

Answer. They certainly would have done so if Colonel Riley, who was on the other side of the village, had not checked him if he had passed me.

Question by prosecution. Has not witness heretofore testified before this court that his leading, principal, or only instruction from General Pillow was to the effect that witness was to follow and support Riley's brigade. If that brigade had been recalled by superior authority, should the witness have also fallen back with Riley?

Answer. I would not have been sent. I was sent after the officer had returned, who was sent to recall Colonel Riley, and I supposed at the time that I was sent in consequence of the officer not being able to recall Colonel Riley. My instructions were to perform the same duties that I was told that Colonel Riley had been sent upon, and if the order for the recall had been subsequently given, I suppose it would have been sent to me instead of Colonel Riley.

Question by prosecution. Was the witness or Colonel Riley, as far as the witness knows, specifically instructed to turn or to attack the enemy's left, or the rear of that flank, to occupy the village near the enemy's camp, or to take any other named position, or did the witness, under his instructions, conceive himself at liberty to take any position, and to make any movement as senior officer which might seem best to the witness?

Answer. The instructions were general, and I did deem myself authorized to take any measures I thought best.

The court then adjourned till to-morrow morning, at 9 o'clock.

Mexico, April 5, 1848.

The court met pursuant to adjournment. Present, all the members, and the judge advocate and recorder.

Major General Scott, present.

Major General Pillow before the court.

Lieutenant John D. Clark, 8th infantry, duly sworn:

Question by prosecution. Has the witness any recollection of being the judge advocate or recorder of some military court, court martial, or court of inquiry at Puebla last summer; and if so, was, or was not, Paymaster Burns a witness, and examined as such before that court?

Answer. I was the recorder of a court of inquiry, which commenced its session at Puebla, Mexico, on the 18th of July, last year, convened by general orders No. 217 and 220, of the 17th of July, to investigate the circumstances connected with the loss of a certain amount of money, about two thousand dollars, whilst being brought from Vera Cruz to the city of Mexico.

At this point the defence interposed an objection.

Major General Scott said that Paymaster Burns, when before the

court, had stated in an appeal for protection made by him to the court, "that he had never been a witness before a military court, nor, to the best of his recollection, before a civil court."

That the present witness was called to show that that statement was false. After some time, the court closed and decided.

It does not appear from the record that Paymaster Burns has stated under oath that he never had been a witness before a military court, nor, to the best of his belief, upon a civil court. The court is therefore of opinion that Lieutenant Clark's testimony, to show that Paymaster Burns had been a witness before a court of inquiry, is irrelevant.

The court requires that hereafter all objection to any evidence, by either the prosecution or defence, shall be in so many words: "I object to that evidence," and that the reasons for and against such objection shall be stated in writing.

General Scott said that he wished to place upon the record his protest.

Captain F. Taylor, 1st artillery, duly sworn:

Question by prosecution. Did the witness chance to see Major General Pillow in the night of the 19th of August last; if so, where, at about what hour, and what declaration or remark, if any, did the said Pillow then make respecting the continued attack that night, or the next morning, by the American forces, on the entrenched camp at Contreras?

Answer. On the 19th of August last, some time after dark, I think between 8 and 10 o'clock, (I am not positive as to the hour, but it was some time after dark,) one of the men told me that General Pillow wished to see me. I went to him, and found him just outside of the column of pieces of my battery. After exchanging salutations, I asked him, I think, how things looked where he had been. He replied, badly; and I remarked, I was afraid so. He said that the position of the enemy was very strong—too strong to be attacked; that he was going to report that fact to General Scott, and advise him to leave it, and get in rear of San Antonio. I also asked him if artillery could get where he had been. He told me, no; it was impossible to get along on horseback. That is the substance, and, I believe, nearly the words of the conversation. General Twiggs then called to him if he was not going on, and he went on and we parted.

Question by prosecution. The witness has said the conversation took place near witness's battery. Where was that battery at the time?

Answer. Just outside of the first corn-field, on the edge of the pedrigal, or, perhaps, in it a little, and within range of the heavy guns of the enemy at Contreras. This was in front of his position at Contreras.

Question by defence. Witness will please say who was with General Pillow at the conversation referred to.

Answer. I do not know. It was a very dark night, and I do not know who was with General Pillow. When I say General Twiggs

called, I knew him by his voice, and not by sight. When I say I do not know who was with him, I mean that I did not recognize those who were with him. They were on horseback, and I could see that there were horses, but could not distinguish the faces of those on the horses.

Question by defence. Has witness detailed all the conversation which occurred at the time.

Answer. I think I have; I think of nothing more. The conversation was a short one, and soon interrupted by General Twiggs calling out to General Pillow to come on.

Question by defence. Did General Pillow tell witness that he had been at or near any position occupied, at that time, by the American troops?

Answer. I don't think he did. I stated before, that he said he had found great difficulty in getting along; that it was no place for artillery, for he could not get his horse along.

Question by defence. Did General Pillow tell the witness, or did the witness understand, that General Pillow had attempted to cross the pedrigal, to join the troops in the village of Ensalda; and that he had been unable to cross the pedrigal, in consequence of the darkness of the night, and extreme difficulties of the ground?

Answer. The conversation opened, as I before stated, and he spoke of the difficulties of the way. My question referred to the artillery; whether he said he could not get along himself, I do not remember. The more I think of it, the more inclined I am to believe that he said it was almost impossible to get along on foot, much more on horseback. I am not, however, positive about it.

Question by defence. Does witness know whether General Pillow referred, in this conversation, to the work being too strong to be carried, or attacked at all, or that it was too strong to be carried by *front* assault?

Answer. The word "front" was not used in the conversation. I understood it exactly as I have stated—that the work was too strong to be attacked.

Question by defence. Does witness know of any repulse of any of the forces, or of any new lights, or information, which General Pillow had received at that time; and did witness not know that the American troops had cut the enemy's line of communication, and held possession of this position at the village of Ensalda?

Answer. I knew very imperfectly the position of our troops, and spent a very anxious night, knowing that large reinforcements had come out of the city, and that the enemy was posted in an entrenched position, with a great deal of artillery. I knew nothing of General Pillow's knowledge but what he himself stated; nor did I know of any repulse of any of our forces. About an hour previous to the conversation, one of General Scott's staff, I think Lieutenant Lay, I am not positive, said that an attack was to be made on the enemy's position about three o'clock the next morning. That conversation had removed, in part, my anxiety, until it was brought back by the conversation with General Pillow. I supposed that our troops were interposed between the two forces of the enemy. That was as much as I knew of the position.

Question by defence. Did witness know where General Pillow had been that night?

Answer. No, I did not; I supposed he had been with the troops, as far as he had gone.

Question by defence. If General Pillow had not been at the position occupied by the American troops across the pedrigal; had not heard from there; had been lost in the pedrigal in his effort to cross to the village, can witness conceive to what General Pillow alluded, when he said things looked gloomy; could he have alluded to the gloomy prospects before the army, (which had met with no reverse or disaster,) or to the prospect before himself that night?

Answer. I should suppose that when he said things looked "badly" that he alluded to the strong position of the enemy, and the inability of our troops to dislodge them. I will alter the answer, and say, I know from the conversation that he alluded to the position of the enemy in all respects, and to the position of our own troops. The conversation is fresh in my mind; I know, because it was an answer to my question, "How things looked."

Question by defence. As the witness's memory is very fresh, will he state whether he can recollect equally well that it was about eight or nine o'clock; can witness say, in fact, it was not as late as half past ten or eleven o'clock?

Answer. My memory is very fresh, as it regards the important matters of the conversation; as it regards the exact time, my memory is not very fresh.

Captain J. B. Grayson, A. C. S., duly sworn:

Question by prosecution. Where was the witness early in the morning of the twentieth of August last; did he chance to see Major General Pillow that morning, and at about what hour?

Answer. I was in San Augustin on the morning of the 20th of August last. I had been woke up by my servant about twenty-five or thirty minutes after six o'clock. I know it was this time, or about this time, from the fact of having overslept myself, and I looked at my watch when I got up. I dressed myself hurriedly, and in passing by the window opening on the street, I saw Major General Pillow pass the window. I remarked, "Good morning, general." The general turned his head, and rested his eye, not upon my window, but upon the window of Captain Irwin's room, which was immediately adjoining mine. General Pillow answered the salutation, but I do not believe he saw me. From the time of my getting up, to the time of my seeing General Pillow, I should suppose it to have been about fifteen minutes, or that it was then about twenty minutes before seven o'clock.

Lieutenant Beauregard, engineer, duly sworn:

Question by prosecution. Was the witness present at a meeting between Major General Scott, and many general and staff officers, at Piedad, on the eleventh of September last; and if so, state the general character of that meeting, particularly so far as the witness

may remember in respect to the views and preferences of the said Scott and General Pillow, as to an early general attack upon the enemy?

Answer. I was present at that meeting. When I entered the room, General Scott was exposing his views to the officers present, relative to the advantages or disadvantages of immediate attack on either Chapultepec or the garita of San Antonio. In so doing, he expressed a decided preference for the former; but, at the same time, invited the officers present, without regard to rank, to express their views freely on the subject, unbiassed by his own preference. Whereupon many of the officers spoke on the subject, without coming to any positive conclusion; their remarks consisting, principally, in inquiries made of the engineer officers relative to the nature of the ground, and the enemy's works, at the two places above mentioned. Among those who spoke, I remember, distinctly, that General Pillow, in concluding his remarks, expressed a preference for the attack in the direction of the garita of San Antonio. That which struck me the more, as, on the evening preceding, whilst completing a reconnoissance of these same works, I met with General Pillow, near the broken bridge of the Niño Perdido road, and there, whilst conversing with him on the intended attack of the enemy's works, he expressed to me his opinion or belief that the time for attacking that point had passed by, and I partially coincided with him; stating that we would know better what conclusion to come to after the reconnoissance of the next day, which then confirmed me in that opinion.

Question by prosecution. Did the witness himself express any opinion on the question propounded and discussed by the said Scott; at about what time of the meeting, and what were the views and opinions of the witness, as then expressed?

Answer. I expressed my views and opinions on the subject towards the end of the meeting, not feeling bound to do so before that time; wishing to know, first, the views and opinions of the other engineer officers present, and who ranked me; and it was only upon the suggestion of one or more officers present that I did express them. I supported, as well as I could, the opinions expressed by the general-in-chief, relative to the advantages of an immediate attack on the works of Chapultepec; and I believe I was the only engineer officer present who entertained those views.

Question by prosecution. Did the said Scott, at the Piedad meeting, or in his discussions of the reconnoissance made by engineers, as far as the witness knows or believes, show in his conduct, occupations and designs, that he had been stunned, cast down, or paralyzed, by the events at the Molino del Rey, or by any other event?

Answer. Not in the least, to my mind. No doubt we were all under the sad influence of the severe loss we had experienced at that place; but I could discover no other feeling.

Question by defence. How many guns were in position in the works, at the San Antonio garita, on the morning of the 9th of September, and how many were there on the afternoon of the 11th of September, when this consultation was held?

Answer. I was not present at the reconnoissance made on the

9th, but was present at the one made on the afternoon of the 8th, and also at those of the 10th and 11th. On the afternoon of the 8th, I counted three guns at the garita of San Antonio, and, I believe, two on the works leading from the garita San Antonio to the garita Niño Perdido, but the latter two I was not certain of; and, by the sketch of the work that was made on the 10th, I find that I have seven guns in position on the works immediately around the garita of San Antonio; and late in the evening, as I was completing the reconnoissance, I saw the enemy bring five more guns, to be placed in position, as I supposed then, either on those same works, or those about the garita of La Vega, and so expressed myself at the council of war on the 11th; and, although on the 11th I did not notice that they had increased the number of guns on the above mentioned works, still they seemed to have increased the strength of the works themselves, having strong working parties employed upon them during the whole time.

Question by defence. Were the enemy's lines of entrenchments in a much more complete state on the 11th than on the 8th—meaning the batteries immediately around the garitas, as well as the lines connecting them?

Answer. I should suppose they were; in fact, I feel positive of it, from the circumstance of their having such a strong force employed upon them.

Question by defence. Could the lines, in the direction of San Antonio, have been much more easily forced, in your opinion, on the 8th, 9th, or 10th, than at any subsequent period?

Answer. I should suppose so, up to the afternoon of the 10th, when all those additional guns were brought into position; for those works derived their principal strength not only from the nature of the ground in front, but also from the number of guns in position.

Question by prosecution. The witness has spoken of a council of war held at Piedad; at that meeting did Major General Scott call for votes or take the ayes and noes on any question whatever?

Answer. No, he did not; certainly not while I was there.

Mr. J. L. Freaner, recalled:

Question by prosecution. Has the witness ever had any particular conversation with Major General Pillow on the subject of the interest the said Pillow took in the newspaper, printed in New Orleans, called "The Delta," and respecting what the said Pillow would do for the said paper; if so, when, where, and in what particular connexion, was such conversation held. Give, also, the substance or the words of the conversation, so far as memory may serve.

Answer. It was on or about the 23d of August last, at Mixcoac, and, I think, in the afternoon, while in a conversation with General Pillow, General Pierce entered the room. General Pillow introduced me to General Pierce as being connected with the New Orleans Delta, and remarking, at the same time, to General Pierce, "This is one of our friends;" and said, I don't recollect whether it was immediately after, or some time in the course of

the conversation, that he intended to do something for that paper; that he intended to make it, or words to that effect. I am not positive as to the precise language, but my impression is, those were the words used. I replied to General Pillow that no one person could make the Delta; that it had met with a success from the time it went into existence, which no other paper ever had in the southern country; and it was mainly indebted for it to the energy, industry and independence of its proprietors. This was in the course of a general conversation, while I was talking to General Pillow, that afternoon.

Question by prosecution. In the conversation which witness has given, did Major General Pillow hand to the witness any letter or article for the Delta; and, if so, what letter or article was it?

Answer. I did not receive any article from General Pillow that afternoon. When I returned, according to his invitation, in the evening, I received the paper, marked No. 1, on the files of the court.

Question by defence. State if General Pierce was present, participating in the general conversation which you have detailed?

Answer. General Pierce was present, and about starting for the meeting of the commissioners in reference to the armistice, I believe. There was a conversation between General Pierce and General Pillow which I did not enter into, considering it was a matter with which I had no business. General Pierce said but very few words to me at that meeting.

Question by defence. Previously to this period, had, or had not, the "Delta" defended General Pillow against the assaults of other newspapers; if yes, was the interest General Pillow manifested in its welfare at all extraordinary or unnatural?

Answer. The Delta did defend General Pillow from the assaults of other newspapers. He was defended there as a general of the American army, and, I believe, without any personal considerations. The interest which he manifested was much more warm than that of the other officers who were defended at the same time. Neither of the others have ever spoken to me on the subject, or manifested more than an ordinary passing acquaintance towards me so far as I was connected with the paper.

Question by defence. Did you communicate this conversation to General Scott yourself; if not, state if you know, or have reason to believe you know, the channel through which the conversation was communicated to him?

Answer. I have had no hesitation in stating that in general conversation, and, whenever asked about it, have stated it; and have spoken to many persons upon the subject. I have no direct or positive knowledge who could have communicated it to General Scott. The only manner in which I could judge was being asked by some person, whom I do not recollect, whether General Pierce was present at the time; and from that I could only infer that either General Pierce may have communicated it directly or indirectly, or that this person asking me, whom I do not recollect, may have done

so. I do not recollect ever having mentioned General Pierce's name in connexion with the matter previously.

Question by prosecution. Did Major General Pillow, in the conversation in question, place his design to *make the Delta* on the ground of its previous defence of him; or did the witness, the same evening, on receiving the paper marked No. 1, on the files of the court, have reason to connect the declaration in favor of making the Delta with that paper No. 1?

General Pillow objected, as follows, to the question:

General Pillow objects to the last question of the prosecution, as it does not call for *facts*, nor for General Pillow's statements, but for the witness's conclusions and train of thought in connecting the conversation, already detailed by him, with a paper delivered to him some time afterwards. He cannot call for his own witness's opinions, or train of thought, or conclusions, but must confine his examination to facts or to the statements of General Pillow. He (General Pillow) is willing that all legal testimony shall come out, but he is not willing to be tried by the opinion of the witness.

GID. J. PILLOW,

Major General, U. S. A.

To which objection the prosecutor simply begged the court to read over the question just put to the same witness by Major General Pillow, in the way of cross-examination.

The court decided that the witness may state the facts or declarations, if any, of Major General Pillow, which lead to certain conclusions; but not the general opinion of the witness.

The witness says in answer: This declaration was made previous to the receipt of that paper, and therefore I could not come to any conclusion or form any opinion until since that time. So far I have stated all the facts connected with it, as far as I can recollect.

General Scott presented the following protest:

Mr. President and Gentlemen of the Court:

I beg that the following statement and protest may be permitted to go upon your record:

Major General Scott being before the court as prosecutor in the case of Major General Pillow, and intending, further, to impeach the testimony of Paymaster Burns, a witness on the part of the defence, who had been before the court some days earlier, introduced this day a witness, Lieutenant Clark, of the 8th infantry, to contradict the said Burns, in this particular.

The said Burns, after having been examined in chief by the said Pillow, and partially cross-examined by the said Scott, came into court the following day, at its re-opening, with a paper carefully written, praying the protection of the court, under the cross-examination, alleging his inexperience in military tribunals, and solemnly declaring, in his capacity of witness, that it was the first time he had ever been before a military court as a witness.

And when the said Clarke, called as above, had proceeded to the extent of some sentences in answer to a question propounded through the judge advocate, by the said prosecutor, and had evidently shown that he was acquainted with the facts sought for by the question on the record, the said Pillow, the defendant, interposed an objection to the question, or to the answer, if not to both.

Hereupon the court was cleared, and decided to stop the witness's further answer to the said question.

Against that decision, the said Scott protests on these grounds:

1. The said Burns offered his paper to the court, in his capacity of a sworn witness; which paper being read in open court, and, with all the benefit to the said Burns sought by him is, or ought to be, on the records of the court.
2. The said Scott ought, as prosecutor, to be allowed to contradict, by competent evidence, any solemn declaration made in the said paper in common with any other assertion made by the said Burns, as a witness, before this or any other court; and
3. That, being cut off from that, as the said Scott believes legal resource, he is, to that extent, deprived of the means of attaining the ends of public justice sought for in the institution of this court.

Respectfully submitted:

WINFIELD SCOTT.

MEXICO, April 5, 1848.

The court then made the following decision:

The court will not hereafter receive any protest against any decision it may make; but the parties will be heard in writing, if they desire it, upon any question pending, before the same shall have been decided.

The court then adjourned till to-morrow morning, at 9 o'clock.

CITY OF MEXICO, April 6, 1848.

The court met pursuant to adjournment. Present, all the members, and the judge advocate and recorder.

Major General Scott present.

Major General Pillow before the court.

Mr. J. H. Peoples duly sworn:

Question by prosecution, Did the witness receive, some time in October last, a letter from Major General Pillow respecting an article, then recently printed, signed Leonidas; and if so, produce that letter. And had the witness, about the same time, any particular conversation with the said Pillow on that subject, as also on the course of the newspaper called the American Star, of which the witness was an editor; and if so, state the particular conversation or conversations?

Answer. I received a note from General Pillow, at his own house, on the 22d of October. I believe I had given notice on that day or the day previous, that I would republish the Leonidas letter, with such comments as I thought the production merited. During that day General Pillow sent an orderly to my office, and requested that I would call on him in his quarters. I did so almost immediately. When I entered the room he either showed or handed me this note, saying that it was his intention, the day before, to publish it, under his signature, but that he had been advised not to do so; and he had sent for me on the subject of this letter and the Leonidas letter.

Letter read as follows, and annexed, marked R.

CITY OF MEXICO,

October 21, 1847.

Messrs. EDITORS: Having seen a letter in the Picayune of the 26th ultimo, signed "Leonidas" I feel it my duty to say I know nothing of this letter or of its author. If there are any who are disposed to attribute it to me, or who suppose I have given it my sanction, they are as *illiberal* as they are *unjust*.

All candid men who know me must be satisfied that I would not myself, nor would I allow any friend, to commit such an act of folly. I am willing to be judged by my written reports; but I utterly protest against the *injustice* of being held responsible for the anonymous letters of friends or enemies. Very respectfully,
Signed—(signature erased,) Gid. J. Pillow, (also erased.)

Messrs. EDITORS: Please insert the above, and have your account presented me, (initialled) G. J. P. Addressed to editors Star.

The conversation afterwards turned to the Leonidas letter, and I think General Pillow asked me if I had read it, or what I thought of it. I remarked, in my opinion, it was a letter that would do the general a great deal of harm. He asked me, I believe, if there were no truths in the statement. I do not know that the word "truth" was used, but I understood it so. I do not recollect my reply, but I ended by saying, still I thought it would do him infinite harm. He asked me what sort of notice I intended to preface it with. I answered that I had written nothing yet. "Well," says he, "I have confidence enough in you to believe that I shall be justly dealt by," or "that you will do me justice." "You must recollect, as I said before, (alluding, I suppose, to a conversation in Puebla,) that I never forget my friends or forgive my enemies." At that time the late Captain Smith, third infantry, came in, and the conversation stopped. After Captain Smith went out of the room, I asked General Pillow to allow me to take that letter which he had addressed to me, but not sent to me; that I could shape the contradiction authorized by him from that letter. He reminded me again, when I got up to leave the room, that he was second in command, and that if General Scott should go home or anything happen to him, he (General Pillow) would command the army.