

Moffett, Wallace
Feb.
Mch. 17. 1877.

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Freeland Ill.
March 18. 1877.

Gen. Howard
Dear Sir,

the appointment.
Please forgive the in-
trusion and answer
if agreeable. I remain
Yours. Respectfully
Wallace Moffett
Freeland
De Kalb Co. Illinois

Please inform also
if drill is required
on the Sabbath
W. M.

Ans. by Gen. Mch. 28. 1877.

You will
please pardon a youth
of fifteen for address-
ing you, especially,
when I explain.
My most ardent desire
is to go to West Point
Military Academy; but
my father (a United
Presbyterian minister)
has seen printed notices
in some of the papers
reflecting upon the
character of the institu-
tion, in a moral

and religious point of view. and will not give his consent under those circumstances.

I have endeavored but ineffectually to ascertain the true state of affairs, and think, and you would know as well as any one and be the most willing to furnish information I take this liberty of asking your opinion and advice upon this, to me, very important subject.

I am a member of the U. P. Church and believe, a Christian and do wish to go to the Academy if I can do any good, and

myself remain untarnished, by evil and corrupt influences,

I have given the subject the most prayerful consideration and am convinced I can be of more use there than in any other position in life. But I do not wish to go if father is unwilling, and think your word one way or the other would be sufficient.

Am. of the necessary size, in good health and possess the necessary education and if I can get father's mind cleared on this subject, would endeavor to procure

but, really I think, she has been very
She showed me this ^{Purvis. Mrs.} ~~Mar. 14. 1877~~ ^{Mar. 14. 1877} great
excellent & conclusive letter from Dr. De Le
Mater, whom she found here in one of the Depart-
ments, she also has had John S. Cork's
records but all knowledge of a contract or of your
letter is only in her memory & that of a few
teachers who saw them at the time.

She has me particularly to say to you that
she only asks for \$2500, just enough to
get back her home, which was sold on account
of a mortgage which she gave up to pay the
debt which she contracted for measures for the
people who were sent to her home to be cared for.
It was a good frame home, with six rooms.
At the time she was buying her home one of the
Boston Societies paid several hundred dollars
towards securing it to her, & her children paid the
rest. - The poor woman is by no means
alone, there is a long list of those who
verify the word "Hope deferred maketh the
heart sick". - Dr. unite with me in
affectionate regards to you & your family.
Respectfully Annie M. Purvis.
1118 - 134 St.



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Washington D.C. March 14th 1877
May. Gen. O. C. Howard
Dear Friend,

I take the liberty to address
you at the urgent & earnest request of Mrs.
Sally Hardman of Richmond Va.

I think you will remember her work there
among the people of her own race, both as a
volunteer & as an agent under Gen. Brown for the
Bureau. You will also remember to have seen
her & shown her great kindness here, less or the
years ago, when she came to claim remunera-
tion for her services from the Government.

She once applied to you through Miss
A. B. Francis now of Cambridge Mass, for
an order to Gen. Brown to pay her, you
answered by requesting that he should do
so, if it had not been already done. This
was about the time he was leaving Richmond
& by evasion & refusing to see her she was

unable to present your request & you
perhaps will remember how very sad-
dly he left them at last; & since then
he has been written to repeatedly & fails
to send any reply. Now this paper
from you was lost (when her house was
sold) as was also her contract with
Gen. Brown & other documentary
evidence that she did the work. She
now only has the living witnesses that
she did keep her own house & some
barracks building near, open for the poor
free people for seven years & receive
pay for the same, for about ten months,
and this brings me to what I wish
to say most of all. She has been
away from Washington these two years,
evidently dwelling all the time upon
the realizing of her claim, & has come
here now trying again in her full
way. She is possessed of one idea
viz. that if you should send her a few
lines such as your memory & conscience
would dictate, she would show such a
letter to Gen. Butler & she would carry out
a promise already made to her that he
"would do all he could for her". I am
of the opinion that it is a fool's hope,
but it has so engrossed & preyed upon
her mind that I fear the consequences &
I have for her sake consented to see Gen. Butler
in person & present whatever you shall
send to him. I shall urge him
to tell her very plainly whether he will un-
dertake it or not, for she is so impressed
with his power to do almost anything that
nothing else but his opinion will satisfy
her. I know a great deal about her work
in Richmond & know her to be a most ex-
cellent woman, of great executive ability, but
as you may suppose, sadly deficient in
business capacity. There are several lawyers in
Richmond who are very willing to undertake her
case, but she knows about their charges & don't care
to have them undertake it. John Ambler Smith
& his brother Morrie are both very desirous

McClelland, Wm. L.D.

Madison Wis.
Mch. 14, 1877.

And my son - April 3, 1877.

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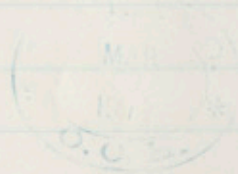
Madison Wis
Mch 14th 1877.

Br. Maj. Genl O.O. Howard

Dear General

For
I prophesied in 1840 when I resigned
that I would in a few years forget
the Army and be glad that I was out
of it, but it is not so. I would like
to get back and for that purpose am
trying to secure an appointment as
Paymaster on the first vacancy occurring.
Would you oblige me with an official recom-
-mendation for such an appointment and any
advice which you may think will assist
me in accomplishing my purpose.

I graduated at the Point in 1858 served as
an officer till my resignation in 1870, and
since that time have been Prof. of Military Science





and Civil Engineering in the University
of Wisconsin-

Very respectfully

Your obt. servt-

Hubert L. Hendemon

[Faint, mirrored handwriting, likely bleed-through from the reverse side of the page. The text is mostly illegible but appears to contain a letter or official communication.]



Fort Vancouver W. G. March 16/77

Gen. O. Howard

Dear Sir

Because of the continuous illness of my wife on this coast & also, because of my desire to benefit the Army, I have asked to be ordered to Columbus Barracks, Chi. Cal. Mass. While regretting to have me go, will approve of my application. And may I not hope when my application reaches you, you will also favor it?

Yours to

H. Collins

P.S. I take the liberty of sending you a copy of my article on the Indian Problem

Col Mason informs me that you purpose visiting this Post. I should be happy to have you speak in that behalf. My regular lecture comes on Wednesday & takes about 40 minutes to

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File





March 19th 1877.

Portland, O.O.H.



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834 } a.e. 1877.

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Headquarters of the Army,

Adjutant General's Office,

Washington, March 19th, 1877.

Brigadier General O.O. Howard,

U.S. Army,

Headquarters Department of the Columbia,

Portland, Oregon,

General:-

Under instructions from the Secretary of War, I have the honor to enclose herewith a copy of my report, dated the 26th ultimo, in the matter of rank between yourself and Brigadier General Terry, that you may have opportunity to remark upon it before it is sent to the Attorney-General, for his opinion, as desired by General

Terry.

Very respectfully,
Your obedient servant,
E D Townsend
Adjutant-General.

Memorandum.

General Terry, in suggesting
the reference of the question to the Attorney-
General, has requested that you may be
heard.

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834 } acp. 1877.

War Department,

Adjutant General's Office,

February 26. 1877.

To,

The Honorable

The Secretary of War.

Sir.

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Under your instructions of the 21st instant, concerning the matter of rank between Brigadier General Alfred S. Terry, and Brigadier General Oliver O. Howard, as presented by the former, in the papers from him, herewith returned, and in order that the case may be referred to the Attorney General, I have the honor to submit as follows:-

January 18. 1865. The following order was received from the President:

"Appoint Brevet Major General Alfred S. Terry,
"U. S. Volunteers, a Brigadier General in the Regular
"Army, to date from January 15. 1865, for distin-
"guished services during the war, and for gallantry
"and generalship, in the capture of Fort Fisher, N.C."

January 18. 1865, the nomination was made to the Senate as follows:-

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"I nominate the person named in the accompanying communication for appointment in the Regular Army of the United States, as proposed by the Secretary of War."

"Brigadier General and Brevet Major General Alfred H. Terry, United States Volunteers, for distinguished services during the war, and for gallantry and generalship, in the capture of Fort Fisher, A.C., to be Brigadier General in the Regular Army of the United States to rank from January 15, 1865."

January 19, 1865, the nomination was confirmed by the Senate as follows:-

"Resolved. That the Senate advise and consent to the appointment of Brigadier General and Brevet Major General Alfred H. Terry, United States Volunteers, to be a Brigadier General in the Regular Army of the United States, to rank from January 15, 1865, for distinguished services during the war, and for gallantry and generalship in the capture of Fort Fisher, A.C., agreeably to the nomination."

He was commissioned January 20, 1865, with rank from January 15, 1865, and accepted the commission February 10, 1865.

The foregoing appointment was made to fill

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the vacancy caused by the nomination December 12, 1864, of Brigadier General George G. Meade, as Major General to date from August 18, 1864, which nomination was confirmed by the Senate February 1, 1865.

He was commissioned February 2, 1865, and accepted the commission March 3, 1865.

February 25, 1865, the following order was received from the President:

"Major General O. O. Howard, to date from the fall of Savannah. To be nominated Brigadier General in the Regular Army."

February 25, 1865, the nomination was made to the Senate as follows:-

"I nominate the person named in the accompanying communication for appointment in the Regular Army of the United States, as proposed by the Secretary of War."

"Major General Oliver O. Howard, United States Volunteers, to be Brigadier General in the Regular Army to date from December 21, 1864, vice Thomas, appointed Major General."

March 3, 1865, the nomination was confirmed by the Senate as follows:

Resolved

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"Resolved, That the Senate advise and consent to
"the appointment of Major General Oliver O. Howard,
"United States Volunteers, to be Brigadier General in the
"Regular Army, to date from December 21, 1864, *vice*
"Thomas, appointed Major General, agreeably to the
"nomination."

He was commissioned May 11, 1865, with rank from
December 21, 1864, and his Commission was sent out the
same ^{day}; but it does not appear that he ever acknowledged
its receipt or filed his acceptance of it, although he has
been and is now rendering service under the said
commission.

The foregoing appointment of Howard was made
to fill the vacancy created by the nomination December
12, 1864, of Brigadier General George H. Thomas, as
Major General to date from December 15, 1864, which
was confirmed by the Senate January 13, 1865.

He was commissioned January 16, 1865, and
accepted March 4, 1865.

It thus appears that General Terry was in the
actual receipt of, and had accepted his commission
of Brigadier General, prior to the date of the nomination
of General Howard, for the like position - but the date

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of rank, fixed by the order for the nomination of the latter, from the fall of Savannah [December 21, 1864] and in which he was confirmed by the Senate and Commissioned, gave him precedence in rank, on the Army Register, over General Terry, whose date of rank was fixed, by the same authority, from January 15, 1865, and in which he was confirmed by the Senate and Commissioned.

General Terry now claims that he is "legally his [Howard's] senior," and recites: "my claim to seniority is founded on the facts that I was nominated, confirmed and commissioned, and that I accepted my commission and took the oath of office before General Howard was even nominated to the Senate for confirmation; and upon the legal proposition that it is not in the ~~the~~ power of the President and Senate alone without the concurrence of the House of Representatives, to degrade an officer in rank after his rank in the service has once become fixed."

In the Army Register, the dates of commission, as fixed by the President and confirmed by the

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the Senate, determine the order of precedence and relative rank - there has been no exception to this - and, under paragraph 4, Article II of the Army Regulations, rank in each grade of Commissioned Officers is determined "by date of Commission or appointment:" The date of appointment - date of rank fixed by it - governs when there is no commission, but the date of rank fixed by the appointment is always that given in the commission, which follows.

The President has uniformly exercised the right to fix the date of Commission - even anterior to that of vacancy - until the adoption of a Resolution by the Senate Committee on Military Affairs in 1865, requesting the Secretary of War to send in no nominations for appointments made during a recess bearing a date prior to the first day of the preceding recess of the Senate.

Under the rules and practice referred to, and having the action of the Senate Military Committee in view, the appointments made under the act of July 28, 1866, serve to illustrate the working and bear date as follows:-

Those made during the recess following the

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adjournment of the 1st Session of the 39th Congress [i.e. from July 28, 1866, to December 3, 1866] obtained the date of the act - July 28, and on the assembling of Congress, December 3, 1866, those thus appointed, and who had accepted were nominated accordingly.

Those made during the session [December 3, 1866, to March 4, 1867] bear date January 22, 1867; and those made after the close of this session [i.e. after March 4, 1867] bear date not earlier than March 5, 1867, most of the appointments dating March 7, 1867.

Under the foregoing, there are cases where, in the same grade, seniors in service have been made juniors [See the Army Register for January, 1877, wherein among the Lieutenant Colonels of Infantry, Lieutenant Colonel A. M. D. McCook, ranking from March 5, 1867, is junior to six others, ranking from July 28, 1866.]

The action of the President in fixing the dates of Commission, and the Senate in confirming them, is further illustrated in the case of Major General B. F. Butler, United States Volunteers, which was referred to a Board of Officers - Judge Advocate General Holt a member - convened by Special Orders No. 262, June 13, 1863, from this office.

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Butler was, in May 1861, appointed a Major General in the service of the United States, with rank from May 16, 1861. Subsequently to his appointment, and in June and July, other Major Generals of Volunteers - Dix and Banks - were appointed with a date of rank the same as given to Butler.

The Board held as follows:-

* * "The primary inquiry presented by the 4th paragraph (of Article II, Army Regulations) "and which unquestionably applies to the case "before us, is what is expressed and intended by "the date of a commission?"

"The letters informing Generals Fremont, Banks and "Dix of their respective appointments were all dated "in the months of June or July, but they all designated "another date, in the month of May 1861, as the "time from which their rank or command should "be reckoned.

"These letters of appointment were certainly "intended to carry back the date of the rank "conferred in them, to a time anterior to the "promulgation of the fact of the appointment.

"The exercise of such a power by the President

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"has been concurred in by the Senate, is sanctioned by
"usage, and not prohibited by the Constitution or any law
"of Congress.

"The Board find no difficulty in the conclusion,
"that the date of a military commission or appointment
"signifies the time designated in the commission or
"appointment from which the rank or office conferred
"shall be reckoned."

The result was promulgated in General Orders
No. 203 of July 1, 1863 [Copy herewith] and Butler
was pronounced junior to the others - this as a
result of the President's action in exercising a right
to fix dates of commission - to give the same date
to several - thus permitting former service to become
effective and transforming a senior into a junior.

Of course the President in the exercise of the
same right could have fixed different dates of com-
mission - all anterior to the dates of appointment.

Even in cases where an appointment had expired
by constitutional limitation the President has again
appointed, giving the original date, and it has been
confirmed by the Senate.

This is illustrated in the case of Major

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General J. M. Schofield, United States Volunteers, who was first appointed November 29, 1862, and nominated with that date - March 4, 1863, the appointment expired through non-confirmation.

May 12, 1863, he was again appointed and nominated as Major General of Volunteers with rank from November 29, 1862, and was so confirmed by the Senate May 12, 1864, and commissioned May 14, 1864.

I now return to the immediate cases of Howard, and Terry.

Two vacancies of Brigadier General were viewed as existing from December 12, 1864, through the nominations, made, on that date, of Brigadier Generals Meade and Thomas to be Major Generals; these vacancies as to form, were completed, one March 3, 1865, (by Meade's acceptance that date, as Major General,) and the other March 4, 1865, (by Thomas's acceptance, that date as Major General.)

Therefore it is clear that if the President had waited until the forms of office had been concluded, neither Terry nor Howard could have been nominated until March 3, 1865.

Nomination to the Senate did not actually

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create a vacancy.

Confirmation by the Senate did not actually create a vacancy.

The acceptance of the Commission did; for it constituted the essential link. Yet when the acceptance had made it sure that a vacancy did exist, it constructively took effect retrospectively from the date given, in the nomination and confirmation to the officers new grade.

Consequently the view taken by General Terry, that at the time of his nomination, "there was but one vacancy existing in that grade [Brigadier General] that created by the confirmation of General Thomas, January 13, 1865," is not sound, and his argument based on that view necessarily falls. On December 12, 1864 a date subsequent to those on which Meade and Thomas, constructively, vacated their commissions as Brigadier General, because of the dates given to their rank as Major Generals, the President exercised the right which, for purposes of nomination, recognized the two vacancies; and in so doing he did what other Presidents from the first, had done.

The vacancies for the purpose of appointment

12/ and nomination must be recognized as existing at any rate on December 12, else General Terry will be found in an office which did not exist until March 3, 1865, the date of Meade's acceptance as Major General.

Admitting that the determination of the dates of commission - (Terry's, January 15, 1865 - Howard's, December 21, 1864) rest alone on undeviating usage then they are final and conclusive for a "contemporaneous" understanding of a statute, corroborated by an undeviating usage of thirty years, must govern in its judicial construction [Quarries on Statutes, 693; 3 Pick., 517; 1 Cranch, 299; 5 Cranch, 22; 17 Mass. 144; 2 Mass. 477;] 2 Circ. (N.Y.) 1847; United States vs. The Recorder, 1 Blatchf. 218; S.C. 5, N.Y. Leg. Obs., 286."

In conclusion I may further quote from the views of the Board in Major General Butler's case, as follows:

"Precedence in rank between General Officers of the same grade, may involve very serious consequences, and is a practical and substantial question - not one of mere form. It is one, therefore, which the authority conferring and responsible for the appoint-

"and is a practical and substantial question - not
"one of mere form. It is one, therefore, which the

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"authority conferring and responsible for the appoint-
"ment, should have opportunity to act upon.

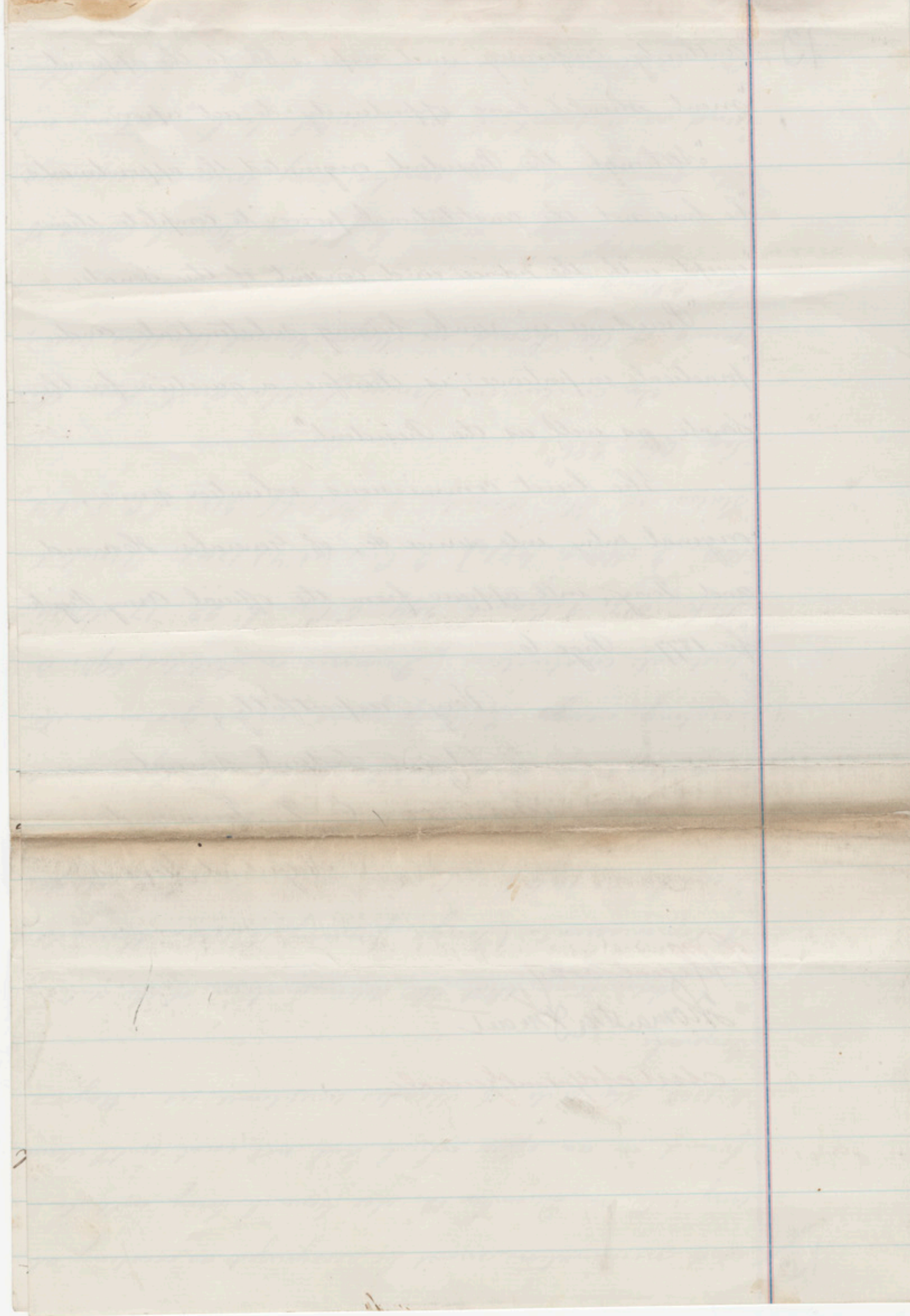
"Although the President originated the appointments,
"he has not the constitutional power to complete them
"except with the advice and consent of the Senate.

"Precedence in rank, having substantial and
"practical importance, is therefore a question for the
"Senate, as well as the President."

The brevet commissions, volunteer service,
original entry into service &c, of Generals Howard
and Terry, will appear from the official Army Register
for 1877- Page 6.

Very respectfully,
Your obedient servant,
(Signed.) E. D. Townsend,
Adjutant General.

Official copy:
Thomas M. Grant
Asst Adjutant General.



March 19 7

Sir. On the 15th instant. Ollicut - Joseph's brother, came to the agency, and remained until the 17th; During his stay I had three talks with him. On the evening of the 16th instant he came to my office with James Reube. - his nephew and assistant teacher in the school here. During the conversation I questioned him in regard to the Council and feast held at their camp (referred to in my letter to you of Feby 26th 1877). He remarked, that a great many lies had been told about them and their council. I asked him what he referred to. In reply he spoke as follows, in substance. "They say I want to fight, which is not true. When we had our council I said to my people,

had our council shared to my people
want to fight, which is not true. When we
as follows in substance. They say I
him that he refused to. Our reply to him
told about them and their council I could
warranted that a great many his had been
my letter to you of July 25, 1877. He re-
sponded that he refused to. Our reply to
him in regard to the Council
School here. Among the conversation
Guthrie - his nephew and co-teacher in the
instant he came to my office with some
talk with him. On the morning of the 14th
until the 17th. During his stay I had three
brother, came to the agency, and remained
On the 15th. Ollent - Joseph

March 14

The same being created both the white
and red man and created the earth for them.

They are to get their living and money from
the earth and by laboring both grow happy.
I have a wife, children, cattle and horses.
I have eyes and a heart and can see and under-
stand for myself that if we fight, we would
have to leave all and go into the mountains.
I love my wife and children and could not leave
them. I have always been a friend of the white
and will not fight them.

I told Ollicut, his ideas were correct, that should
his people fight against the wishes of the Govern-
ment, he would undoubtedly lose his property.
That the Govt did not want to harm him, but
wanted to do what was for his best interests and
that if any fighting took place, he and his people
would have to commence it, that the Govt
wanted him and his people to come on the reserve
where they could be furnished with houses, land,
agricultural implements, and get a good start in
agricultural pursuits, after which they could do

agricultural pursuits, after which they could do
various they could be furnished with horses, land,
recruited from his people. I came over the summer
would have to commandment, that the Govt
that of any fighting took place, he and his people
expected to do what ever for his best interests and
that the Govt did not want to know him, but
more, he would undoubtedly lose his property
his people fight against the wishes of the Governor
that I think, his ideas were correct, that should
and will not fight them.

them. I have always been a friend of the white
I love my wife and children, and could not leave
have to leave all and go into the mountains.
stand for myself, that of my fight, we would
I have seen and heard and can see and under
I have a wife, children, cattle and horses.
the people and by leaving both good happy.
they can to get their living and money from
and we can create the wealth for them.
the same being created both the white

for themselves. ^{And} eventually get rich, by being industri-
ous. I told him, I know he was a good worker, could
plow as well as any Indian, could cradle grain
^{And} do all kinds of farm work, as I saw him
at work last year. ^{And} I suppose he acknowledged that
he could do all kinds of farm work.

Some person has told him that Genl. O. C. Howard
was coming here to talk with him again. ^{And} in
this connection he, "When Genl. Howard comes, we
will tell him ^{And} you what we have made up our
minds to do." I told him, I knew nothing
about the coming of the General, but he
answered, "I have been told that he was
coming soon."

I am satisfied that Oelicut told the truth, as regards
the council held at their camp, as I have heard the
same news from a treaty Indian who was
present at the council.

I have written Genl. Howard asking
him to come up, ^{And} with myself have
another talk with Joseph ^{And} see if we
cannot prevail upon him ^{And} his

for themselves. And eventually get rich by being industrious.
us. I told him, I know he was a good worker, could
have an well as any American, could make good
and do all kinds of farm work, as I said him
at work last year. I replied he was contented that
he could do all kinds of farm work.
I have known him tell him that I. O. Howard
was coming here to talk with him again. And in
this connection he said, "I have been Howard comes, we
will tell him and you what we have made up our
minds to do. I told him, I have nothing
about the coming of the General, but he
insisted. I have seen that that he was

coming soon.
I mentioned that I had told the table, an report
the council held at this camp, and have heard
somewhere from a lady American who was
present at the council.
I have written some Howard coming
him to come up. And with myself have
another talk with Joseph and see if we
cannot forward upon him and his

followers to come on the river without
further resistance or controversy.

Am J. O. Smith
Comd. Inf. & Afr.
Washington
D.C.

Very Respectfully
Your obedient servant
U.S. Inf. & Afr.

that

followers to come on the usual without
further resistance or controversy.

Dear Respectfully
Yours
Wm. J. Smith

Wm. J. Smith
Camp of the
Washington

Chas. J. Smith

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Office Indian Agent,

NEZ PERCE INDIANS,

Lapwai, Idaho Territory, March 19th 1877

Sir,

Enclosed please find a copy of a letter I have addressed the Hon Com^r of Indian Aff^s. It appears from the interview I had with Ollicut, referred to in my letter to the Commissioner, that Joseph has been told that you were coming up to see them.

I think if you could spare the time to come here and see Joseph, and impress upon his mind, that it is the unalterable purpose of the Government, that he and his people shall be removed to and located upon this reserve, or some other one, the desired result would follow in a short time. They are now waiting for some one to come and have a final talk. And as stated in my letter to

the Commis^{rs}. Ollicut said, they were waiting for you to come.

If you conclude to come, please telegraph me when you will be at the agency, and I will send for Joseph and have him here so you will not be detained. If you can possibly come, I would urge you to do so.

The reports that are being published in various papers, pertaining to Joseph's movements, are groundless. The fact is, there ~~is~~ certain class who are afraid that there will not be an Indian war

I am Sir

Very Respectfully

Wm. W. W. W.

U.S. Marshal

Genl. O. O. Howard
Comd^g Dep^t Columbia
Portland Oregon

the Committee. I think you will
be waiting for you to come.
Of your conclusion to come, please inform
me before you will let of the Council, and
I will send for people and have them
do you will not be distant. Of your
conclusion to come, I would urge you to
do so.

The reports that are being published
in various papers, particularly the fact that
the Committee are now in the fact that
the Committee are now in the fact that
the Committee are now in the fact that

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I am, Sir,
Very respectfully,
Yours,
J. G. Thompson