

copy of the letter than that which appeared in the New Orleans Picayune, and the American Star and North American, published in this city?

Answer. I have not.

Question by defence. Did witness understand Major Burns as referring to this printed copy?

Answer. I understood him as referring to the letter that had been published over that signature.

Colonel Gladden, South Carolina volunteers, duly sworn:

Question by prosecution. About what hour did the late Colonel Butler leave San Augustin the 19th of August last with his regiment, the South Carolina volunteers, and does the witness chance to know whether the colonel dined at San Augustin that day, and at about what hour, and what the witness knows of another meal—breakfast—taken by the late colonel, at San Angel, the morning of the following day?

Answer. I think the regiment left San Augustin between three and four o'clock, p. m., of the 19th. I am not positive as to the hour. I did not examine my watch. I do not know, of my own knowledge, that he did dine at San Augustin that day. On the morning of the 20th, while that portion of the army that had been engaged at Contreras was halted at San Angel, I received a message from Colonel Butler that he had found a house where something could be had to eat, and requested me to join him. I did so; but, before the coffee or chocolate was prepared, a signal was given for the troops to fall in, and he went out to join them. He then informed me that he would return with General Shields and Captain Blanding, of the South Carolina volunteers, and get something to eat; and that, if the regiment should march in the meantime, I would proceed in command of it. Colonel Butler informed me, when he joined me, that he had obtained coffee and something to eat.

General Pillow called the attention of the court to a publication of a paper handed to the court a few days since, and not entertained by them.

General Scott said the paper had not been furnished for publication by *him*, but that he had not prohibited its publication.

The court said that when the doors were next closed, the subject would be considered.

Mr. James L. Freaner recalled:

Question by prosecution. Has the witness, at Puebla or elsewhere, ever received, open or unsealed, a letter or letters from the hands of Major General Pillow, written by Paymaster Burns for the New Orleans Delta, other than the letter signed *Leonidas*, and dated August 27, 1847?

Major General Pillow objected to the question as irrelevant.

Major General Scott sustained the legality of the question.

The court closed and decided to *sustain* the objection.

The court then decided the question in reference to the publication in a morning paper, as follows: The court has seen with regret the publication in the newspapers of this city of certain papers read to the court and rejected or not permitted to be entered on its record. At the same time, that the court cannot prevent such publication, the parties publishing are warned that they are calculated to prejudice the cause, and the course of the publisher, in the opinion of the court, is indelicate and highly improper.

The decision being announced, General Scott said, in substance, that he would always conform to the rules of the court when he knew them. That he regretted that the court had passed over in silence, a few days since, a somewhat graver case of the same character, which he had brought to their notice.

The president informed General Scott that both publications were included in the remarks of the court.

General Scott then requested to be allowed to place upon the record, as an appeal to the revising authority against the rejection of the last question, the following paper:

*Mr. President and gentlemen of the court:*

The foregoing question having been propounded by the judge advocate, and Major General Pillow having objected to the same, with remarks in support of the objection, Major General Scott present, as prosecutor in the case before the court, made a brief reply, stating substantially that the evidence sought for was intended further to impugn and discredit that part of Paymaster Burns's testimony for the defence, in which the said Burns swore that, after enveloping, addressing, and sealing the Leonidas letter for transmission to the New Orleans Delta, that he, the said Burns, did not deliver said letter to Major General Pillow, all of which he well remembers—yet remembers not to *whom* he delivered the said letter for transmission according to its address; whereas the answer to the said question and the answer to another that would have been put to the same witness (Mr. Freaner) would, as the said Scott is informed and believes, go to show the habit of the said Burns to pass his letters for the public press, laudatory of the said Pillow, open or unsealed, through the latter. And the said Scott reminded the court that the same information heretofore sought, while he was under cross examination, had been on the hesitation of the said Burns, supported by the said Pillow, cut off by the decision of the court, on the ground taken by the said Burns that his answer might criminate him, said witness.

The said Scott believing that the two decisions of the court to be against law, the rights of the prosecution and the ends of justice, asks leave that this his solemn protest may be entered upon the records of the court.

Respectfully submitted:

WINFIELD SCOTT.

MEXICO, March 29, 1848.

Mr. W. C. Tobey, for defence, duly sworn:



Question by defence. Witness will state if he is and has been, since its establishment, the editor of the North American?

Answer. I am now and have been since it was established, with the exception of about eight days. The vacation of eight days was within a month of this time—I think within the present month; I am not certain.

Question by defence. State also if the letter signed Leonidas was published in the "North American" and the "Star," and if it was published in those as it originally appeared in the New Orleans Picayune?

Answer. It was published in the North American since this court commenced its session, and I believe the copy was taken from the Star newspaper of this city. I think it is the Picayune copy. The first time it has appeared in my paper entire, to my knowledge, is since the session of this court. I copied two extracts from the Leonidas letter about the time it was republished here by the Star.

Lieutenant Colonel J. Duncan recalled:

Question by the defence. State whether, or not, you have, prior to the session of this court, had any conversation with Paymaster Burns upon the subject of the authorship of the Leonidas letter; if so, state when and what it was?

Answer. I have. A few days after the arrest of General Pillow, I do not remember the exact date, I was passing up the main street of the city, and Major Burns called me from the opposite side of the street and stopped me. A conversation ensued in reference to General Pillow's arrest and charges, to the following effect: Major Burns remarked that he had heard that, in the charges against General Pillow, he (General Pillow) was accused of writing the Leonidas letter. I told him that such was the case. He said that having understood so, he had prepared a letter to General Pillow, which he proposed to give to him or send to him the next day or in a day or two, in which he had avowed himself the author of the paper. He then told me that General Pillow knew nothing of it and the way he wrote it, which is in accordance with the testimony already before the court. He desired that I should not make any use of this information that might involve him in difficulty; saying that he wished to avoid an arrest and trial, which he had no doubt would follow if it came to the knowledge of the commanding general. That is the substance of the conversation that occurred, and I believe pretty nigh his words.

Question by defence. Has the witness stated all which was said in the conversation; if not, state the balance, and whether, or not, you communicated this intelligence to General Pillow, and when?

Answer. To the best of my recollection I have not stated all the conversation. I did communicate it to General Pillow, either that evening or the next day—I think the next day. The court have decided that the remaining part of the conversation is unimportant.

Question by defence. State if, at the time of the conversation

with Major Burns, you had been arrested for avowing the authorship of one of the two "Echoes," of which the Leonidas letter was supposed to be one?

Answer. I had.

Question by prosecution. Was, or not, Paymaster Burns aware, at the time of the conversation, of the confidential intimacy subsisting between witness and Major General Pillow; and was not the said Burns also aware that there was a charge common to the witness and the said Pillow?

Answer. I cannot answer positively, but I think he must have known that there was a common charge against myself and Major General Pillow, and I inferred that that was his reason for speaking to me, for I don't remember to have exchanged half a dozen words with him before. I have no means of knowing whether he was, or was not, aware of my personal relations with General Pillow.

Question by prosecution. About what time did Paymaster Burns's letter, or acknowledgment of the authorship of Leonidas, become published or known to the public at this place?

Answer. The first time I knew of the publication myself was by one of the last mails; within two or three weeks I think. I saw an avowal of the authorship of the letter in one or more of the New Orleans papers, the Delta and Picayune, under his own signature. I do not remember the date of the newspaper, or of the letter itself.

Mr. W. C. Toby recalled:

Question by defence. Have you compared the printed copy of Leonidas, in the Picayune, with the copy as it appeared in the Star; if so, state if they are the same?

Answer. I have compared the two copies of the letter signed Leonidas, in the part of the New Orleans Picayune, of September 16, 1847, and the American Star, of October 23, 1847, and I find that they are substantially the same. There are some unimportant differences, typographical errors, and the second paragraph in italics in the Picayune, is in Roman in the Star. (Paper marked C.)

Question by prosecution. What does the witness know of the authorship of a certain article, under the signature of Warren, republished in the newspaper called the American Star, published in this city?

General Pillow objected to the question as foreign to the matter before the court.

General Scott, in order to show the object of the question, presented to the court this question, as the one that would follow the first.

Question by prosecution. Has the witness reason to know, or believe, that Major General Pillow had any agency in the authorship, or composition, of that article, or in causing it to be published in the witness's newspaper; if so, what was that agency, and can the witness produce the newspaper containing the said article?



The court decided that the question is not pertinent to the subject matter before the court.

Mr. W. J. Benfield, for defence, duly sworn:

Question by defence. State if you have had any conversation with Major Burns, paymaster, prior to the session of the court, upon the subject of the authorship of a letter signed Leonidas, which has been published in this city?

Answer. In the month of September, the day previous to the first publication of the American Star, on the road from my house to the office, in company with Major Burns, he informed me that he had written a letter to one of the New Orleans newspapers. The day the Leonidas letter was published in Mexico, he told me that was the letter alluded to by him on our road to the Star office one month previous, at the same time begging me not to say anything about it, as he might get arrested, as other gentlemen of the American army had been.

The parties having examined all the witnesses now attainable on this charge and specification, it was laid aside for the present, and until other witnesses upon it shall be present before this court.

*Second charge and specification.*

Captain H. L. Scott, 4th infantry, for prosecution, duly sworn, on first specification, first head, says:

On the 19th of August last, while at San Augustin, seeing that an engagement was going on between our troops and the enemy, the general-in-chief determined upon repairing to the field of battle. Our horses were saddled, and after taking something to eat, I think about 1 o'clock, we rode to the field, the general-in-chief and staff. It was, I think, about 3 o'clock, though I am not positive; it may have been a quarter before three, or half-past three, when we reached the mound, which overlooked the field of battle.

General Pillow and staff occupied that position, and a number of other officers. Some conversation took place between General Scott and General Pillow, concerning the disposition of the troops, which had been made previously to that time. Among other points, the position which Morgan's regiment then occupied was stated. This regiment belonged to Pierce's brigade of the 3d division, and it had been held in reserve, while the rest of Pierce's brigade had been advanced to the support of General Smith.

Some time after our arrival at this mound, I do not recollect how long, the enemy was seen advancing from the city to the village called Ensalda by some, Gerenimo by others. I think, upon the advance of this force, it was either before the advance of this force was seen, or at the time it was seen, that Morgan's regiment was ordered to occupy that hamlet, which I before named. My decided impression, at the time, was that the order was given in person by General Scott to General Pillow, although I am not able to recollect that I heard the order given. I have been aid-de-camp

to General Scott since 1842, and during the campaign, the acting assistant adjutant general of the army in Mexico.

*Under second head of the specification.*

The witness says: The order for the advance of Shield's brigade was given by another staff officer, before we left San Augustin, I think. It was not given by myself. Shields's brigade did not reach the mound where we were standing, overlooking the field of battle, for an hour and a half, at least, after General Scott reached it. I will say that, after we reached the mound, a staff officer was sent back to hurry forward the brigade, which moved rapidly.

*Under third head of the specification.*

The witness says: General Scott and staff returned to San Augustin on the evening of the 19th, and during the course of that evening, Captain Lee also came to San Augustin, with the suggestion from General Smith of the plan of attack put into execution next morning. General Pillow was present at the time, at General Scott's quarters at San Augustin. General Scott gave directions to Captain Lee to carry out the suggestion of General Smith, and General Pillow did not return to the field that night.

*Under fifth head of the specification.*

The witness says: I will state that, on the morning of the 20th, I myself, by direction of the general-in-chief, gave orders to General Pillow to take Cadwalader's brigade, and to move to the right. Pierce's brigade was moved in a different direction. So far as I know, he commanded but one brigade during the battle of Churubusco; and during the 19th, a written order was given to General Pillow. This is the order; read and appended.

Question by prosecution. Is the witness aware, notwithstanding the identity of surnames, of any blood relationship between him and Major General Scott?

Answer. There is none.

Question by defence. Who was senior officer on the field of Contreras previously to General Scott's arrival?

Answer. General Pillow.

Question by defence. Does the witness recollect whether any officer of my staff was sent to meet General Scott and bring him up to my position, as the one most favorable for observing the movements of the two armies; if so, who was it?

Answer. I do not recollect.

General Scott asked leave to answer that question, and stated that Captain Hooker met him and conducted him to General Pillow's position.

Question by defence. Can you state what orders for the attack, and what dispositions of the forces I told General Scott I had made? if so, please state them.