

1-10-1876

## On the Case of J. Nix

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IN THE SENATE OF THE UNITED STATES.

JANUARY 10, 1876.—Ordered to be printed.

Mr. HAMILTON submitted the following

REPORT:

[To accompany bill S. 44.]

*The Committee on Pensions, to whom was referred the bill (S. No. 44) granting a pension to Jacob Nix, have examined the same, and beg leave to submit the following report :*

The papers on file in this case in the Pension Bureau disclose the following state of facts, to wit: In August, 1862, the county of Brown, in the State of Minnesota, was invaded by a band of hostile Sioux Indians, when the sheriff of said county, being authorized by the laws of the State in case of riot or insurrection to call out the militia, called out the entire force of the county, some five or six companies, or parts of companies, and appointed claimant to the command, with the rank of major. This force was hastily organized on the 18th August, 1862, and had a skirmish with the Indians the next day, in which claimant received two gunshot wounds—one in the third finger of the left hand, causing the loss of the finger, and the other in the upper left arm, flesh wound. The force was disbanded on the 26th of the same month, having served eight days. Claimant filed his application for pension on the 11th June, 1866, under section 9 of the act of July 4, 1864, which provides "that those persons, not enlisted soldiers in the army, who volunteered, for the time being, to serve with any regularly organized military or naval force of the United States, or where persons otherwise volunteered and rendered service in any engagement with rebels or Indians, since the 4th day of March, 1861, shall, if they have been disabled in consequence of wounds received in battle in such temporary service, be entitled," &c.

It will be seen from the statement of the case that no evidence of the service or cause of disability of claimant was likely to be found upon the files of the War Department. The Commissioner of Pensions applied to the adjutant-general of the State of Minnesota for such evidence, in the shape of orders, muster-rolls, &c., as the records of his office might furnish, and obtained in response only the affidavit of the sheriff of Brown County, which had already been filed. So trivial and insignificant was the affair considered, that no record of the transaction seems to have been preserved anywhere—no rolls even of the companies, either of muster in or muster out—no muster at all, in fact. The men seem to have been hastily collected together, from different settlements, and partially organized, under the direction of the sheriff, for the expulsion of the Indians. But if the claim was supported by record evidence ever so complete, the affair may be fairly characterized as mere

police duty. No doubt the men behaved well, and deserve well, but this is not an isolated case. Frontier men always have and always will turn out promptly to repel the savage foe. They have fought their way across the continent, without other fee or reward than the safety of their families and property and the gratitude of their countrymen. While this is so, the Government has steadily and carefully excluded those of them who have been disabled, and the families of those who have died or been killed in such service, except in times of war, from the pension-rolls. The number of such cases, running back to the early settlement of the country, in fact within the present generation, is very large, though taken separately quite trivial, and hence no record of them preserved; so that it has been considered dangerous to open the door to the impositions and frauds which would certainly be practiced upon the Government. Besides, even if the claim were clearly admissible, your committee submit that, inasmuch as the claimant seems to have had no rank or commission in the militia of the State of Minnesota other than that conferred upon him by the sheriff of Brown County of that State, the rate of pension would be only that of a private. According to the affidavit of the sheriff, the officer highest in rank called out by him on the occasion referred to was captain, and the claimant was appointed to the command of the several fractions of companies, with the rank of major. The disability of claimant was rated at one-fourth when last examined, some time since, from the loss of the third finger of the left hand, which would only entitle him to about two dollars per month. Your committee therefore recommend the indefinite postponement of the bill.