

5-8-1882

## Report : Petition of J. Nix

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IN THE SENATE OF THE UNITED STATES.

MAY 8, 1882.—Ordered to be printed.

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

REPORT:

[To accompany bill S. 1201.]

*The Committee on Pensions, to whom was referred the bill (S. 1201) granting a pension to Jacob Nix, having carefully considered the same, make the following report :*

That it appears from the evidence that in 1862 the said Jacob Nix was a resident of Brown County, in the State of Minnesota, and that on the 18th day of August in that year the said Jacob Nix was called into service as a major of the militia, by the sheriff of Brown County, to repel an attack of the Sioux Indians upon the town of New Ulm, in that county.

It appears that under the military laws of Minnesota the sheriff had authority to call the militia into active service in such an emergency. The applicant filed a claim for pension June 11, 1866, alleging disability from a wound in the left arm and a wound in the left hand received at New Ulm on the 19th day of August, 1862. It appears that the claim was made under the ninth section of the supplementary pension act, approved July 4, 1864, providing pensions for those persons who were 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 The provision of law under which the claim was originally made was re-enacted, without any essential change, by section 4693 of the Revised Statutes.

The Pension Office rejected the claim on the ground that, having been called into the service by the sheriff, he was not a volunteer in the sense of the law, and therefore not entitled to a pension under the general law. A former report of the Committee on Pensions, adverse to the claimant, seems to be founded upon the same reasoning. Your committee are of the opinion that the point made should not tell against the claimant, as he was called into the service to command the militia at a time when his locality was in sore need of a brave man; that he responded to the call and promptly entered into battle with the Indians, receiving the wounds alleged, which a board of surgeons rate at one-third disability.

Your committee report the bill (S. 1201) back with the following amendment, viz:

In line 8, immediately following the word "roll," strike out "subject to the provisions and limitations of the pension laws," and insert in lieu thereof *with the rank of captain at the rate of one-third disability.*