no hesitation in saying that it is proven beyond a reasonable doubt that the disease was incurred in the line of duty and has existed ever since, and therefore recommend the passage of the bill.