

1-19-1880

## On the Case of J. Nix

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IN THE SENATE OF THE UNITED STATES.

JANUARY 19, 1880.—Ordered to be printed.

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

REPORT:

[To accompany bill S. 620.]

The Committee on Pensions, to whom was referred the bill (S. 620) granting a pension to Jacob Nix, report the same adversely, for the following reasons:

It appears from the evidence that the said Nix, in 1862, was residing in Brown County, Minnesota, and that on the 18th of August, in that year, he was called into service as a member of the militia by the sheriff of that county to repel an attack of the Sioux Indians upon the town of New Ulm in that county. It further appears that the sheriff had authority, under the laws of Minnesota, to call the militia into active service in such an emergency. The applicant filed a claim for pension on the 11th of June, 1866, alleging disability from a wound in the left arm and a wound in the left hand received at New Ulm on the 19th of August, 1862. The claim was made under the ninth section of the supplementary pension act, approved July 4, 1864, providing pensions for 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 who otherwise volunteered to render service in any engagement with the rebels or Indians, who are disabled by wounds received in such temporary service. The provision of law under which the claim was originally made was re-enacted without any essential change by section 4693 of the Revised Statutes. In this case the committee are of the opinion that the militia of Brown County having been called into service by the sheriff of said county under authority of law, the members could not be regarded as having volunteered; and that, therefore, the claim based upon such service did not come within the provisions of the law.

The committee are also advised that this has been the uniform rule of the Pension Department since 1871, when like claims were rejected.