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Jacob Nix

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IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1875.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill S. 1361.]

The Committee on Pensions, to whom was referred, upon a motion to recommend, the case of Jacob Nix, a claimant for a pension, submit the following report :

When this case was before the committee on April 23, 1874, they agreed upon and submitted the following report :

Mr. PRATT submitted the following Report :

The Committee on Pensions, to whom was referred the petition of sundry citizens of New Ulm, praying that Jacob Nix be placed on the pension-roll, submit the following report :

The Sioux Indians attacked the town of New Ulm, in the State of Minnesota, on the 19th and 23d days of August, 1862. There were no United States troops or State militia stationed at the town or in the vicinity at the time to repel the attacks. There was a small garrison at Fort Ridgely, but entirely inadequate to keep the Indians peaceable. This tribe lived on a reservation adjoining Brown County, became hostile, murdered their agent and traders at the agency, and killed nearly the whole command sent from the fort to the agency for the purpose of protecting the property of the United States and the lives of such citizens as dwelt on the reservation. The citizens, however, rallied, were enrolled, and organized into companies, under the direction of the sheriff, and the said Jacob Nix was designated by him to take command, and did so until the arrival of Hon. Charles C. Flandrau, after which Nix acted as assistant commander, and by his bravery and good conduct contributed largely to prevent the town falling into the hands of the Indians. While commanding he was twice wounded, losing the third finger of his left hand and receiving a gunshot wound in the muscles of the left arm, between the elbow and shoulder, by which he has been partially disabled from earning his subsistence. He was formerly prosperous, but by reverses in business is now poor. These are the grounds on which a large number of the citizens of New Ulm pray that he be granted a pension.

Several affidavits establish the foregoing facts. *The case is clearly not within any rule by which a pension could be granted under existing laws at the Pension Bureau. Should Congress grant one ?*

How many persons were killed and disabled in these two attacks of the Indians is not shown. But clearly those disabled could set up a similar claim, while the widows, children, and dependent relatives of those who were killed or died of injuries received in the engagements could make a like claim, if this one be allowed.

The force assembled was of the State militia. The officers were civilians. No officer of the United States was in command.

The defense was conducted wholly by citizens, organized for the time being by the sheriff, in pursuance of a law of the State. No law had promised the men who obeyed the call of the sheriff and governor pensions in case of disability.

Whatever may be thought of the propriety of extending the law to such cases, it appears to the committee unwise to single out an isolated case which has no aggravated features. The committee, therefore, ask to be discharged from the further consideration of the petition.

It was claimed upon the coming in of this report that the committee had misconstrued the ninth section of "An act supplementary to an act

to grant pensions," approved July 4, 1864, (Statutes at Large, vol. 13,) which section is as follows:

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 to the same benefit of the pension-laws as those who have been regularly mustered in, &c.

The committee, however, received a communication from the Pension-Office, May 16, 1874, which sustained the construction of the committee, and is in the following words:

SIR: In reply to your letter of the 12th instant, in regard to the case of Jacob Nix, who applies to be pensioned by a special act of Congress on account of wounds received in battle with the Indians at New Ulm, Minnesota, in August, 1862, I have the honor to state that the act of March 3, 1873, is applicable to his case, and that a claim by him would not be admissible under the general law, as the provisions of that act, which refer to persons not enlisted in the service of the United States, embrace only such persons as served under the orders of an officer of the United States, or such as volunteered for the time being and rendered service in any engagement with the rebels or Indians. The forces which were engaged at New Ulm, Minn., were not under the command of an officer of the United States Army. The persons engaged were not volunteers, as it appears from evidence on file at this Office that they were called into service by the sheriff of Brown County.

The decision of the Department is adverse to the claims of persons disabled in this engagement on the ground that they were not volunteers.

The claims of the persons who were disabled in that engagement, and the claims of the widows and relatives of those who were killed, appear to be meritorious, and it is respectfully suggested that the general law should be so amended as to embrace them, or they should be provided for by special act of Congress.

Very respectfully,

JOS. LOCKEY,
Acting Commissioner.

Hon. D. D. PRATT,
Chairman of the Committee on Pensions, United States Senate.

It will be seen that the Pension-Office is of opinion that the persons who were disabled in that engagement with the Indians ought to be included in the benefits of the pension-law either by a general amendment or by special legislation.

The committee, upon reconsideration of the case of Jacob Nix, have agreed to report a bill for his relief, and recommend its passage.