

The committee have looked, in vain, at the communication of Senator Kerr, to find an explanation of the difficulties which stand in the way of a proper understanding of the matter before us. The death of General Macomb *indirectly* created a vacancy of Brigadier General, and the promotion of Major General Scott, was the *immediate* cause of that vacancy. The committee beg pardon of the House for being thus precise, but they wish to fortify themselves so much as they possibly can, against the acute assaults of Senator Kerr, who has replied as if he were picking flaws in an indictment against himself. Vacancies are to be filled by promotion to the rank of Colonel; above that rank by selection, and the President was at liberty to have selected any officer of the army, or even a citizen to fill the vacancy. The practice has been to appoint the next in rank, unless there was some disqualification in the individual, or some pre-eminent military fitness for the office in another. In this case there were, exclusive of brevet Major General Jesup, three brevet Brig. Generals above General Wool, on the army register; and of right General Towson's brevet should also have been above his; but owing to the circumstance of General Towson's nomination for that rank being made out by President Jackson at the Capitol, but a moment before the close of the session, without the opportunity of referring to the dates of previous brevets, on which that of Brigadier was founded, the nomination was sent to the Senate without date, was so confirmed, and afterwards entered on the register to take effect from the date of confirmation. Under these circumstances, Gen. Towson's claim to the vacancy on the score of rank was superior to that of Gen. Wool's, and his military services no Marylander will acknowledge to have been in any way superior.

The records of the War Department furnish the best evidence of the claims and fitness of an officer to fill any station in the army, and to them the President, in making his nominations should alone have looked. But this committee will state, that other influences were brought to bear upon the President, and members from the different States actively urged the claim of their several candidates. We hope, that our two Senators were also active at that time in making counteracting exertions to prevent injustice being done to a brave and distinguished Marylander.

Had the error in the date of Gen. Towson's brevet been corrected before the nomination of Gen. Wool, there is strong reason to believe that Gen. Towson's name would have been sent to the Senate. Gen. Towson memorialized the Senate on the subject of the date of his brevet, as it seemed probable, that the establishment of his just rank would have some influence on the Senate, and certainly some bearing on the second nomination, if Gen. Wool were rejected. It was of course desirable, that his memorial should be acted on speedily. What effect this memorial had upon the Senate your committee are of course unable to say. Certain it is, that a motion was made to lay the nomination of Gen. Wool upon the table, and upon this question the vote stood yeas