

our quarters once or twice while we were at San Augustin, but I cannot recollect whether it was on that day or not. He made sociable visits. It is my impression that he called two or three times.

FREDERICK, *May 29, 1848.*

The court met: present, all the members, the judge advocate and recorder.

In consequence of the absence of General Pillow, the court adjourned until to-morrow morning at 10 o'clock.

FREDERICK, *May 30, 1848.*

The court met: present, all the members, the judge advocate and recorder.

The court adjourned until to-morrow morning at 10 o'clock, in consequence of the absence of General Pillow.

FREDERICK, *May 31, 1848.*

The court met: present, all the members, the judge advocate and recorder.

The court, understanding that General Pillow could not reach this place until to-morrow afternoon, adjourned till 10 o'clock on Friday, the second of June.

FREDERICK, *June 2, 1848.*

The court met: present, all the members, the judge advocate and recorder.

General Pillow still absent, and the court adjourned until to-morrow morning at 10 o'clock.

FREDERICK, *June 3, 1848.*

The court met: present, General Towson, Colonel Belknap, and the judge advocate and recorder.

The court then adjourned until Monday morning at 10 o'clock.

FREDERICK, *June 5, 1848.*

The court met: present, all the members, judge advocate and recorder.

Major General Scott in attendance.
Major General Pillow before the court.

Major General Scott stated that he had been prevented by sickness from attending the court.

General Pillow read the following:

Mr. President and gentlemen of the court:

After an absence from my family of nearly two years, I felt it my duty to touch at my residence, on my way hither. I did so, and spent but one day there. Though I had full time to have made the journey to this place under ordinary circumstances, in time to have been present at the meeting of the court, on the 29th ult., unusual and unavoidable detention upon the river put it out of my power to do so.

I regret that my absence should have produced any delay in the proceedings of the court, and trust that this explanation may be deemed satisfactory.

Major General Scott said that he had hoped to proceed with the examination of the witnesses this morning, but that his recent illness had left him too feeble to bear the fatigue.

Major General Pillow, on the part of the defence, offered two affidavits, which the President directed should be shown to General Scott, before the question of their reception should be decided, marked W.

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

FREDERICK, *June 6, 1848.*

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

Major General Scott in attendance.
Major General Pillow before the court.

Major General Scott said that he had not had time to examine the affidavits presented yesterday, and said further that he would be able, after a few days, to determine whether he would consent to the admission.

The matter was then laid aside for the present.

General Pillow offered the following motion:

Mr. President and gentlemen of the court:

The prosecutor, on the 18th day of the proceedings of the court, proposed, for the purpose of impeaching the testimony of Major Burns, to prove by Lieutenant Clark, that said Burns had been a witness before a court held in Puebla, in July, 1847, of which the

witness, Clark, was the recorder. To this proposed proof, the defence objected; *first*, because it was wholly irrelevant, inasmuch as there was no issue or proof before the court to which it could apply; *second*, as illegal, because the production of the record itself would furnish the best evidence of its contents, while the offer of the prosecutor was to introduce parol proof of its contents.

The objection of the defence was sustained by the court, but the prosecutor entered his protest upon the records of the court, in which he complained of a decision, right and proper upon every principle of law and justice, and endeavored to produce the impression upon the public mind that a full and fair investigation was stifled.

Although the defence was fully persuaded that this assault upon the character of the witness was utterly *groundless* and *harmless*, yet, as the prosecutor's object was accomplished by entering his protests of record, the defence has procured from the office of the War Department the original record of that case, which he here presents to the court, and asks leave to file as evidence in the case, and that reference may be had thereto.

It will be seen, by an examination of said record, that Major Burns was not a witness in that case, nor is his name anywhere mentioned in the record. While it is difficult to understand, upon principles consistent with truth and justice, the motives of the prosecutor in making his motion and entering his protest about a matter which is wholly falsified by the record itself, the defence is nevertheless happy in being able thus to satisfy even the prosecutor of the injustice he has done the witness, and, through him, attempted to do the defendant.

In order, however, that the character of Major Burns, which has thus been attempted to be assailed, may be placed fairly before this court and the country, the defendant presents herewith a list of witnesses, whom he desires may be summoned by the judge advocate to give this court full information upon that subject.

The court decided to take the motion into consideration at some future time.

Major General Quitman duly sworn:

Question by prosecution. Was the witness present at Piedad, September 11th last, at the free conference then and there held by Major General Scott with many of the principal officers of the army? If so, please state the leading views or propositions discussed by said Scott, on that occasion, respecting an attack upon the enemy the following morning?

Answer. I was present at a conference of the principal officers of the army held at the village of Piedad on or about the 11th of September. I could not give the precise date without a reference to papers. There were the engineer officers, and many of the principal officers of the army were present. I recollect, at that conference, General Scott presented, in a good deal of detail, his views of an attack upon the city. He first, I think, went into an examination of the merits of an attack upon the city by the gate

of San Antonio, which had at first, it appeared to me, been contemplated by him, or at least had arisen in his mind. He requested the engineer officers present, and the other officers who had examined the works of the enemy in the vicinity of Piedad, to communicate in detail the result of their observations, which was given. He then declaring that he was thinking aloud among his officers—he was in the habit of using that expression—proceeded to compare the propriety and policy of an attack upon the city in that quarter with an attack upon the fortress of Chapultepec. He presented in detail the arguments for and against both these approaches upon the city, stating that it was highly important that he should come to an immediate conclusion upon the propriety of advancing in one or the other directions, and declared that, before leaving his seat, he should definitely conclude upon one or the other movement immediately. Without remembering the language that he used, he evidently signified his determination, should he not change his mind before the conclusion of the conference, to attack Chapultepec, and, through it, advance upon the city, giving his reasons in detail for preferring an advance in that direction. He desired the free opinions of the officers present upon the merits of the two movements, stating that, although he would not pledge himself to be governed by them, he desired them for his information.

Question by prosecution. Does the witness recollect what were the views of Major General Pillow on the same occasion, and in respect to the said two approaches by the San Antonio gate and the castle of Chapultepec; and if so, what appeared to be the bias of the said Pillow's mind as to a choice between the two approaches?

Answer. General Pillow appeared to be that evening more reserved to me than usual in expressing his opinions; I recollect in discussing the subject, being myself of opinion in favor of an attack upon the garita San Antonio, I waited his opinion with some interest. He discussed the subject very briefly, and to the best of my recollection, did not express any decided opinion upon either attack, although I inferred from the general tenor of his remarks, that he inclined to prefer the advance upon the works in front of San Antonio and near Piedad. Of the general officers present, I believe after the remarks made by General Scott, that I communicated my opinion more in detail and more definitely than any other.

Question by prosecution. Was the witness present at a subsequent conference, held at the quarters of the said Scott, in Tacubaya; and if so, please state when; also the plan of attack by batteries, to be followed by assaults on the castle of Chapultepec, as definitely settled and laid down by the said Scott in that conference, and the parts assigned to Major Generals Pillow and Quitman, respectively?

Answer. I was present at the conference alluded to, subsequent to that at Piedad; it was held at the quarters of General Scott at Tacubaya, on the night of the 12th of September. I came into the

conference after, I believe, most of the general officers and engineers had assembled, having been hastily summoned to it from the batteries where I was in command. The subject of the conference appeared to have been opened before my arrival; when I arrived the question appeared to be as to the effect of the bombardment of the 12th upon the castle of Chapultepec. After having received the reports of the engineers and other officers, as to the effect the bombardment of that day had made upon the fortifications of the enemy, which were that although slightly crippled, yet they were supposed to be such as might be repaired during the night, General Scott remarked that we should be obliged to carry it by storm, upon which he made some inquiries of Generals Pillow, Worth, and myself, in relation to the supply of scaling ladders, pickaxes, and other means necessary for storming the fortress. He directed General Worth, who stated that he had secured some scaling ladders which he had found about the neighborhood of his quarters, to distribute them equally between General Pillow's command and my own. He then proceeded to converse fully upon the plan of attack. After a good many remarks and suggestions connected with the details of the expected movement of the two columns, during which General Pillow made some remarks in regard to the movement of his own column and one in regard to mine, the conclusion of General Scott's instructions to me, to the best of my recollection, was that General Pillow should advance to his attack from his position on the west of Chapultepec to the assault of the fortress, while my division, for the support of which General Smith's brigade had been ordered to report to me, was ordered to advance simultaneously to the assault of the fortress, by the Tacubaya road; General Scott instructing both General Pillow and myself to move from our position to the assault at the signal, which he informed us would be the cessation of the firing of the heavy batteries, and particularly directing us to make the attack, as near as possible, simultaneous. A part of his plan and instructions was, that the batteries under the direction of General Pillow and myself should commence, at as early an hour as possible, an active cannonade upon the fortress, when the firing of the batteries would be stopped by his order, as a signal to advance to the assault, giving us permission afterwards to re-commence the firing of batteries, should we deem it necessary, to cover to advance of the columns. I regard the general plan of the attack upon the fortress of Chapultepec, as it was subsequently executed, definitively settled by General Scott in that conference. I will not say whether, or not, his conclusions were not modified by the remarks of other officers made at that conference. I will add, as a part of the instructions given to me at that conference, that General Scott instructed me to prevent, if possible, reinforcements being thrown into the castle that night from the city.

Question by prosecution. Had not, if the witness chanced to know at the time, the scaling ladders, pickaxes, &c., been earlier ordered by the said Scott, as well as the establishment of the heavy batteries for the preliminary cannonade of the castle of Chapul-

tepec—and, when the distribution of the scaling ladders between the two assaulting columns was spoken of by the said Scott, did not the witness then learn that Brevet Major General Worth had been earlier instructed by the said Scott to collect them from the village of Tacubaya and neighborhood?

Answer. I am aware that the heavy batteries used at the bombardment of the castle, which opened their fire on the morning of the 12th, had been constructed by orders emanating from General Scott, and, as I heard from him at the conference at the village of Piedad, before referred to, with a view to the reduction of the castle of Chapultepec. I recollect that, either on the 11th or on the 12th, General Scott directed me to see to the supplying my division with scaling ladders, pickaxes, and crows, or else, upon my request, he stated that he would see that they were furnished—I don't remember which. At the conference on the night of the 12th, I informed General Scott that I had taken measures to supply my command in part with those necessary articles; finding that General Worth had the control of some of the scaling ladders which had been reported to me by my division quartermaster, I requested orders from General Scott that a portion of those under the control of General Worth should be furnished to my command. I know not whether the scaling ladders secured by General Worth were so secured by orders from head-quarters or not.

Question by prosecution. Was there, at the second conference spoken of, (that of Tacubaya,) anything said by the said Scott, to the effect that the columns of the said Pillow and Quitman were first to march round, from different directions, the mound of Chapultepec—meet somewhere at the base on the side of the Mexican capital, where the two generals were to shake hands, and make the mound feel its isolation?

Answer. I do not recollect that to have been stated in substance. In the course of the conversation, the remark of shaking hands was used, I think, by General Scott; I am not certain. The remark I recollect from some quarter—perhaps it may have been used by myself, in the expectation of meeting General Pillow in the fortress. To explain myself more fully, it is necessary that I should state, that I recollect no proposition coming from General Scott to assail the hill of Chapultepec by surrounding it, prior to an assault upon the fortress. I recollect that, in course of conversation which preceded the final instructions of General Scott, he desired or instructed General Pillow to extend a portion of his command to his left, and sweep the batteries represented to be on the north side of the hill, to which General Pillow made objections, to which I paid no particular attention; but they left upon my mind the impression that General Pillow desired to make with his consolidated force the direct assault upon the castle, to which, I think, General Scott assented, stating that the small battery alluded to might be taken by General Worth's supporting column. I will remark, that considerable conversation took place between General Scott and General Pillow upon this subject, to which, as the movement of my column was not concerned, I did not pay particular attention.

Question by prosecution. Was there anything said in that second conference, by the said Scott or the witness, about *shaking hands*, between the witness and Major General Pillow, in reference to any place, other than on meeting within the castle of Chapultepec, after carrying that work by the joint assault?

Answer. I cannot say that there was any expression used as to shaking hands, other than at the meeting of the two columns; nor can I recollect that any place was designated, except in my remark, which was in the fortress. My present impression is that this remark of mine originated from some remark previously made about shaking hands. I will add that, with the exception of the recollection of that expression, I have an indistinct recollection of the conversation that led to it. I will add, that the movement of surrounding the hill may have been alluded to in conversation; but certainly such a movement was never understood by me to be seriously contemplated at any time.

Question by prosecution. Besides taking the batteries outside of Chapultepec, in the line of witness's approach upon the castle, on the main work of the enemy, what portion of witness's division entered the castle of Chapultepec, and directly participated in its capture?

Answer. Two regiments of General Shields's brigade, the South Carolina and New York volunteers, and the 2d Pennsylvania regiment, under my directions, crossed the low ground in front of the batteries alluded to in the question, and directly participated in the attack and assault which resulted in the capture of Chapultepec.

Question by prosecution. Does the witness chance to know what were Major General Pillow's views respecting the Tucubaya armistice, before the appointment of the three commissioners on the part of the American army to negotiate that armistice; and if the witness knows anything of the said Pillow's views, at the time referred to, please state them?

Answer. I think I had no conversation with General Pillow prior to the meeting, and have no recollection of knowing his views, before the meeting of the commissioners.

Question by prosecution. As the principal of the American commissioners who negotiated the Tucubaya armistice, has the witness the original instructions to the American commissioners, from the said Scott, about him; and if so, will he please produce those instructions?

Answer. I have the original instructions, which I have retained since the armistice. (The papers handed in, marked T.)

Question by prosecution. At the instance of Major General Pillow, did or not the witness have one or more interviews with the said Pillow, at the quarters of the latter, in the capital of Mexico, some time in the month of October last, after the Leonidas letter had appeared in that capital in print; and also on the subject of the then official misunderstanding between the said Pillow and the said Scott; and if so, will the witness please state what the said Pillow said, in the said interview or interviews, of his connexion with the authorship of that letter, and the said Pillow's ability, or

want of ability, to disconnect himself from the authorship of the said Leonidas letter?

Answer. Having had some confidential and private conversation with General Pillow, about the time alluded to, and not intending, by raising the question I intend to make, to impute any impropriety to General Pillow in that conversation, I raise the question, whether I should be required to disclose what was said under the seal of confidence, in private conversation.

General Pillow avowed his perfect willingness that the witness should state any conversation that had passed between them.

The court said that it could see no objections to the witness proceeding to answer the question.

The witness proceeds:

About the time alluded to, whether before or after the appearance of the Leonidas letter I do not recollect, General Pillow, being then confined to his room, sent to me two messages requesting me to call and see him. Upon my visit, after a short conversation upon the subject of the decision of the court of inquiry, which, at his instance, had been held in Mexico in relation to howitzers, in which he expressed great anxiety to know what was the decision of the court, and whether, in my judgment, it would affect his character, he proceeded to speak of the difficulties existing between him and the general-in-chief. I don't think he said anything especially about the Leonidas letter; I have no recollection of his speaking about that. He stated his great desire to conciliate matters with General Scott. He requested my intervention in order to stop any proceedings against him; he said he would be seriously injured, if not ruined, by a contest with General Scott upon those subjects. He expressed a great desire that the prosecution of this matter by General Scott should be stopped; asked me if I knew whether General Scott intended to prosecute him in relation to those rumors in the army. He alluded, in his conversation, to the high military position and reputation of General Scott, and that he (General Pillow) would be greatly injured by any contest with him. He concluded with requesting, very earnestly, my intervention with General Scott to bring about a reconciliation, or to ascertain the intentions of General Scott, and endeavor to prevent any further prosecution of the matters, and I very reluctantly promised, as I did not like to approach General Scott upon the subject, and, in consequence of particular reasons, never did. I do not think that General Pillow alluded expressly to the Leonidas letter. General Pillow appeared to make the application to me with reluctance, perhaps occasioned by my intimating, at once, that my personal relations with General Scott were not intimate, and would scarcely justify a conversation on my part with him on that subject. The reason why I did not speak to General Scott was that I chanced to meet a gentleman who was intimate with him, and asked him whether he supposed an interposition on my part would be effectual, and he intimating that he thought matters

had gone too far, I did not venture to approach General Scott upon the subject.

Question by prosecution. At what time did the witness leave the city of Mexico for the United States; about how many days did the interview of the witness with Major General Pillow occur before the witness left that country?

Answer. I left the city of Mexico on the 1st day of November. I think the interview occurred within three or four days preceding my departure. I recollect now that I had been informed of the appearance of the Leonidas letter in the army; but I think I had not seen a copy of it.

Question by prosecution. The witness has said that Major General Pillow, in the interview in question, spoke of, or alluded to, certain rumors in the army on the said Pillow's subject. Did the witness understand, from the words or the manner of the said Pillow, and the other circumstances, that the said Pillow included any rumors connecting him with the authorship of the Leonidas letter?

The question objected to, as follows:

General Pillow objects to the manner in which the question is prepared and shaped; *first*, it is *leading*, and is, therefore, *inadmissible*; secondly, it does not call for what was said by General Pillow, (which has already been detailed by witness,) but asks witness to put a construction upon the language of General Pillow, and to tell the court what the witness understood by that language was the allusion of General Pillow.

It is the province of the witness to state what was said, and that of the court to determine the meaning of that language; while the defence has every confidence both in the intelligence and correct intentions of the witness, and was not disposed to be captious and technical in his objections to proof, and was willing to waive, and did waive before this court, objections to the very question, yet since the prosecutor, by his remarks, concedes nothing to the motive prompting this course, indulges in insinuations and evinces feelings but little befitting his position as the commander-in-chief of the American army, the defence has determined to require the prosecutor to adhere to the rules of law, and to shape his questions accordingly. They do not stifle fair and legal investigation, and will lead to the full and fair development of truth.

Respectfully submitted:

GIDEON J. PILLOW,
Major General, United States Army.

General Scott presented the following reply:

Mr. President and gentlemen of the court:

I have, under the rule of the court, but little to add to what have orally said in support of the question last propounded to the witness, and can hardly suppose that that little is needed. Whatever impression a witness may derive from a party before a court,

either by words, signs, or gestures, interpreted by circumstances known to both, may be given in evidence against the party who so makes the communication or impression. The question now before the court seeks for that kind of evidence.

The prosecutor has indulged, in his oral remarks on the subject, no feeling, and much less any insinuations. He appeals to the court, and all who have heard those remarks, to repel the latter gratuitous accusation.

Respectfully submitted:

WINFIELD SCOTT.

The court closed and decided that the question should not be put.

The court then adjourned until to-morrow morning at nine o'clock.

FREDERICK, June 7, 1848.

Court met pursuant to adjournment: present, all the members, and the judge advocate and recorder.

Major General Scott in attendance.

Major General Pillow before the court.

Major General Quitman under examination:

Question by defence. Will witness please examine the original instructions to the commissioners, in relation to the Tacubaya armistice, and state whether or not there is anything therein contained in relation to the surrender of the castle of Chapultepec?

A member of the court objected to the question, and the objection was sustained.

The witness stated that on yesterday he had handed to the court the original written instructions to the American commissioners on the subject of the armistice with the Mexican authorities, in August last. That they were the only written instructions, but that verbal instructions were also given.

Question by defence. Witness will state if he was a member of the court of inquiry which investigated the howitzer case, and if the conversation detailed by witness was after the court had made its report, and before the result was made known in general orders?

Answer. It was after the decision of the court was made up, and before it was made public in general orders. I was a member of that court.

Question by defence. Witness will state if the conversation alluded to was introduced by General Pillow's remarking, that, as the court had disposed of the case, and could have nothing more to do with it, he conceived there could be no impropriety in the witness stating the character of the finding of the court, and that he (General Pillow) would be glad to know what was the finding