

No. 5.

D E F E N C E

OF

MAJ. GEN. PILLOW,

BEFORE THE

COURT OF INQUIRY,

FREDERICK, MARYLAND, 1848.

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BEFORE THE

COURT OF INQUIRY,

AT FREDERICK, MARYLAND,

AGAINST THE

CHARGES PREFERRED AGAINST HIM

BY

MAJ. GEN. WINFIELD SCOTT.

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DEFENCE OF
MAJOR GENERAL PILLOW
BEFORE THE COURT OF INQUIRY,
JUNE, 1848.

Mr. President and Gentlemen of the Court:

Charge First, is for a violation of paragraph 292 of the General Regulations for the Army; in having written or procured to be written a letter signed "Leonidas," published in the New Orleans Picayune of the 16th September, 1847.

By the presumptions of law I am innocent of this charge, and as the prosecutor prefers the charge. it devolves upon him to *prove it*.

What then are the facts brought to light by this investigation?

Paymaster Burns proves that he wrote the letter, and that it was done without my knowledge or procurement.

This proof of a witness who swears positively to the fact and strongly against his own interests, and takes upon himself the responsibility of an act for which he is liable to forfeit his own commission, it would seem, ought at once to acquit me of the charge. But the prosecutor, having marked out his victim, and being intent upon his purpose, is not so easily satisfied.

He attempts to impeach the testimony of this witness,—and relies upon the analogy existing between the Leonidas letter and the paper marked No. 1, and the analogy of both these to my official report to connect me with this letter.

It is admitted that there is a striking analogy between the three papers in the main facts stated. Indeed, paper No. 1, (which I will designate as the Freaner paper,) and the Leonidas letter are nearly *identical* to the extent to which the former extends. The Freaner paper, which I admit I caused to be prepared and delivered to Mr. Freaner, was written by the clerk of my Adjutant General by my orders, and has interlineations in my hand-writing. In the absence of all explanatory proof, the above circumstances might, and probably would, lead to the conclusion, that I had some agency in procuring the Leonidas letter to be written.

What then are the facts? Does the proof explain this analogy upon principles consistent with my innocence, and is Paymaster

Burns sustained in his testimony, avowing the authorship and sole responsibility of this letter? I now undertake to answer these questions in the affirmative, and show from the proof that not the slightest suspicion of connection with the letter, at any stage, attaches to me.

We will first give the history of the Freaner paper as it appears in proof.

The witness, Doctor Heistand, proves that on the 23d of August, 1847, Mr. Freaner, the correspondent of the New Orleans Delta, came to my headquarters at Mixicoac, and asked me to furnish him with the list of killed and wounded of my division — and also to furnish him with a statement of the movements of the forces under my command, upon the 19th and 20th of August, in the battles of Contreras and Churubusco. This witness proves that I directed him to furnish Mr. Freaner with the list of killed and wounded, and at the same time handed him my rough [or “skeleton”] report of those actions, and directed him to furnish Mr. Freaner with a copy, or the substance of that paper. This witness further testifies that he did furnish the list of killed and wounded as he was ordered, and that he prepared the paper marked No. 1, [the Freaner paper,] and handed it to myself or Mr. Freaner, [he could not remember which.] He likewise says that, knowing Mr. Freaner to be the correspondent of the Delta, and hearing him ask me for the paper, that he [witness] added the caption and conclusion [that of a letter] to the paper thus prepared — and that in all other respects it was a substantial copy of my rough report. It has several unimportant interlineations in my own hand-writing, which were doubtless made before the paper was handed to Mr. Freaner.

This paper Mr. Freaner proves he handed to Mr. Trist “*for safe keeping*” — and Mr. Trist handed it to General Scott. This is the history of paper No. 1, as shown by the proof. It is, as must be at once seen, a copy of my rough or original report from which my official report was drawn out in detail. Being a copy of that report, it would, as a consequence, bear a striking analogy, in its statement of facts, to my detailed report, *amplified* and *modified*, with proper regard to a just taste, and the new light which additional facts might have afterwards thrown upon the subjects touched upon.

Major Burns testifies that he went into my quarters at Mixicoac — found me absent — saw my rough report lying upon my table — examined it — discovered what it was — took a copy of it, and from this copy and his own observations upon the field of battle upon the 19th August, he prepared the “Leonidas” letter.

It thus appears that, without my knowledge, Paymaster Burns had copied the same paper of which I caused a copy to be furnished Mr. Freaner. Accordingly, as might have been expected, being both copied from the same paper — these two papers are almost *identical* in matter, method and language, as far as the paper No. 1

extends — and are both strikingly analogous to my official report to the Government — the latter having been varied slightly in language, modified in some of the statements of facts, while others are added or entirely omitted, but all proving a common parentage.

This is the history of the Leonidas letter as proven by its author.

Thus this mysterious affair is at once explained. Upon the supposition that this is the true account and history of these papers, both Burns and Heistand have sworn the truth. Upon any other supposition they are both perjured, for they swear to facts of which they profess to have a personal knowledge, and about which they cannot be mistaken. This account likewise explains the analogy between these two papers and my official report, and *all* perfectly consistent with my own innocence — and, therefore, if the case stopped here, the prosecution has signally failed, and I might safely submit this branch of the case to the judgment of the Court and the opinions of an intelligent public. But the Prosecutor is not satisfied still, — so we will accompany him further in the case, and see how far he is sustained in his conduct by the remark made by him in his paper proposing to withdraw from the Prosecution at an early day, viz: “That in preferring the charges against that officer [Gen. Pillow] I was moved solely by the desire to preserve the discipline and honor of the army — not ever having had the slightest personal quarrel or difficulty with him.”

Before entering upon the consideration of the other testimony bearing upon this part of the subject, I would inquire what motive has Paymaster Burns to swear falsely, about this transaction? He *acquits* me, but he *criminate*s himself. He *relieves* me by taking upon *himself* the odium of writing a letter — ridiculed in the public press of the country and denounced in General orders — as a violation of regulations — accompanied with the avowed determination of the General-in-chief to prosecute the author. Hence it will be seen that, independently of the moral turpitude and legal guilt of perjury which the witness would have incurred by a false statement upon this subject, he actually testifies strongly *against* his *own interest*, and his statement must, therefore, upon every principle of law, receive full credit.

The witness Heistand was performing, in the acts to which he testifies, clerical duties under my orders — had no responsibility — could have no interest one way or the other, and is sustained by the paper itself, which is before the Court — in his hand-writing, and being unimpeached, is entitled to full credit.

But, independently of these considerations — all tending to corroborate the testimony of these two witnesses — Paymaster Burns is sustained by the original manuscript of the Leonidas letter itself, which is before the Court. That letter is all in Burns' hand-writing, except the interlineations, which Judge Walker proves were made by himself after the letter reached New Orleans. Nor is this all, for there is a postscript [which is not published] at the bottom of

the letter, in the hand-writing of Major Burns, and signed with his proper name and signature, requesting his name not to be published with the letter. In the absence of this letter, there might have existed some doubt as to the authorship, or it would have rested, in that case, upon the testimony of Burns *alone*. But the letter itself, in manuscript, having been produced by the Prosecutor, and its identity having been clearly proved by Judge Walker and Mr. Maginnis, the Prosecutor's own witnesses, there is no longer any room for doubt.

This fact being thus *established*, viz : that Burns is the author of the letter—the next question to be examined is, had I any connection with it or any agency in procuring it to be written? It becomes necessary to examine this proposition—inasmuch as the Prosecutor is not yet satisfied—although the authorship of the letter is placed beyond controversy by the production of the letter itself.

All other grounds being swept from under the Prosecutor, he attempts to connect me with the letter by alleging that certain interlineations in the Leonidas letter itself, were in my hand-writing, and he finds two witnesses [Mr. Freaner and Mr. Trist] who *do prove* that those interlineations are in my hand-writing. He then called up Capt. Hooker and Gen. Cadwalader, both of whom proved that they were not.

The defence then called Lieut. Col. Duncan, Major Polk, Lieuts. Rains and Ripley, all of whom proved that not one word of the paper was in my hand-writing. Thus stood the case, Messrs. Freaner and Trist against Gen. Cadwalader, Lieut. Col. Duncan, Major Polk, Lieut. Rains and Lieut. Ripley, and Capt. Hooker—two against six—until the deposition of Judge Walker was taken, who proved that every one of these interlineations was made by himself after the letter had reached the city of New Orleans.

Here ends the proof upon this scandalous imputation, and what a commentary does it not present upon the depravity of the human heart!

I was accused of having made the interlineations in the letter, and the Prosecutor finds two witnesses, who [though one of them, Freaner, says he had never seen me write but “two words”] swears that these interlineations were in my hand-writing, when, at the very moment they were made, I was *across the ocean* from the person who made them.

It is impossible to believe, for one moment, that the witness Freaner was ignorant of the hand-writing of the leading editor of the paper, of which he was the constant, regular correspondent. In regard to the witness Trist, the sequel will show to what weight his testimony is entitled.

It having been thus clearly established that Major Burns is the author of the “Leonidas” letter, that I had no agency in procuring it to be written—the interlineations having been proven

to have been made by Judge Walker — the analogy between all three papers having been explained, upon principles perfectly consistent with my innocence [independent of Major Burns' testimony] it would seem almost superfluous for me to enter into any further defence of myself in regard to the charge ; but as the repeated assaults of the Prosecutor [however futile they may be in fact] upon the character of Major Burns, might, unexplained, tend to impair in some degree the weight of his testimony, I will briefly notice the particular points of that witness's testimony which it is thought by the Prosecutor militate against the truth.

The Prosecutor has proven by two witnesses that, after the Leonidas letter had been published, and returned to the city of Mexico, had produced much excitement and talk — and after Gen. Scott had arrested Col. Duncan—that Maj. Burns denied that he had written the Leonidas letter as it appeared in print in the Picayune.

This denial of the witness, though somewhat *technical*, was nevertheless strictly true. It is proven by a comparison of the original manuscript with the printed copy in the Picayune, that there are important interpolations [known as the New Orleans hoax,] upon the original, in the printed copy, which justified Major Burns in repudiating the letter as an entire production.

About the same time, however, when he denied that he had written the letter as it appeared in print, it is proven by Mr. Benfield, Col. Duncan and Mr. Whitman, that Major Burns said he had written the Leonidas letter, (the original,) but that he did not want any thing said about it, as he knew Gen. Scott would arrest him, prefer charges against him, and probably dismiss him from the service, which he was anxious to avoid.

It was not until I was arrested and had charges preferred against me as the author of that letter [when he saw an innocent man suffering for his act] that he openly and publicly avowed the authorship. While I do not justify the witness in thus trying to evade the consequences of his own act by a *technical* denial — to questions which *no one had a right* to ask—yet no one can regard that conduct (proceeding from timidity) as affecting his character for veracity upon his oath, especially when he is sustained by the production of the letter itself, and by every other circumstance proven in the cause.

Major Burns in his examination before this Court, said that he had not denied the authorship, or if he had, it was jocosely. The witness had doubtless forgotten the remarks which he had made to the two witnesses several months before, or he considered himself as having made that denial jocosely, or ironically.

All men must be sensible how difficult it is to remember every thing we have said — months before — upon subjects much talked of. The known frailties of the human memory should teach us *charity* in judging of the conduct of others. Upon a different principle of action, what would be thought and said of the testimony of the Prosecutor himself?

He has sworn that he gave the order for Morgan's Regiment to cross the Pedrigal on the 19th August, yet six witnesses have proven that that Regiment moved under my orders, and was *en route* before Gen. Scott reached the field. Independent of the preponderance of six to one, against Gen. Scott, Capt. Hooker's testimony is of a character of itself to overturn Gen. Scott's statement, as I shall hereafter show.

Again: On the 27th of March, 1848, the Prosecutor stated in his testimony before this Court, that Col. Hitchcock had shown and read to him the introductory article to the pamphlet of intercepted letters; yet next day he came into Court, and positively denied his former statement made the previous evening.

Again: It is within the recollection of the Court and all persons present at the time, that when the infamously false and scandalous letter of Col. Hitchcock, (written while I was under arrest, under charges, awaiting the appointment of a Court for my trial, and discussing the very matter with which I was charged, calculated and intended to prejudice the public mind, and cause it to prejudge the very questions on which I was to be tried — published in the New York Courier & Enquirer, and false in almost every particular,) when this letter was produced before this Court, and was about to be fixed upon its shameless author, and through him upon Gen. Scott — the latter, after carefully examining the letter, rose and said, (and repeated the asseveration more than once) "that he had never seen that letter before, and had never known that such a letter was written;" — yet Col. Hitchcock, in a few minutes afterwards, swore that he had shown this very letter to Gen. Scott, and had read parts of it to him before he sent it off from the city of Mexico.

Again: It will also be remembered by the Court that when Gen. Scott was thus *confronted and contradicted*, by his own witness — and it was proved that he had both seen and had read to him parts of the letter — that Gen. Scott again rose and said, "I have never heard but a very few words of that letter read, so help me God" — and several times repeated this solemn asseveration: yet this same witness afterwards proved that he had read nearly all of the infamous production to Gen. Scott.

I have no remark to make in this place about these inaccurate and contradictory statements under oath, and these solemn asseverations, proved to be false by his own witness. I only speak of the facts as they appear on the record, and are known to exist by this Court. I refer to them in no feeling of exultation, but in that of deep regret, as showing the frailty of the human memory. They should teach the Prosecutor charity in his judgment of the conduct of others. They should remind him that his own testimony, given under strong feelings and bitter hostility and powerful motives, evincing so much infirmity, might not itself receive full confidence from an intelligent Court and public, if he adopts a rule so

rigorous, in reference to other witnesses, especially in reference to those whose testimony is strongly against their own interest.

Having thus signally failed in connecting me with the Leonidas letter, even after producing in testimony the most *shameless falsehoods*—the Prosecutor—determined not to be convinced of his error, and of his injustice to his victim—like the drowning man catching at a straw—attempts at last to prove that the letter had been transmitted through me to the United States. Paymaster Burns said he did not recollect through what channel he had sent the letter—that he had sent many letters through me, as had the officers generally of my Division, and it was possible that he might have transmitted this one through me, but that he could not say he had. He said he knew, however, that he had not shown me the letter, and if he had sent it through me, it was sealed and addressed by himself.

How the fact was I did not pretend to know, for it was my habit—as but few facilities existed to enable the officers to correspond with their families—to transmit all letters which they requested me to forward, whenever it could be done, without knowing, and without inquiry as to their contents, as is proven by many witnesses. Though it would have been wholly unimportant if I had transmitted it and known that I had done so. In this emergency the Prosecutor again calls upon his ever-pregnant and never-failing witness, *Mr. Nicholas P. Trist*, (who had last sworn that the interlineations made by Judge Walker, in the city of New Orleans, were in my hand-writing,) again to deliver himself of his conceptions; who, true to his undertaking, swears that on the last day of August, 1847, he received from me a package containing six or eight letters, accompanied with a note—*marked private*—saying that I had a personal interest in the transmission of all those letters. He says, in this package “were one or more letters to the Delta”—“one or more to the Union”—“one or more to some papers in Tennessee,” and “one or more to some papers in Alabama,” and that he believed he had sent off the letters to the Delta and the Union, and thought it probable that he had sent off the whole package.

Well, as God would have it, (for he will protect the innocent,) of the eight letters which Trist swears this package contained, I have proved that six of them were to the wives and female relatives of the officers of my Division; one other Mr. Trist proves was to my wife, leaving but one, instead of seven letters to any newspaper. But my proof does not stop here. Lieut. Ripley proves that he conveyed and delivered the package to Mr. Trist, and further, that after the army had entered the city of Mexico, he saw the identical package in my quarters, apparently unopened, and learned from Past Midshipman Rogers, then my acting aid-de-camp, that he had received it from Mr. Trist—that this package was still tied up with a piece of red tape, with which it was closely

bound when he delivered it to Mr. Trist, and that he learned from Mr. Rogers that it was sent off from the city of Mexico about the 21st September by a Captain of the Mexican navy, who was going directly to Vera Cruz. This package having left the city of Mexico on the 21st of September, could not possibly have reached New Orleans before October 1st—while in point of fact, the “Leonidas” letter had already been published in the Delta on the 10th September, full twenty days before it was possible for any letter which was in this package to have arrived in that city.

But more conclusive still is my proof of this last falsehood of this witness. Agreeably to his own accounts, the package was delivered to him on the 31st day of August. Mr. Maginnis proves that the Leonidas letter arrived in New Orleans very early on the morning of the 8th of September, *allowing* but seven or eight days, at farthest, for the transmission of this letter from the valley of Mexico to New Orleans, by private courier, when almost all communication was cut off, when the reports of the General-in-chief were captured, and when it required from the 23d of August to the 8th of September—sixteen days—for the news of the armistice to reach New Orleans; showing that, as Judge Walker states, it was not possible at that time for a letter leaving Mexico upon the 31st August, and going by the private courier employed by Freaner and Trist, to have reached New Orleans on the morning of the 8th September.

And finally, utterly to sweep away any vestige of probability in the testimony of this witness, the deposition of Mr. Whitman clearly proves that he sent off the Leonidas letter himself, and that I had neither knowledge nor participation in its transmission.

I have now disposed of the *second fiction* of the self styled “American Minister,” and in doing so, I trust I have satisfied all impartial minds that I am wholly innocent of any connection with a letter which has annoyed me as much as its excessive praise of me has disturbed the self-esteem of the Prosecutor.

I might materially strengthen the argument upon this branch of the case by drawing a comparison between the papers themselves, showing the strong corroboration which it derives from the analogy the papers bear to each other.

But as the Prosecutor charges the existence of this analogy, and bases his main argument upon it, I deem it unnecessary to attempt to prove what is not controverted, but is admitted by both parties.

Having thus disposed of the first charge, and shown as I am persuaded that it is utterly false, that I had no more agency in writing or procuring to be written the letter which is the subject matter of the charge, than had the Prosecutor himself, I will proceed to give the first specification of the second charge such attention as it deserves.

This charge *assumes* that I had written the letter upon which the first charge is based, and then proceeds to point out, in distinct

paragraphs, what the Prosecutor is pleased to denominate falsehoods in that paper. It has been already shown that this *assumption* is false — that Paymaster Burns is the author of the letter, and is *alone* responsible for it, be it true or false. In the course of this investigation, all its main statements of fact have been incidentally proven to be true. I forbear to make any remark about the excessive laudation of myself, save that it emanated from a source over which I had no control, that it was undeserved, and that it has cost no one more embarrassment than myself. But inasmuch as the second specification under this charge relates to the *truth* of the Freaner paper, (called by the Prosecutor “a twin paper to the Leonidas letter,”) and as I utterly deny that I am, or can be held at all responsible for the Leonidas letter, I shall, without further remark, proceed to the consideration of the second specification under this charge.

This specification charges that, knowing that Gen. Scott could not at an early day make out and send off his official reports, that I sought to forestall public opinion in the United States through the press thereof, and with that view, I wrote, or caused to be written, and delivered to James L. Freaner, the correspondent of the New Orleans Delta, the paper No. 1, for publication in said newspaper, or intended it to be incorporated into a dispatch to be written by him for that purpose, and that this paper is *identical*, as far as it goes, with the Leonidas letter, and false in the same *particulars and respects* as the said letter.

In examining this specification and the proof relied upon to sustain it, I will first consider whether the facts stated there are not *substantially true*, and then look to the motive charged.

The first statement in this paper, the accuracy of which is brought into question by the Prosecutor, is that relating to the order of battle, and the disposition of the forces on the 19th August on the battle-field of Contreras. As this statement is again brought in question in the third specification, and is there made the *gravamen* of a distinct charge, I shall here merely refer to the names of the witnesses who clearly and fully prove its truth. These are Captain Hooker, Lieut. Ripley, Col. Riley, General Cadwalader, Col. Savage, Capt. Bogardus, Lieut. McClanahan, and Captain Kerr.

The next material paragraph relates to the battle — describes the conflict of Riley with the enemy, speaks of the appearance of the large reinforcements under Santa Anna, of the order to Morgan's regiment, of the arrival of Gen. Scott upon the field late in the evening, of the arrival of Shield's brigade, and says that it did not get into position until it was dark. The parts of this paragraph which are controverted are, *first*, the order to Morgan's regiment; *second*, the hour of Gen. Scott's arrival upon the field, and *third*, the *time* at which Gen. Shields' brigade arrived at the village of Ensalda.

In the third specification the order to Morgan will be shown to have been delivered by Capt. Hooker, my Assistant Adjutant-General, before Gen. Scott reached the field.

As to the hour at which Gen. Scott reached the field of battle, Col. *Hitchcock* fixes the hour at precisely 3 o'clock in the evening. He says that he looked at his watch, and that it was not one minute earlier or later. That he entered the hour next evening in his journal.

Capt. Hooker testifies that upon the arrival of a messenger from Gen. Cadwalader, asking for supporting force, that Gen. Scott asked for the hour; that Col. Hitchcock looked at his *watch* and said that it was a quarter before 5, or a quarter after 5 o'clock, and then remarked: "General, we got here at 4 o'clock." Lieut. Hodge proves that he examined his watch upon Gen. Scott's arrival, and that it was ten minutes after 4 o'clock. That Mr. Kendall examined his, and by it it was twenty-five minutes after 4 o'clock, and that there was a third watch examined at the same time, (by some gentleman whose name he did not recollect,) by which the time was between his own and that of Mr. Kendall's.

Gen. Scott himself, in his *official report*, bearing date the very night of the battle, *fixes* the hour of his arrival at 4 o'clock.

Here, then, we have the author of the infamously false letter, published in the New York Courier and Enquirer, by which he dishonors himself, with his journal made the next evening, (or subsequently, for the occasion,) on the one side; on the other, Capt. Hooker and Lieut. Hodge, who gave the time of three watches, and Gen. Scott's *own official report*, written that very night, when the time of his arrival was fresh in his memory. With this evidence in the balance of truth, it will not be difficult to tell which scale will preponderate.

In the month of August, in the latitude of Mexico, the sun sets at about six o'clock, p. m. Two-thirds of the afternoon having passed when Gen. Scott arrived upon the field—the question then presents itself, is the statement in this paper, "that he arrived late in the evening," proven to be true? It is for the Court to decide, and I submit it to its good judgment, whether it was "*early or late*" in the afternoon.

As to the other statement in this paragraph, viz: "that Gen. Shields did not get into position until after dark," I refer to Gen. Scott's *own official report*, and to Gen. Shields' also; both of which say it was in the night. Gen. Shields states in his testimony before the Court, that it was about one o'clock in the morning before he entered the village of Ensalda.

There is another statement in this paragraph, viz: "that Gen. Scott brought upon the field *with him* Shields' brigade," which is controverted. I admit that they did not arrive at the same *moment of time*, but the interval between the arrival of Gen. Scott and that of Shields' brigade was very short, and hence Gen. Scott in

his official report says it was "within *a few minutes*." I presume this will be considered accurate enough for all practical purposes.

The next material statement is, that the attack was next morning commenced by "Pierce's brigade advancing in execution of the original order of battle, renewed the assault in front, while Riley's brigade, supported by Cadwalader, turned his left, assailed his works in reverse and gallantly carried them, capturing twenty-two guns," &c. The accuracy of this statement is nowhere questioned. The facts stated are not controverted by the charges.

The paper No. 1 contains a statement that during the course of the action I shot a Mexican officer. This is nowhere directly controverted in the charges, although in the eighth paragraph of the first specification to the second charge, it is asserted that a ridiculous account given in the Leonidas letter as published in the New Orleans Picayune, of a single combat said to have taken place between a Mexican officer and myself, in front of the two armies, at the battle of Contreras on the 19th August, is untrue.

I never denied that the statement was untrue, and in vain are the original letter of Leonidas, and the paper No. 1 [which is denounced as false in the same particulars] searched to find this piece of bombast.

The Court will no doubt remember that it was contained in the letter as printed in the Picayune, but that long before these charges were preferred, it was published to the world, that it was an interpolation, made by one set of editors in New Orleans for the purpose of *hoaxing* another. Although this hoax was successfully practised upon those for whom it was originally intended, yet the Prosecutor seems to have been far more completely victimized, and even after the facts had been disclosed, he still clung to his delusion, and in spite of the published truth, insisted *upon being hoaxed* himself. As if he was determined that there should be no doubt of the ease with which he could be imposed upon, he accordingly preferred a grave charge against a general officer, founded upon this ridiculous fabrication. It is within the recollection of this Court that, in spite of the evidence of his own eyes, in his cross-examination of Major Burns, he triumphantly pointed to some cancellations in the original letter of Leonidas, and asserted that "*there*" was this story, when, in point of fact, nothing of the kind was there to be found.

Ridiculous as is the position of the Prosecutor on this point, and completely as his specifications in this particular are disproved, (as there is not one word in reference to the pretended single combat, in either the Leonidas letter or the paper No. 1,) yet, as in the latter it is stated that I shot a Mexican officer with my pistol during the course of the actions of the 19th and 20th August, I will briefly notice the testimony in relation to the matter.

It has been proved by every officer of my staff that when I

passed up the road, and through the tete-du-pont, they were all separated from me and upon duty.

Private Ayers testifies that he was acting as my orderly, was within a few steps of me on the 20th August, and saw me, while on the road in front of the bridge head, shoot at a Mexican officer, and saw the officer fall from his horse. He says that there were several Mexican officers together, and that they were advancing rapidly, evidently intending either to attack me or make their escape. He saw no one else shoot at this officer. This is the positive testimony of a witness who swears to what he saw.

An attempt has been made by the Prosecutor to impeach the testimony of this witness, but the very officers who were summoned by the General-in-chief of the American army from Cuernavaca to the city of Mexico, to discredit a private soldier, swore that they should give full credit to his testimony in a court of justice, even if *unsupported* and in itself *improbable*.

The very effort and failure to discredit this witness, establish his testimony so firmly that it cannot be shaken. He is sustained by the Prosecutor's own witnesses. That fact, therefore, being positively proven by this witness alone, is fully established. His testimony is, moreover, supported by the circumstance stated by Carroll and Dr. Jordan, and even by that of the *gambler* Miller, who, fished as he was out of the hells of Mexico, to assist the Prosecutor in carrying out his intentions, does not pretend to deny the truth of the statements made by Ayers.

The only irreconcilable points in the evidence in this matter are contained in the testimony of Lieut. Longstreet, and in that of Private Carroll. And the only modes in which they can be reconciled — except by the supposition of perjury on the one side or the other — are, first in believing that a misapprehension exists as to the identity of the horse (from which the Mexican officer was shot) seen by Longstreet, with the one from which the officer fell, and which Carroll caught. A supposition which is very reasonable, as the Corporal, who went from Lieut. Longstreet after the horse, was detained some time, and a number of horses were running about the field; or in the belief that there is no misapprehension as to the identity of the horses, and that Carroll was mistaken in supposing that I had ordered him to catch *that* horse for me, and in fact he was not the man to whom I gave such a direction, and that he speaks of a different affair from the one referred to by Ayers.

The character of Lieut. Longstreet shields him from the suspicion of the alternative, and absence of all motive for perjury on the part of a man with whom I was and still am unacquainted, renders it equally unlikely that any such conduct can be attributed to Carroll. But if we set Longstreet and Carroll's testimony aside as balancing each other, the fact is fully and clearly proved by

Ayers, whom no one contradicts, and whose character the Prosecutor in vain sought to impeach.

Having thus shown that every controverted point in this paper, (No. 1,) is substantially true, we now come to examine the motive and purpose charged in this specification. This is said to have been to forestall public opinion in the United States, by an early publication of the statement.

Freaner essayed to sustain this charge by testifying that I handed him the paper, and said I was anxious it should appear with the first *impressions*; and yet this same witness testifies, the very next minute, that he asked me for a statement of the forces under my command on the 19th and 20th of August.

He further testifies that he asked me to permit him to take the paper. Who does not see in these statements that the witness gives the *lie* direct to his own testimony? How can the motive charged, viz: that I prepared this statement, with a view to anticipate Gen. Scott's reports, be believed, when it is proved by the witness himself, "that he applied to me for the statements," and and at the time he took it from the table, "asked me to let him keep it?" If the paper was made out for him, as he says, why ask me to let him take it? The falsehood of the witness is so palpable and obvious, that it is absolutely trifling with this Court to suppose it capable of being influenced in its opinions by such testimony. It will be remembered that this is the same redoubtable witness who, in conjunction with his notable coadjutor, Mr. Trist, swore that the interlineations in the Leonidas letter, made by Judge Walker, were in my hand-writing. But I am not dependent upon the statements of this witness alone for the means of destroying his proof. Dr. Heistand proves positively that he heard Freaner ask me for this statement; nor can it be believed that Freaner would ever have remembered the circumstance of asking me for this paper, had he not known that the *fact* would be proven by Heistand, whose testimony could not be impeached. And yet this is the proof upon which the prosecution asks this Court to find the truth of the motive charged in the specification, that I sought to anticipate and forestall public opinion. If I thus desired to forestall public opinion, it was, as I have shown, by the publication of the truth. But I again ask, how can it be believed that such was my purpose, when Freaner came to my quarters, and asked me for this statement, as he himself has admitted, and as Heistand positively proves? This fact is wholly irreconcilable with the idea that I sought to have it published, or with the charge that I prepared it for publication. The caption and conclusion, (in the form of a letter,) as Heistand proves, were added by him without any direction from me, as he heard Freaner ask me for the paper, and knew what he wanted with it.

In hastily running over it before handing it to Freaner, those parts being unimportant were not noticed, or thought of. The

erasures the witness proves were made by himself, as he supposed. I am now done with this specification.

The third specification to the second charge divides itself into several parts, which I shall consider in the order in which they are presented: The first states that in my official report I *falsely* "claim for myself the merit of having given, prescribed or ordered, the particular plan of battle or attack that was so successfully executed early on the morning of the said 20th of August, by Brig. Gen. Smith, the officers and men there and then under the command of said Smith."

My official report nowhere claims, in *spirit*, or *letter*, that I "gave," "prescribed" or "ordered" the *particular plan* of battle in question.

The report speaks for itself, and I beg leave to refer to it. The only references in my official report to the attack made on the entrenched camp early on the morning of the 20th August, are in the following words: "During the night Brig. Gen. Smith *disposed* the forces present to renew the action at daylight, and *complete* the *original order* of attack."

In another part of my report it is stated:

"Brig. Gen. Smith, the senior officer who remained across the plain and disposed the forces for the *final assault*, *deserves*, and will doubtless receive the thanks of the army, and the honor due to the constancy of purpose and daring which distinguished his conduct on this occasion."

This language is plain and unmistakable, and cannot be tortured to bear the construction Gen. Scott has put upon it. A fair and honest interpretation of it will not sustain the assumption that there is any attempt to detract from the reputation of any other officer, nor is anything claimed by me for myself not fully sustained by the record of this Court, the testimony of which, relating to this branch of the subject, I shall examine at length and in some detail, with a view, if possible, of ascertaining:

First, What dispositions were made of the American forces near the entrenched camp of Contreras on the 19th of August, and by whose order or orders were such dispositions made?

Secondly, What effect had these dispositions on the fall of the enemy's entrenched camp at Contreras?

I will premise that whatever dispositions were made on the 19th, before the arrival of Gen. Scott, must have been made by my orders or sanction, for I was the *senior officer* on the ground, and responsible for the operations of the forces.

Gen. Scott admits this fact, though his admission gives it no additional force, for it is not only a *fundamental military principle*, but *the law of the land*, and according to the testimony of Gen. Twiggs, Gen. Scott informed him, for his guidance, that "*the law must be obeyed.*"

The discussion of this question might have been excusable upon

a militia parade, or even between two of the greenest of the recent appointments — but that it should have arisen, as it were, upon the battle-field, between the Commanding-General of the Army, a veteran of forty years' service, and one of his subordinates, of little less experience, requires great exercise of charity to excuse.

Capt. H. L. Scott, acting assistant adjutant-general, testifies that, upon Gen. Scott's reaching the mound, he heard me explain what dispositions I had made.

Lieut. Ripley, my aid-de-camp, Capt. Hooker, my assistant adjutant-general, and Capt. Kerr, of 2d dragoons, testify to the same fact also, and that they heard Gen. Scott signify to me his approval.

Capt. Kerr testifies that he heard me tell Gen. Scott what orders I had given, which he states were as follows: Gen. Twiggs was to send part of his command to assault the position in front, and the remainder to turn the enemy's left flank, and assault him in rear; that Gen. Pierce was to support the attack in front, and Gen. Cadwalader and Col. Morgan were to support the movement on the flank.

Gen. Scott himself admits he approved everything that had been done by me up to the time he reached the mound.

Now, what had been done? Let the record of this Court answer. Col. Riley testifies that he was *first* ordered *by me*, in person, to cross the pedrigal and turn the left flank of the enemy.

Gen. Cadwalader testifies that he was ordered *by me* to cross the pedrigal, support Col. Riley's movement, and check any reinforcements of the enemy that might be thrown out from the city.

In obedience to his orders, Col. Riley crossed the pedrigal, passed through the village of Ansalda, and gallantly repulsed several assaults of the enemy's cavalry thrown out from his camp.

In execution of my orders Gen. Cadwalader crossed the pedrigal — gained the village of Ansalda, where he took position and checked a heavy reinforcement of the enemy thrown out from the city.

Col. Riley says he should have assaulted the camp of Contreras on the afternoon of the 19th had he been supported.

Gen. Cadwalader proves that he should have joined Col. Riley, and with him assaulted the camp, had not the reinforcements before mentioned made their appearance, and rendered it necessary to seize and hold the village of Ansalda. He further says, "no doubt the assault would have been successful, for the ground proved to be more favorable, and the camp weaker than it was believed to be, as seen from a distance."

That a part of Pierce's brigade was ordered by me to support Gen. Smith, is distinctly stated in my official report, and it is nowhere controverted.

Lieut. Ripley proves that he heard me suggest to Gen. Twiggs the propriety of sending a part of his division to attack the enemy

in front and the remainder to turn his left flank, and that I would support the movement with my division.

Gen. Twiggs does not recollect the whole of this conversation, but this only proves the defect of his memory, not that the conversation did not occur.

It is proper to recur to the fact admitted by the prosecution, which is also in testimony—that Gen. Scott, in case it became necessary to fight a battle before the road could be completed, directed that the work should cease on the road, and I assume the command.

This is the case, in anticipation of which he said to Gen. Twiggs, “Sir the law must be obeyed.”

When the conversation between Gen. Twiggs and myself above referred to took place, the necessity of a general battle was not apparent—hence my suggestion to Gen. Twiggs at this time, what I subsequently ordered.

Gen. Twiggs in his *official report* of Contreras, written only *three days* after the battle, states that Gen. Smith *was ordered* across the pedrigal to join Col. Riley.

Gen. Smith testifies that he received *no orders whatever* in relation to this movement.

Gen. Twiggs states in the same official report, that Gen. Cadwalader's command reached the village of Ansalda, *after* that of Gen. Smith.

Gens. Smith and Cadwalader both testify that Cadwalader's command got there *before* Smith's. Gen. Cadwalader states that he got there an hour before, and that he had already checked the reinforcements under Santa Anna, before Smith reached the village—that it was near night-fall when Smith got there, and that no important change in the positions of the troops took place after he came up.

It is difficult to understand how *two* such *important inaccuracies* could have found their way into Gen. Twiggs' report so *soon* (three days) after the events to which it relates transpired.

The fact that these inaccuracies are in the report, might naturally cause the author of them to *distrust* the accuracy of his own memory, in relation to these *same operations*, when called upon to testify to the facts of the case, after *nine months* had elapsed.

Accordingly, when his attention is particularly directed to this view of the case, he recognizes the force of it, and admits that his memory is not implicitly to be relied upon. Further, Col. Riley testifies that when he received his orders to cross the pedrigal, he inquired of me if Gen. Twiggs knew of the order. I replied he did—directing him to go on—that he would probably meet Gen. Twiggs, who would give him the same order; if not, still to go on and execute it—and that he subsequently did receive the same order. The inquiry naturally suggests itself—how did I know what orders Gen. Twiggs would give Col. Riley, unless I had previously communi-

coated with Gen. Twiggs on that subject? This coincidence is too complete and remarkable to be the result of accident, and goes at once to sustain the defective character of Gen. Twiggs' memory, and the accuracy of Lieut. Ripley's testimony on the same point. This is rendered still more conclusive by Gen. Twiggs' statement that after the battle commenced, he did not report or advise me of his orders or movements.

All the troops upon the field are now disposed of except Morgan's regiment.

Gen. Scott, in his official report, claims to have given the order for this regiment to cross the pedrigal and seize the village of Ansalda.

In my official report, I say that Gen. Scott, through me, gave this order — though I distinctly tell Gen. Scott in an official note in evidence before this Court — that I make this alteration in my report, in deference to his recollection of the fact, and in opposition to my own.

Let us see what the record of the Court says on this subject.

Capt. H. L. Scott, act. asst. adj. Gen., testifies that his decided impression at the time was, that Gen. Scott had given the order, but he has *no recollection of having heard the order given*.

Lieut. Williams, A. D. C. of Gen. Scott, testifies that he heard *imperfectly* a conversation between Gen. Scott and myself, in which he understood Gen. Scott to direct me to order Morgan's regiment across the pedrigal.

Lieut. Lay, Military Secretary of Gen. Scott, testifies that after the regiment had got well into the pedrigal, he inquired what troops those were, and Gen. Scott replied Morgan's regiment, that he had just ordered to the village.

With the exception of that of Gen. Scott himself, this is all the testimony on the part of the prosecution that relates to the order in question, and this amounts to nothing.

Two of the witnesses, Capt. Scott and Lieut. Lay, do not profess to have *any personal knowledge* on the subject — and the third, Lieut. Williams, pretends to know very little, and his testimony shows that his knowledge is even more limited than his pretension.

The only other witness for the prosecution on this point, is the Prosecutor himself.

The peculiar attitude he has assumed towards myself throughout this investigation, the *direct personal interest* he has in sustaining his charges against me, and, above all, that high sense of honor and nice delicacy of feeling, on which he prides himself so much, ought to have deterred him from introducing himself as a witness before this Court.

In this instance, however, as in many others that have occurred during the progress of this investigation, when delicacy and other refined qualities of the heart have been appealed to, the theory and practice of the Prosecutor have proved no kin to one another.

He has put himself upon the stand, and his testimony is upon the record — out of respect for his high position, I shall handle both as tenderly as the nature of the case will permit.

It must be admitted that his testimony goes to the bottom of the question — it is comprehensive, pointed, positive, and explicit — remarkably so, and runs to the effect that, soon after he reached the mound, he directed me to order Morgan's regiment across the pedrigo and seize the village of Ansaldo.

Such is the testimony of the Prosecutor, and, though unsustained, it would be decisive of the question at issue, but for the fact that it is positively *disproved* by many witnesses.

The Prosecutor, in his testimony, flatly contradicts Lieut. Williams, as to the place on the mound where Gen. Scott was when he is said to have given me the order to advance Morgan's regiment.

Lieut. Williams locating it on the *south* side of the hill as they were ascending — a point whence the reinforcements could *not* be seen — Gen. Scott locating it not on the south side of the hill, nor on the top of the hill, but on a "secondary hill" or mound, *in full view* of the entrenched camp and the reinforcements then approaching from the city.

Lieut. Williams says he heard the conversation that occurred between Gen. Scott and myself *imperfectly*. Gen. Scott's testimony fully sustains this statement, and at the same time affords an explanation how Lieut. Williams chanced to understand Gen. Scott to have given me an order which I did not receive.

This slightly awkward position in which the gallant aid-de-camp is placed by his chief, it is hoped will make him more guarded for the future, in giving testimony, and cause him not to venture again to swear to facts that he knows little or nothing about.

The Prosecutor is not equally fortunate in finding a friend in the hour of need. In vain the record of the Court is searched for one word that affords support to his testimony, or explanation of its inaccuracy.

Every circumstance that throws the least light upon the subject seems to aggravate the injustice he has done himself and the defendant.

That Gen. Scott could have been *mistaken* in the *facts* touching this order, is difficult to imagine — and that he should have had the temerity to have warped and twisted those facts out of all manner of shape for the purpose of making "the wrong appear the right," for his own benefit, is scarcely conceivable — yet such seems, at least, to have been the case.

The examination of a few passages of his official report may here be pertinent.

According to his own official report he arrived upon the field late (4 o'clock, P. M.) in the afternoon or evening of the 19th of August. His report states as follows:

"From an eminence, soon after arriving near the scene, I ob-

served the church and hamlets of Contreras (or Ansalda) on the road leading up from the Capitol, through the entrenched camp to Magdalena, and seeing, at the same time, the stream of reinforcements advancing by that road, I ordered (through Major Gen. Pillow) Col. Morgan, with his regiment, the 15th, till then held in reserve by Pillow, to move forward, and to occupy Contreras (or Ansalda)—being persuaded, if occupied, it would arrest the enemy's reinforcements and ultimately decide the battle."

This carefully worded extract, taken in connection with his own testimony, that of other witnesses, as well as with my correspondence with him on the same point, is worth a volume of commentary.

It must not be forgotten that, although I was on the field from early in the day till late in the afternoon, when Gen. Scott came up, and had, as he himself states, every opportunity of reconnoitering the field, yet he, in the report from which this extract is taken, mentions no orders I had given, no dispositions I had made, except that mentioned in the extract, viz: of holding this same regiment in reserve.

When Gen. Scott arrives upon the ground, he *discovers at a glance* the importance of a point, (the village of Ansalda,) which he designs to be understood had *escaped* my attention the *entire day*, and at once sends Morgan's regiment to seize and hold it—"being persuaded that it must *arrest the enemy's reinforcements, and ultimately decide the battle.*"

Here is an explanation of the extraordinary character of the Prosecutor's testimony.

A more striking illustration, it is believed, cannot be found of that "pruriency of fame not earned," and "malignant exclusion of others," against which he cries aloud in *his own* order, No 349, which forms a part of the record of this Court. Indeed he seems to have taken especial pains to convey the idea that no orders were given till *he* came upon the field; for he explicitly states, in another part of his report in relation to this same battle, that on the night of the 19th, Riley, Cadwalader, Morgan, Smith and Shields *found themselves* in and about the "strong position" of the village of Ansalda.

Is the idea intended to be conveyed that these four brigades and a fraction of a fifth, had been wandering about in the pedrigal and *accidentally* met in the aforesaid village? If so, the circumstance is not more *remarkable* than *fortunate*; for, in the opinion of the Prosecutor, this was the point that "*must ultimately decide the battle.*" The inquiry is a very natural one, how did they "*chance*" to "*find themselves*" there? The answer is as easily made as the question is propounded. Riley, Cadwalader and Morgan went there *first* by my order—Smith and Shields followed, the former seeing it was an important position, the latter by the order of Gen. Scott to support Riley.

Gen. Scott's testimony as to the order, is completely overturned by several witnesses, fully as credible, *far more disinterested*, and quite as positive as himself.

Capt. Kerr, Lieut. Bennett, Lieut. Hodge, Lieut. Ripley, all testify to the same point, that Morgan's regiment had moved, and was well in the pedrigal when Gen. Scott reached the mound, where I was standing.

Capt. Hooker, who bore the order to Morgan, (and this point not only is proven by several witnesses, but is not controverted,) testifies that he received the order from me, and delivered it to Morgan, to cross the pedrigal before Gen. Scott reached the field—that after putting the regiment upon the route it was to take, he returned to my position, and was then sent by me to meet and conduct Gen. Scott to my position, as the one most favorable for viewing the movements of both armies.

The attention of the Court is particularly requested to the testimony of Capt. Hooker. Not only is it fully sustained by circumstances and other testimony, but is in itself so minutely circumstantial, that it is impossible he could have *erred through mistake*; and even the Prosecutor will hardly venture to entertain a thought that this gallant and irreproachable officer has *erred through design*.

Col. Morgan's testimony sustains Capt. Hooker's, as to who bore the order, the character of the order, the guiding of the regiment to the route through the pedrigal, and to the impossibility that Gen. Scott could have given the order. Col. Morgan says he saw Gen. Scott *approaching* the mound about the time his regiment was put in motion. It might have been a few moments before, or a few moments after; but his impression is, that it was at the very moment his regiment moved; hence, the order could not have come from Gen. Scott. He further states that Capt. Hooker gave him the order as coming from me, and that it was to support Cadwalader.

Half a dozen witnesses have testified that soon after he got upon the mound, they heard Gen. Scott inquire, pointing to some troops seen in the pedrigal, "What bayonets are those?" and that the answer was, Morgan's regiment.

Now, if he had just put this regiment in motion, as he claims to have done, why this inquiry? He had the same opportunities of knowing that those who answered him had, and possibly better.

I will not dwell longer on this point—not that the subject is exhausted—but because it is unnecessary. If the fact that Morgan's regiment was ordered by *me* to support Cadwalader, is not established, no fact can be established by human testimony.

Gen. Scott has pursued the point with more than ordinary pertinacity—that I did not give minute instructions to the several corps I placed in position. This was unnecessary, for I nowhere claim to have done so. Indeed, from the nature of the case, it would have been improper if it had been possible to have done so.

The precise character of the ground the troops were to operate upon was not known, nor could the particular tactical movements, rendered necessary by circumstances, be anticipated. The commanders themselves were men of intelligence and wide discretion, as to details necessarily devolved upon them. Gen. Cadwalader testifies that it seemed to be my object not to trammel him with minute instructions, but that he must be governed by circumstances. No body better than Gen. Scott knows that this was judicious and proper.

The mound from which the orders were issued is a mile and three quarters from the village of Ansalda, and but little less from the entrenched camp of the enemy. At this distance only striking points in the position were apparent. My instructions to the commanders were regulated accordingly.

Gen. Scott seems to assume that, because I did not give the then detailed instructions, there could have been no object in my dispositions. The record proves that I explained to him the objects of the dispositions that were made, and that he approved them. His order to Gen. Shields, as Shields testifies, was to cross the pedrigal and support Riley, who had already, he understood, made one or two unsuccessful assaults upon the enemy in rear of the camp. These orders and impressions he (Shields) got from Gen. Scott.

The plan of attack, designed to be carried out on the 19th, was to assault the enemy in front at the same time that his left was to be turned, and the position assaulted in the rear.

The plan that was executed on the morning of the 20th, was *identically* the same. The troops put in position in the village of Ansalda on the 19th, by my order, were disposed on the morning of the 20th by Gen. Smith, for the final assault that was then made. Smith's report did not pass through my hands; and as the movements on the 20th *did* carry out what I had distinctly ordered the day before, I had a right to believe he so understood it; and whether he did so understand it or not, does not change the facts of the case.

Gen Smith proves that when he reached the village, he found Riley, Cadwalader and Morgan already there, but did not learn from any body what they were there for. According to his own testimony, from a point in the pedrigal, (not the most favorable for observing the relative value of different points of the field,) *he* discovered the importance of the village of Ansalda, and determined to occupy it. When he got there, he found this same position already occupied by a force *more* than *twice* as large as his own; yet he did not know how these troops happened to get there, or what they came there for. He rather inclines to the belief, however, that they must have been "*hunting*" the San Angel road, like another command I have heard of that *hunted* unsuccessfully several months for Chihuahua, and finally gave up the chase.

It certainly does seem remarkable that an officer of Gen. Smith's acknowledged good sense and discernment, should *not* have understood the object of movements so significant. According to his own account, he knew what to do with them after he found them there, and the results of the following morning fully sustain his statement, as well as my own.

I now come to the second branch of this subject—namely: What effect on the fall of Contreras had the dispositions that were made on the 19th of August, by myself?

The camp of Contreras is situated on the declivity of a ridge that begins to rise a short distance in front of the camp, (looking towards San Augustine,) from the plain of lava or pedrigal, and slopes gradually, and quite regularly six or eight hundred yards to the rear.

The ridge is bounded on the right and left by deep ravines that are impracticable at every point for artillery. The only road leading to the camp is one which, commencing at the city of Mexico, passes through the villages of San Angel and *Ansalda*, immediately along the front of the camp, to the factory of Magdalena. This road is practicable for wheel carriages a short distance beyond Magdalena, say a league from the camp—it then narrows to a mere mule path that leads into the mountains.

The position of the camp completely commands the difficult and only approach over the lava field in front, and the site was selected with that view.

Its weakness as a military position consists mainly in this—it is accessible only in one direction—namely, by the road before mentioned, which once *blocked*, the camp is perfectly *isolated*.

The village of *Ansalda* is situated *immediately* on this road, and as the enemy had neglected to occupy it, there was no obstacle opposed to the occupation of it by our troops save the impracticable character of the approach, over the field of lava, for any thing but infantry.

The village and its immediate environs constitute an uncommonly strongly defensible position for infantry, being out of reach of small arms from the camp, affording good shelter against artillery, and the broken character of the ground rendering it absolutely impossible for cavalry to act effectively, while it opened the way to the *rear* of the entrenched camp.

The military importance of this position in reference to the camp of Contreras, must be obvious. Once securely occupied, even without firing a shot—the camp of Contreras must as certainly fall, as that a heavy body thrown into the air must come to the ground; the laws of gravitation are not more certain.

All the advantages that this village was found to possess upon reaching it, could not be seen or known across the pedrigal; but quite enough could be, and was seen from the mound, so often

mentioned, to show it was the "*key* of the position," and that its occupation was an object of the first importance.

Gen. Scott, in his official report before quoted on this subject, saw its value the moment he came upon the field—"being persuaded, if occupied, it would arrest the enemy's reinforcements, and ultimately decide the battle."

Generals Smith and Cadwalader both concur in the military importance of the position.

The former proves, that if it had been occupied by the enemy and well defended, it would have been very difficult, if not impossible, to have dislodged him.

Cadwalader testifies that if he had not checked the reinforcements, it would have been occupied by the enemy before Smith could have got there.

Every member of this Court has been upon the ground, and they are, therefore, well qualified to estimate at their proper value these opinions.

Santa Anna speaks on this subject in two different dispatches, one a manifesto as Provisional President and Commander-in-Chief of the Mexican army—the other, his official report of the battle.

The former, dated city Mexico, 23d of August, the latter Lehuacan, 19th November, '47; from these papers I extract as follows. Speaking of Valencia's disobeying his orders and taking up this false position on his own responsibility, he says:

"The result was as fatal as I had foreseen; he advanced, of his own accord, more than a league, and selected a position to meet the enemy, without giving me notice of his movement or intentions; the refusal he gave to my advice was the first news I had of his temerity, and soon after the roar of cannon showed me his position and gave me notice that an action had commenced, although *overwhelmed* with a *presentiment* of what was to happen," &c. (He went to his relief.)

"I arrived at the moment when the enemy had *cut off by the rear* the position of the ill-fated General *with a respectable force*, and I was hardly able to check his operations, as the night was already setting in."

"But I perceived with sorrow the position was *isolated*, a deep ravine and a wood occupied by the enemy interposed between us, it was impossible for the troops under my immediate command to advance by the *only road there was* without exposing themselves," &c., &c.

"I had ordered my aid-de-camp, Col. Romiro, to pass the *terrible ravine* that was in our front * * to reach the camp of the General, and to advise him to *withdraw that very night* to San Angel with his infantry and cavalry, by the only road that was left him, *sparing the artillery, which it was impossible to save.*"

The other dispatch is of the same character, one extract runs as follows :

“And although I endeavored to form a junction (with Valencia,) it was found impossible; *being cut off by the enemy* — and by the ground which he had left in his rear — there was only one passable road from San Angel to Padierna (Contreras,) which was very narrow, and commanded right and left by positions of which *some of the battalions of the enemy had already taken possession.*”

“I sought a passage by the flanks, but I became convinced by those well acquainted with the locality, and also by my own observation, that it was not easy to undertake any more operations that evening; as on the right it was rendered *impracticable by a deep ravine*, which extended for more than a league towards some heights situated to the southeast of San Angel and by broken ground and rocks on the left.”

These are the opinions of military men, the best qualified to judge of the value of the position of Ansalda, and the effect of the operations of the 19th of August on the fall of the camp of Contreras, including those of the commanding Generals of the two opposing armies.

What the Tower or Castle Hill was to Cerro Gordo, the Bishop's Palace to Monterey, Ansalda was to the camp of Contreras.

Much credit is no doubt due to the gallant officers who successfully stormed the heights; but, certainly, they are not entitled to *all* the credit for the battles of Cerro Gordo and Monterey, and it would be equally unjust to award all the credit to the officer who disposed the forces for the final assault on the camp of Contreras.

I never had, nor have I now, any desire to pluck one leaf from the wreath of any military man which he has fairly won.

I have an abhorrence, not surpassed by that even of the Prosecutor himself, for “pruriency of fame *not* earned.” “Render unto Cæsar the things that are Cæsar's,” is a sound military maxim, to which I subscribe with all my heart.

If I have been unjust to any officer in my official report of this action, it is to Brig. Gen. Cadwalader; he may with justice complain that I did not give the necessary prominence to the advantage to subsequent operations, resulting from his seizing and holding the village of Ansalda, and the able dispositions he made for that purpose; but, if I have erred in this instance, I have not done so designedly. At the time my official report was written, this matter had not been brought so clearly to my particular attention. I endeavored to do ample justice to the valuable services of this gallant and accomplished officer, as my report shows, and I am happy to have the opportunity, even at this late day, of supplying the important omission in my official report of that battle, so far as it relates to the services of that officer.

Capt. Taylor, who is called upon to testify to another part of

the three specifications under second charge; says that on my way to San Augustin on the night of the 19th of August, he had a short conversation with me — that he inquired how things looked — and that I replied “badly;” that I thought the position too strong to be carried, and that I was on my way to San Augustin to advise Gen. Scott to withdraw the forces.

Capt. Hooker, who was also present and heard the conversation, understood it differently. He understood me to say I thought the position could not be carried by a *front assault*, but heard nothing about my advice to Gen. Scott to withdraw the forces.

Without attributing any improper motive to Capt. Taylor in reference to his representation of the conversation, for the purity of his character forbids even a suspicion against his integrity of purpose; still, I cannot but think that he must have misunderstood me.

I certainly never thought of giving Gen. Scott any such advice, and cannot imagine how I could have said I intended to do so. It is nowhere pretended that I did give any such; on the contrary, Gen. Scott proves I did not; and, indeed, his official report would go to show that no such feeling pervaded any part of the army; for, he says after night set in, “all our gallant corps, I learn, are full of confidence, and only wait for the last hour of darkness to gain the positions whence to storm and carry the enemy’s works.”

It cannot reasonably be supposed that when all were “full of confidence” and hope, I alone should be a prey to doubt and despondency.

Next comes upon the stand Nicholas P. Trist, late U. S. commissioner, whom Gen. Scott found, from “*frequent*” and “*cordial* intercourse” with him, “after that *happy change* that took place in their official and private relations,” to be “*able, discreet, courteous and amiable;*” all of which qualities have been beautifully illustrated in his correspondence with the State Department, the discharge of his duties as commissioner, as well as his private correspondence with Senator Dix, in which he manifests the greatest possible solicitude that the Senate shall not plunge themselves and the country into “deep, damning, ineffable disgrace,” by hastily confirming my nomination as Major General, all of which is before this Court.

His testimony having been utterly demolished and overthrown on the only three important points to which he had previously spoken, he calls into play that “*ability*” Gen. Scott so justly commends, and ingeniously lays the scene in private, so that there is no possibility of disproving his statement. The substance and spirit of his testimony are as follow:

After every body had left Gen. Scott’s quarters, except Trist and myself, he (Trist) went to bed; after he had retired, I cautiously entered his sleeping chamber, shut the door after me and locked it; then, after looking under the bed, into the closets, be-

kind the trunks, (and no doubt he would have said up the chimney, had it not occurred to him that this might be disproved, Mexican houses having no chimneys,) after taking all these precautions to assure myself that nobody could possibly hear, I came gently up to his bed and in a low voice and in "*strict confidence*," said to him: "This is going to be a failure, and knowing you to be a *discreet* man, and of *strong memory*, I call on you to bear witness in future that I wash my hands of it."

The ex-commissioner understood this to be the *dying speech* and *confession* of a man who expected to be shot by the Mexicans next day, though he was not going into battle.

It is very remarkable that a man of so much "ability" of a certain kind, should be so deficient in sagacity, as not to have discovered that I was not responsible for the *particular* operations determined upon for the following morning; for, according to Mr. Trist's own account, Gen. Scott had, in the presence of many officers, just approved and ordered them. In case of failure, I had only to answer, "Thou canst not say I did it." Then, why this desire to "*hedge*," which Mr. Trist puts so prominently forth?

That I had the responsibility resting on my shoulders of having given the orders for a similar movement the day before, is a fact as easily proven as that Gen. Scott was responsible for this.

From the very nature of the case, Trist's testimony cannot be positively disproved on this, as it has been on the *only* other *three points* of importance, to which he has sworn; but, even supposing it to be true, which is next to impossible, it does not in any way touch the issue, or even if it did, let it be borne in mind that it comes from a man who, as the record of the Court shows, has determined to devote the wit of his head and the malice of his heart to my destruction, and the Prosecutor is welcome to the full benefit of his testimony.

In connection with this view of the case, it is proper that I should notice the statement in this specification, that I sought by the letter dated 3d October, to Gen. Scott, "from motives purely selfish and dishonest," to get his sanction to my unjust pretensions in regard to the battle of Contreras.

To vindicate my honor against this illiberal and unjust imputation, I might content myself by a simple reference to Gen. Scott's written official reports to the government, and to the conclusion of this very correspondence, to which he takes exception, in which he says: "In haste, permit me to repeat once more that I have, from my first meeting with you, been anxious, from a high opinion of your *intelligence, honor, zeal* and *valor*, to win your esteem and confidence on any terms consistent with justice and honor, in which sentiments I remain," &c.

It should be borne in mind that this full and ample testimony to my "*intelligence*," "*honor*," "*zeal*" and "*valor*," and of "*his anxiety* to win my esteem and confidence upon any terms consist-

ent with justice and honor," was borne thirty-nine days after my official report was filed in his office; eighteen days after the army had entered the city, and long after he had received all the reports of subordinate commanders, and had actually made out and forwarded to the government his own official report of the first series of operation in the valley of Mexico.

That it may not however be thought that I seek to shelter myself from the assaults of the Prosecutor, under his own former opinions and testimony, I will briefly, by way of explanation, touch the correspondence itself, and show that the construction placed upon it is as *tortured*, as the imputation upon me is *unjust and illiberal*.

In his letter of the 3d October, speaking of that part of my report of the 27th August, relating to the movement against the rear of the works at San Antonio, he says that my "report in that particular is *unjust to him*, and that I seem to control the whole operations of the army."

Again: Speaking of my report of the 18th September, he says, "he (Gen. Scott) is sorry to perceive in Gen. Pillow's report a seeming effort—no doubt unintentional—to leave Gen. Scott entirely out of the operations of the 13th September." It will thus be seen, that in both of these letters, (to which I was replying in the letter to which he takes exception,) Gen. Scott was complaining of *injustice to himself*. He was the party who thought himself *aggrieved*.

I changed every part of my reports indicated by him as "unjust to himself," as I said in my letter accompanying the report, "in deference to his wishes and past kindness to me, and contrary to my conviction of the facts."

In this part of his letter, calling my attention to the orders of battle claimed to have been given in my report, he says: "I think you also in error in stating that the troops at Contreras, on the morning of the 20th, executed the precise plans and views laid down by you for their government the evening before."

In my report I had not said that the troops on the 20th August did execute the "*precise plans and views* laid down by me for their government"—nor had I said any thing equivalent to it. In that report, after reciting the *General Orders* for the battle on the 19th, I remark: "During the night, Brig. Gen. Smith disposed the forces present to renew the action at daylight and complete the *original order of attack*."

It will thus appear that Gen. Scott misapprehended what was in my report upon this subject.

Hence, in reply to those letters, (complaining of injustice to himself,) I say to him: "I have not changed my report in the last particular indicated in your second note, as I do not see that that statement in my report can, in any possible degree, affect you, and knowing that the movement of the next morning did carry out my original orders to Gen. Twiggs, and as it would place me in the awkward position of having gone into battle without any order

of battle, or the forces in position of having *disregarded my orders*, I ask your indulgence in permitting my report to stand unaltered as to that statement."

It will be perceived in this extract, (which is clear and unequivocal as to its meaning,) that I place my refusal to alter my report upon two grounds, viz: First, that the point to which he called my attention did not (as did the others) at all relate to *him*. Secondly, that *I knew* the movement the next morning did *carry out my original* orders—in other words, that I knew my report in this particular was true, and therefore I would not alter it.

Notwithstanding, however, he expressed his regret that I had made any alterations in my report, he nevertheless seizes the concessions, engrafts them into his own reports, and sends them forth to the government and to the world as *his own*, and then turns round and charges me with attempting to corrupt him, because I refused to alter my report in a matter which I *knew to be true*.

This charge runs thus: "In his reply, the said Pillow, whilst reiterating the said false claim, plainly endeavors to induce the said Scott to allow it to stand, uncorrected, through considerations purely selfish and dishonest, and personal to the said Pillow and to the said Scott."

Here it is stated, that through considerations *purely selfish, dishonest and personal* to the said Scott, I endeavor to get him to *endorse* my false claims, &c. If I understand the meaning of this language, it substantially charges an effort on my part to *corrupt him*—to *bridle him*—to give his sanction to a *false statement* in my official report.

He seems to lose sight altogether of the positive averment in my letter, that "*I knew* the movements of next morning did *carry out my orders*," &c., as I said.

I would not willingly suspect the Prosecutor himself of "*selfishness*" and "*dishonesty*" of purpose in this correspondence. He *first* says that I "*had a full and most distinguished participation* in all the operations of the army in the valley of Mexico," and that in storming Chapultepec, "*from what he personally saw, I had done my duty in an able and heroic manner*," and then *very modestly* asked me to *remember* that he had *given orders and directed movements* which I knew (and which he knew) I myself had done. His sense of honor would be greatly shocked if I were, for one moment, to suspect that this *testimony* of his, that I had a *most distinguished part* in all the brilliant victories of the army, and that I was a *hero* for my conduct at Chapultepec, had been offered as the *price* of the *orders and movements* with which he desired me to credit him in my official report.

If I were to judge him by the rule he judges me, I might harbor such a suspicion, more especially since his *charges*, if true, would shew that this very high eulogium of me was, agreeably to his present opinion, *wholly* undeserved.

If this strong testimony which he bears to my good conduct be

false, then he justly subjects himself to this charge. If that testimony *be true*, then his *charges* against me are wholly *false*. It will not do for him to say that when he wrote those letters he thought them true, but that he afterwards ascertained he was mistaken; because he had received all the official reports of the battles of Contreras and Churubusco, and made out his own, based upon them, nearly forty days before. In regard to my conduct at Chapultepec, he distinctly says he spoke from what he *personally saw*.

There is, therefore, no room for mistake—he could have received no new *light*—he did receive none. If so, why does he not, in justification of himself, show what it was? If his letters be true, his charge is false. If his letters be false, then he subjects himself to the very charge which he makes against me, viz: That he *bore false* testimony in my favor, and offered high praise of me, to induce me, “through considerations purely selfish, dishonest and personal” to the said Scott and Pillow, to make a false report in his favor. There is no escaping from this position. He may take his choice of positions.

In either, it must be seen that he is overwhelmed by the power of truth. If any thing could give additional force to the view here taken, it would be found in the fact that my original reports are proven to have been true. In support of this position, I refer the Court to the proof of the six witnesses, establishing the orders to Morgan’s regiment, to the testimony of Gen. Shields and Lieut. Davis, as to the movements, turning the works of San Antonio, and to that of Lieut. Ripley as to the orders for my own command to advance upon the capital after the fall of Chapultepec. I had, by the alterations in my official reports, conceded the orders in those three important points to Gen. Scott. The effect of those alterations was to state that he was upon the battle-field of Contreras, giving orders and making dispositions, when in point of fact, he was in San Augustin, three miles off; that he was present at San Angel, directing the movements of the army in turning San Antonio, while he was three miles in the rear, and giving me no orders; that he was at Chapultepec and gave orders for the advance of my command, when, in point of fact, he was upon the top of a house in Tacubaya, a mile and a half from my position. All these changes he desired me to make as affecting himself, and I did make them; but because I accompanied the alterations with an official letter, in the nature of a *protest*, (which I tried to make as *delicately* and as little offensive as I could,) he takes exception, and says in reply, that “since I have made the alterations more to oblige him than from any conviction of error in these reports, he would send the whole correspondence to the Secretary of War.” It cannot escape observation, from the reply, that this *protest* was the real cause of offence. He does not say one word in his reply, as the Court will perceive by an examination of his letter, dated

4th October, about my effort (now charged) to get him to sanction my pretended *false claim* to the order of battle, but places his reply on the ground apparent in the above extract. Thus it is made to appear that, if I had made the alterations he desired, and *not accompanied* them with my *official protest*, he would have been perfectly satisfied, and would never have *seen* the effort to *corrupt him*, which constitutes so conspicuous a place in this specification. It is, therefore, manifest that this unjust imputation upon my *honor* is "a deliberate invention and afterthought" of his, which must recoil upon him with a force proportioned to the malignity of his assault upon my honor.

In regard to the fourth specification of this charge, I have said, I thought Gen. Scott was so shocked by the unexpected loss of the 8th September, at Molino del Rey, that his energies seemed *paralyzed*. In the following statement of facts, which are in proof, it will be seen that I was justified, as I think, in this opinion. On the night of the 7th September, at 10 o'clock, I left my quarters and went the distance of two miles to Tacubaya, to inform him that I had information, in which I placed full reliance, that the *machinery* for casting and boring cannon was removed from the foundry, on the 21st August, to the city of Mexico, and that at that time therew ere no operations going on in the building, which he had ordered to be attacked next morning. I further informed him that the water power by which the machinery was worked, could be *cut off* by ten minutes' labor, and I told him the position (which I had seen) at which it could be done.

This information I felt it my duty to give, as I had understood from him that his object in the movement was to destroy the *machinery*, &c. In reply, he said if the machinery was there, he would destroy it, and if it was not there, he would know it, and that he would not lose more than twenty men. The movement was made. At the cost of upwards of 700 men, *killed and wounded*, he got possession of the *deserted Foundry*, and found that all the machinery and cannon *had been removed*, and after we entered the city it was there found.

As soon as the killed and wounded could be removed from the field, the empty houses (which cost so much blood) and field of battle were *given up*, and the forces *withdrawn* to Tacubaya.

This slaughter and useless waste of life, so unexpected, threw a gloom over the whole army. I knew it was to no one more unexpected than to Gen. Scott.

On the morning of the 9th September, under orders from Gen. Scott, I pushed forward my command, seized Piedad, drove in the enemy's piquets, occupied this village as my head quarters, and threw my own piquets forward to the position the enemy had occupied, and in full view of his main force upon this front of the city. I there saw the enemy had a large force actively engaged throwing up new works to defend that approach to the city, that he had

then but two guns in position, and saw if that work was attacked *at that time* it could be carried with little comparative loss. All this was reported to Gen. Scott. In reply, he ordered me to *maintain my position ; but not to engage the enemy.*

While I occupied this position, day after day, I saw guns placed in battery, until the afternoon of the 11th, when the enemy had apparently completed his works — had eleven guns in position — seven of which commanded my approach, and four were in flanking works to the left.

On the afternoon of that day Gen. Scott came to Piedad — held a conference, and after much talk, determined to attack Chapultepec. It was this *extraordinary inactivity* and apparent *supineness*, at the cost of time so *precious* to us, and so *important* to the enemy, which induced the belief which I did express — but in perfect respect and kindness to Gen. Scott — that he seemed shocked and paralyzed by that disastrous loss of the 8th of September.

This opinion I entertained — thinking it was justified by the circumstances upon which it was based — and I learn, for the first time, that the expression of such an opinion in private conversation, was a violation of the rules of military propriety. If it be an offence to entertain and express such an opinion, I am ready to abide the consequences ; but, before I am condemned for it, I should be glad to be informed whether, in the nineteenth century, officers are required to subscribe to the doctrine in reference to the General-in-chief — never applicable except to the King — viz : “ That *he* can do no wrong.”

If that be the law by which the officers of the American army are to be governed, it is time that this new *principle of duty* were engrafted into the Rules and Articles of War — or into the Regulations — that they may know how to *shape* their opinions so far as the General-in-chief is concerned.

It is also true, as charged, that I had originally a very decided preference for attacking the city on the south front, as being its weakest approach — but, after the General-in-chief had allowed the enemy from the 9th to the evening of the 11th of September to fortify this approach, and to place a heavy amount of metal in position on this line of fortifications, it became, in my judgment, a matter of much doubt and uncertainty which front was most assailable — *this* or the *west* ; but regarding the formidable work of Chapultepec and its armament, and the *inner defences* on that approach, as presenting obstacles of greater resistance than the south front, I still entertained a preference for the assault in that direction, though I did not clearly so express myself. It is also true that I, in common with many other officers of the army, from the fatal error of the General-in-chief, in granting the armistice when the city was in our power, from the useless waste of the blood of more than 700 men on the 8th of September, and from his apparent supineness from that time until the 11th, in allowing the enemy so much time to complete his works of defence and

place his armament in position on his weak front, and from his *vacillating course*, did regard the army in the most imminent peril, and did express that opinion.

But it is not true that I was in favor of adopting a defensive position and waiting the arrival of reinforcements; nor is there one word of proof in the record to sustain this charge, except in the statement of the never-failing Mr. Trist, who is again brought in. This is the *third statement* of this witness, who has no *qualms* or *scruples* about *disclosing private* and confidential conversations, or any thing else he happens to know, *except the truth*. His only fault as a witness is, that he proves *too much*—he swears *too strongly* to be believed.

Well, what is *this confidential revelation*? He says that between the 8th and 11th of September, at Gen. Scott's quarters, at Tacubaya, I said to him that I wanted to have a strictly *private* and *confidential* conversation with him. That I then said that "a few more such experiments as that of the 8th of September, and we would have no army—that I was opposed to any further active operations against the city, and that I was in favor of taking up a defensive position until reinforcements should arrive." That he replied to me, "that the battle of the 8th of September was no experiment of Gen. Scott's, and that he was a living witness of the fact as long as he did live—that the ball was opened and it must be danced out."

It was not until after a close and sifting cross-examination that I succeeded in getting him to fix the date of this conversation—between the 8th and 11th September. This latitude of three days which he took, seemed "ample room and verge enough" for *dodging*, certainly. He knew I was a great deal at Gen. Scott's, and might well suppose I could not prove myself absent all these three days.

But "murder will out." I have proved by every member of my staff, that after I took possession of Piedad early on the morning of the 9th September, I was never absent from that position until late at night on the 11th September, when I moved with my command to Tacubaya, where I arrived at about 11 o'clock at night.

I have proved by Gen. Scott, that between the 8th and 11th of September, late at night, I was not at his quarters at all. I have proved by him that, as I occupied the advance position of the American forces during this time, he instructed me not to leave my command—that he desired me to be constantly present to guard against the possibility of surprise; and to meet any sudden emergency that might arise, he authorized me to call upon other commands in my immediate vicinity; and that, after much reflection, he was satisfied that during the time mentioned, namely, between the 8th and 11th of September, I had *not* been at his quarters. This proof of the officers of my own staff, and of the Prosecutor himself, showing that I was *not* at Tacubaya, nor near-

er than about three miles of that place at any time during the three days fixed by Mr. Trist, establishes most conclusively that *this*, the *third* fiction of the ex-commissioner, is absolutely false. Neither is it true that I ever said that, but for my interposition, Gen. Scott would not have assaulted Chapultepec; nor has he, after forty-five days' diligent search for testimony, been able to put one word of proof upon the record which goes to sustain this allegation. I have said that the plan of attack, (so far as my own division was concerned, and the disposition of the forces, preparatory to the assault,) was my own. I think so still — and further, that the record of the Court will sustain me in this opinion, as a reference to the testimony of Generals Worth and Quitman and W. Wood will show.

As this specification however imputes to me no offence, and seems to have been introduced for the sole purpose of allowing the Prosecutor an opportunity of introducing testimony to establish his great energy and activity, I have no objection to his having the full benefit of his proof upon that subject. If, however, his conduct on this occasion, was distinguished by these qualities, it was fortunate for the enemy, and equally unfortunate for our army, that nothing was matured till ample time had been given the enemy, thoroughly to fortify his weak approaches.

The fifth specification of the second charge reads as follows: "That the said Major General Pillow in his official report, dated at Mexico, September 18th, 1847, and addressed to the general headquarters of the United States Army in Mexico, giving the details of the said Pillow's military operations on the 12th and 13th of the said month of September, at the head of a part of the American forces, employed in the reduction of the enemy's castle of Chapultepec, falsely states, in the said report, in order to magnify his own zeal and heroism, that although wounded in approaching the said castle on the 13th of said September, he, nevertheless, caused himself to be borne along with the continued attack or assault upon the said castle, evidently designing, by this part of the said report, to cause it to be believed that he was borne along in the face of the enemy's fire, and was up with the said castle at the moment of its capture by the American forces — whereas the said Pillow, on receiving a contusion on one of his legs or ancles, near the edge of the grove from which he was emerging, and at the foot of the mound upon which the castle stands, placed himself near the same spot at the foot of the said acclivity, about — yards from the said castle, where he was covered from the fire of the enemy, except for a very few moments next after receiving said contusion; and the said Pillow did there remain until the said castle had been stormed, silenced, and carried by the said American forces."

For the complete refutation of the allegations made against me in this specification, I might only refer to the language of that part of my report which is its subject matter. It reads as follows:

"In the achievement of this most brilliant victory, justice de

mands of me an acknowledgment of the claims of the gallant officers who so nobly executed my orders, to high distinction. Being with the main body of my advancing forces *until* I was cut down by a grape shot, at the base of the hill, I had an opportunity of witnessing in person the distinguished gallantry of my command, a gallantry unsurpassed by that of any troops during this war.

“After being wounded, I caused some of my soldiers to carry me forward to the top of the hill, where I had the proud satisfaction of witnessing the consummation of this glorious victory, and saw the stars and stripes raised aloft upon this formidable work, upon the very site of the ancient palace of the renowned Montezuma.”

It is nowhere asserted, or even pretended, that I caused myself to be borne along “in the face of the enemy’s fire, or that I was up with the castle at the precise moment of its capture by the American forces, or that I remained with the main body of my troops after being wounded.” So far from it, it is stated, “that being with the main body of my advancing forces until I was cut down by a grape shot at the base of the hill, I had an opportunity of witnessing in person the distinguished gallantry of my command.”

From reading this paragraph, it must be evident to every unbiased mind that it was intended to convey the idea that, after being wounded, I was *no longer* with the main body of my troops, and had not the same opportunity for observation which I had enjoyed before the casualty.

The defence might have rested here, and with a simple comparison of the words of the specification and report, submitted for the decision of the Court, whether it was in that report falsely stated that, although wounded, I caused myself to be borne along with the continued assault upon the castle, or that I designed it should be so understood.

Again: Not only is the language and obvious meaning of my report totally perverted in this specification, but the report itself, thus perverted, pronounced false, and I am charged with having intentionally made a false report for the purpose of magnifying my own zeal and heroism.

The motives assigned, as well as the alleged facts in the specification, disappear by a simple reference to the language of my report, yet I beg leave momentarily to call the attention of the Court to the official report and correspondence of the Prosecutor, in the former of which he testifies “that this gallant leader was struck down *while up with the front rank* by an agonizing wound;” and in the latter, that he had, “*from what he personally saw*, received an agonizing wound in the *able and heroic discharge of duty*” — in storming Chapultepec — and that I had “a *full and most distinguished participation* in all the operations of the army in the valley of Mexico.”

In concluding the letter of the 3d October, 1847, he says: “In haste, permit me to repeat, once more, that I have from my first

meeting with you, been anxious, from a high opinion of your intelligence, honor, valor and zeal, to win your esteem and confidence on any terms consistent with justice and honor, in which sentiments I remain,

"Yours, truly,

[Signed]

"WINFIELD SCOTT."

How completely do these solemn written opinions falsify this entire charge. This whole specification is based upon my official report of the storming of Chapultepec. I am charged with making a false report in order to magnify my zeal and heroism.

If I was *struck down* with an agonizing wound, *while up with the front rank* — if, "from *what he personally saw*," I did my duty "in an *able and heroic manner*," — if I had a "*full and most distinguished participation*" in all the operations of the army, I do not perceive the necessity of falsifying the facts to magnify my zeal and heroism.

He testifies that he witnessed my conduct, and that it was both "*able and heroic*." But, notwithstanding these strong testimonials of my good conduct, in which he is the witness to disprove his own charges, I have thought proper to introduce testimony to prove to this Court the facts of the case, and show how unfounded are the statements alleged in the specification against me, how ungenerous the insinuations contained therein, and that from them it may determine whether or not I attempted in my report "falsely to magnify my own zeal and heroism."

By a reference to the testimony of Lieut. Bennett, it will be seen that I was wounded near the base of the hill of Chapultepec, and after being assisted forward by him a short distance, I ordered him to leave me and join his company in the assault. Capt. Sprague proves that soon after he assisted me to the foot of the hill; and Lieut. Drum testifies that when, by Col. Andrews' order, he had reported to me that the enemy's gunners had been driven from the ordnance in front of our troops, and before the stormers had commenced scaling the walls of the works, he procured a party of men to carry me up the hill, in obedience to my order.

Sergeant Bates, 6th Infantry, who assisted in carrying me up the hill, and who should be supposed to know the facts of the case, testifies that the Mexican troops were firing from the works on the top of the hill when I was being carried up.

Lieut. Bennett testifies that he saw me inside the works from ten to fifteen minutes after it was first entered. Lieut. Ripley, Capt. Barnard, and Lieut. Col. Johnstone have testified that they saw me when I entered the gate of the interior works, at the head of the ramp, and, according to the recollection of the two former, I arrived there from ten to fifteen minutes after the works were first entered by our troops; while Lieut. Col. Johnstone proves that I was the first officer, of superior rank to himself, whom he saw inside the works, in which he is sustained by Capt. Barnard.

Lieut. Col. Gladden, Lieuts. Tilton, McConnell and Simpson,

and Lieut. Col. Howard, have testified on this point as witnesses for the prosecution. Lieut. Col. Gladden proves that he passed a person, whom he afterwards supposed to be myself, being carried up the hill, as he marched up the ramp, by the flank; that his command was the advance of the Volunteer Division, and that he saw me inside the work from ten to fifteen minutes afterwards. Lieut. Tilton also proves that I entered the work from ten to fifteen minutes after its fall. Lieuts. McConnell and Simpson, who did not see me, as I entered the gate, but as I was being carried into the building, place the time of my entrance from twenty to thirty minutes after the fall of the castle. But Sergeant Bates, Lieutenant Ripley and Lieut. Col. Gladden, clearly prove that I had been placed upon the wall at the east end of the works, immediately after my entrance, and Lieut. Ripley, that I remained there some time before being carried into the building. Lieut. Col. Howard testifies, that some thirty minutes or more after the fall of the castle, he saw a person, *whom he was told was myself*, borne in through the main gate, upon a litter.

Every other person, who has testified as to the mode of carrying me up the hill, states that it was in a blanket — and I beg to call the attention of the Court to the answer of the witness, in which he admits that it *has not escaped his memory* that he was sharply and severely rebuked by Gen. Pillow for failing to bring up his regiment to the battle-field of Molino del Rey promptly, as he had been ordered to do during the action.

Every witness who had any knowledge of the time of hoisting the national flag upon the castle, and of the time at which I entered it, testified that I entered the work from ten to fifteen minutes before the flag was raised. The large majority of witnesses, and those best cognizant of the facts, prove that the firing and resistance of the enemy had ceased but a very short period anterior to my arrival; a period so short, as to render it perfectly evident that the enemy's fire and resistance was given to our troops during the time I was ascending the hill.

While all who have testified on the point have proven that I was not *only with the main body of my advancing forces in storming Chapultepec, but in advance of them* until I was wounded, the testimony of Capt. Hooker and Lieut. Drum proves that my position at the foot of the hill of Chapultepec, where I remained for some time after being wounded, was not one of security; and the testimony of my staff shows that while there I continued to give orders and directed the operations against the work.

With a simple reference to these facts, which are fully and amply sustained by the record, and the reference to the language of the official documents spoken of in my previous remarks on this specification, I content myself. But as, throughout these charges, it is caused to be understood that I have claimed more for my command than was due, I ask attention to the mass of testimony in regard to its services, in which it is fully proved that

it did not stop its advance from Molino del Rey, until it had, unsupported, crowned the hill of Chapultepec; that it kept its position in the front, enveloping the work, and was the first to enter the castle, and finally by the delivery of its fire into the gorge of the enemy's batteries on the Tacubaya road, which were at the same time under the fire of the assaulting forces in front, assisted materially in the reduction and capture of those works. But in closing my remarks upon this subject, it will be remembered that the controversy on this point is one not sought or brought on by me; but the subject having been introduced into these charges by the Prosecutor, the truth of my report denied, and my character assailed in connection with the matter, I have felt bound to show that if I erred at all in my report, it was not for the purpose of "magnifying my own zeal and heroism."

The sixth specification of the second charge alleges that I was in favor of the armistice until after it was agreed upon, and that I then *insidiously* "sent in a letter, advising a modification of some of its terms."

Nothing could be more false than this charge is proven to have been. It is not only proven to be false, but it is positively proven that Gen. Scott knew it to be false when he made it.

Gen. Worth proves that on the 22d August, before the terms of the armistice were agreed upon, and after Gen. Scott had read to Gen. Worth and myself the instructions he had prepared for the commissioners, who were to fix upon the terms of the armistice, that *we* both expressed our disapproval of those terms, and urged him not to grant the armistice without the surrender of Chapultepec, as a guaranty of the enemy's good faith in the proposed negotiation.

Gen. Pierce proves that on the same day, and before he had taken his seat as a commissioner, he delivered to Gen. Scott, or to some member of his staff, a letter from myself, in which was the following paragraph, viz:

"If I were the Commanding General of the army, [anxious as I am for peace,] I should *demand the surrender* of the city. But in any event, and at all hazards, I should require the surrender of Chapultepec, and the above suggested rights of *intercourse* with the city. In my judgment, neither the army nor the country will ever be reconciled to different terms. I cannot, in justice to my feelings, withhold the expression of my opinion.

"Yours, truly,

["Signed]

GID. J. PILLOW."

It is thus placed beyond controversy, that I was not only opposed to the armistice before it was entered into, but that my opposition and views were made known to Gen. Scott, both *orally* and in *writing*, leaving no possible room for doubt upon his mind as to my position and views. And yet, in the face of this proof, with the written evidence to the contrary in his own possession, he charges that I was in favor of the armistice until after it was en-

tered into. I am at a loss to perceive upon what grounds such a destitution of truth, in these solemn written charges laid before the government, [in which he sought to brand me with falsehood,] can be extenuated. I would most gladly have been spared the necessity of commenting upon conduct evincing such total disregard of truth and honor in one occupying so exalted a position before the world as does Gen. Scott. It is as painful for me to do so, as it is mortifying and humiliating to witness so much *greatness* tarnished by the absence of those cardinal Christian virtues, without which we contemplate character with painful emotions and bitter regrets.

By the battles of Contreras and Churubusco, at the cost of the blood of one thousand and fifty-six men, we had won the city. It was completely in our power, as the official report of the Prosecutor states, and as all know. Against the wishes and feelings of almost the whole army, and against the remonstrance of many of his officers of rank, he surrendered all the advantages, and granted an armistice without anything in return, and without any guarantee of the good faith of a man whose whole life constituted a series of perfidies. This armistice allowed the enemy ample time to collect and re-organize his scattered and beaten forces, and to strengthen his defensive works, and to plant his artillery. At the end of an armistice of about fifteen days, asked for no other purpose than that for which it was used by the enemy, hostilities were resumed, and it afterwards cost the blood of sixteen hundred and forty-seven men more to take the city, and atone for the blunder of the General-in-Chief. These are the facts, as they are known to the world, and as they are proven in the record of this Court, and by the official returns of Gen. Scott.

Great and useless as was this waste of the best blood of the army, the charities of a Christian and grateful public would have thrown the mantle of forgiveness over this error of the leader of its armies. In contemplating the glory of the achievements, the nation might have forgotten the sacrifice, useless as it was, upon the altar of *patriotism*. But who can forget that, in order to screen himself from the responsibility of his criminal blunder, he turns in the blindness of rage, and seeks, by *falsehood* and *calumny*, to destroy the object of his displeasure, for opposing, with a patriotic zeal, the blind infatuation which plunged his army into an ocean of blood? Bright as was the star of his glory, it must be obscured, if it does not culminate and sink under the cloud created by his acts of injustice and falsehood.

In the seventh specification, I am represented to have said, "I felt a warm interest in the prospects of the New Orleans Delta—that I intended to exert my influence in its favor—that I meant to make it," &c.

Now, suppose I had said all this, what does it amount to when fairly construed and properly understood? Simply to this—that I felt grateful to a paper which had defended me against the

assaults of my enemies, and that I meant to assist it with my influence, and to patronize it. Is not this a natural and honorable feeling? Does it evince anything more than a just sense of gratitude towards a friend (or paper,) for many acts of kindness? But the Prosecutor, with sagacity quite characteristic, says, "I thereby corruptly intimated that I had money, or the political influence, greatly to benefit said newspaper."

Who but the Prosecutor could have discovered, in language so unequivocal in its meaning and so harmless of purpose, an intention so base? To sustain this charge, the Prosecutor takes the deposition of Mr. Maginnis of the Delta office, and asks him the question, if any general officer had attempted, unduly and improperly to control his paper? His answer was decisive. He said, "No, I don't believe any officer would be foolish enough to make the attempt." The Prosecutor took the deposition of Judge Walker, also, the editor of the Delta, and to the same question he made substantially the same answer. Thus this charge falls to the ground.

The eighth and last of this string of charges and specifications, is similar to the one preceding it, viz: it is an effort by bartering the influence of rank and high command to the base purpose of purchasing a "*puff*" from the editor of his dirty *organ* in Mexico — "*The American Star*."

The idea of corruption and of bartering the influence of rank and the power of station, seems to be always uppermost in his mind. From the standard by which he measures the public virtue and the honesty of others, he seems to have a species of *hallucination*. If a man says he loves his friend, or will not (like himself) *forget those who have served him with fidelity*, he at once sees the effort to corrupt the purity of that friend, and is shocked at the idea of prostituting rank and high command to base purposes.

Well, what is the proof to sustain this grave charge? Mr. Peebles, the editor of the aforesaid "*organ*," testifies that, after the Leonidas letter arrived in Mexico, accompanied by the comments of the Picayune, charging me with its authorship, that I sent for him, told him I wished to publish my card, (the same which is in proof,) denying the authorship of the letter. He says I requested him to publish the card — that I wanted no puff — that I simply desired justice, and had confidence enough in him to believe he would do me justice — that I was second in command of the army — that if anything should happen to Gen. Scott I would be in command, and that I never forgot my friends. This is the substance, if not the very words, which this witness puts into my mouth. And what, I ask, does it all amount to? Simply, that I denied the authorship of the Leonidas letter, and wished him to say so in his paper — that I wanted no puff — that I asked but justice, and had confidence enough in him to believe he would do me justice — that I was second in command to Gen. Scott, and that ingratitude was not a trait of my character.

Every word of this proof has a plain, obvious, and harmless meaning, and if I were to admit I used the language attributed to me, the most scrupulously honorable and censorious could not find fault with it — unless, like the Prosecutor, he tortured the language and misconceived its obvious meaning.

The very expression of confidence, that he would do me justice, should have awakened in the bosom of an *honorable* and *just* man, a sense of *decency*, to which he had been before, was then, and still is an utter stranger.

How could I expect to *procure*, by *such means*, “editorial *puffs*” from a man who had shown *himself my bitter enemy*, and whose *puffs* were as *valueless* as his *assaults* were *malignant*? How could I hope to change his *hostility* into *friendship*, and to turn his press *against* the *powerful influence* of the *lucrative patronage* which it was receiving as the *price* of its *adhesion to power*? I did hope, by considerations of justice, to awaken in his bosom some faint perception of right, but the result has shown that in this most reasonable expectation I was mistaken, for, though under *arrest* and under *charges*, he continued his abuse of me under the eye of my accuser, circulating his dirty sheet in the army, from which it was fair to suppose my *judges* would be selected. I deem any further remark upon this groundless charge against me unnecessary.

One word on the subject of letter-writing in general. After the most sifting investigation of my conduct, both official and *private*, during the whole term of my service in the army, in which my military family have been called, and after the examination by the Prosecutor of my most intimate friends, he has wholly failed in bringing to *light* one word of proof connecting me with any letter or article other than my official reports.

So much for my conduct. But how is it with himself? My object in calling upon the stand certain witnesses, members of Gen. Scott's staff, to make them disgorge the fact that they had written letters and articles that had “found their way into the public prints,” was to illustrate what was done by members of Gen. Scott's own military family, ought not to be too strongly condemned by him, on the part of others. In this I have succeeded; for it is in testimony upon the record that letters were written, not only descriptive of the operations pending the campaign, but highly laudatory of Gen. Scott, by different members of his staff, from Capt. R. E. Lee, a man of high gallantry, honor and purity of character, down to Lieut. Col. E. A. Hitchcock, who has *shown himself* destitute of all these qualities; and that these same letters found their way into the newspapers or public prints within one month after the termination of the campaign to which they related, and, therefore, came within the penalty of the law or regulation. I had no disposition to call public attention further to this prominent fact, but as the Prosecutor, by his shuffling and struggling has endeavored to cover up the truth, it is proper to notice the testimony on the subject.

The prohibitory regulation on the subject of letter-writing, is the mandate of the President of the United States; no other authority can set it aside, or give *the permission* to publish, therein required. The Secretary of War, who is the legal representative of the President in such cases, testifies that no such permission was given, except in one instance. Col. Talcott says one of the published letters from an officer of the Ordnance Department — Capt. Huger — was an unofficial letter, and that he [Col. Talcott,] the chief of the bureau, had no agency whatever in its publication. Col. Totten, Chief Engineer, testifies that another from an officer of his corps — Capt. Lee — was a private letter to a female friend, and that the engineer bureau, as such, had nothing whatever to do with its publication; that he considered the agency of the bureau in the matter entirely accidental. He further testifies that Major Smith, and not Capt. Lee, was the senior engineer officer present with Gen. Scott's army, at the time the letter was written, and that it was the duty of the senior officer to make the monthly reports to the department required by regulations; hence the Prosecutor's ground has slipped entirely from under him, and it is believed the officers themselves would have preferred not to have any particular attention drawn to a subject that will not bear minute investigation; but no excuse is pretended to be offered by the Prosecutor for Col. Hitchcock's laudatory introduction to the intercepted letters, and none can be given for his false and infamously calumnious article, written with Gen. Scott's knowledge and approbation, and published in the *Courier and Enquirer*, a copy of which forms part of the record of this Court.

Having thus considered the charges, and examined the proof in the case, I will glance rapidly at the results evolved. As to the first charge, the proof shows that Paymaster Burns wrote the letter which is its subject matter, without my knowledge, and of course without my procurement. It explains the analogy between the paper No. 1 and this letter, in a manner perfectly consistent with my innocence.

The paper No. 1 (containing interlineations in my hand-writing) is shown to be a copy of my *original report*, so far as its statement of facts is concerned — Paymaster Burns having, without my knowledge, taken a copy of the *same report*, and from it written the Leonidas letter. Hence the analogy of these two papers to each other, and of both, to my official report.

As the first specification under second charge is based upon the *assumption* that the Leonidas letter was written by me, or by my procurement, the charge falls to the ground when this *assumption* is proven to be *false*.

The second specification, second charge, alleges that the Freamer paper is false in certain particulars. I have shown that all the *controverted* parts of that paper are *true*. Those parts not controverted are of course admitted to be true.

The third specification assumes that I claim to have given pre-

cise orders for the particular *plan* of attack carried into successful execution on the morning of the 20th August, at Contreras — and that claim is false, and is a “deliberate invention and after-thought.” I have shown that my report does not authorize the construction placed upon it in this specification. But I do claim to have given the orders under which the battle was fought upon the 19th; and that the *positions secured that day determined* the victory of the 20th, is proved by the Prosecutor himself. I claim that the successful assault next morning was in conformity with my *original plan of battle*. I have never claimed anything more — conceding to Gen. Cadwalader the high credit due to his sagacity, gallantry and generalship, in promptly seizing and holding the village of Ansalda, and confronting Santa Anna with a force of 12,000 men; and to Gen. Smith, the distinguished honor of having disposed the forces across the pedregal at day-light next morning, and directing the assaulting forces with judgment, prudence, gallantry and skill; to Col. Riley, the honor due to his distinguished daring in directing and commanding in person the advanced assaulting forces on the entrenched camp.

I have proven this original report of mine to be true in all its parts. I have proven my orders for battle and the disposition of the forces by many witnesses.

As to the fourth specification, I have admitted that I said I thought Gen. Scott seemed paralyzed in his energies, by his fatal error, in granting the armistice, and the unexpected and disastrous loss of the 8th September — that I entertained that opinion, and thought then, and still think it was well founded; but I did not say that, “but for my interposition, Gen. Scott would not have assaulted Chapultepec; nor was I in favor of taking a position and waiting for reinforcements. There is no proof to sustain this part of the specification, except that of Mr. Trist, which the testimony of the Prosecutor himself [by proving that I was not at his quarters between the 8th and 11th September, at Tacubaya] shows was false.

In regard to the fifth specification, I have shown by a comparison of the language of my official report, with that of the charges, that my report is entirely misconstrued, and does not authorize the construction placed upon it by this charge. I have shown that my division, and the storming party under my command, were the only troops who actually participated in storming and carrying that work, and are entitled to the credit of it, and that I was in advance of my command in the assault until I was wounded. I have proved by the official reports and letters of Gen. Scott, as well as by many witnesses, that my official report is true, and have disproved the motives attributed to me in this specification.

As to the sixth specification, charging that I was in favor of the armistice until after it was entered into, I have shown it to be false, and that Gen. Scott *knew* it when he wrote the charge.

That he had in his possession both *oral* and *written* evidence of my decided opposition to this unfortunate measure, and that by my opposition to the infatuation under which he then chased the phantom of peace, I incurred his displeasure, (and that of Mr. Trist,) which was the true cause of our rupture.

In regard to the seventh and eighth specifications, I have shown that the language attributed to me (if ever made) was harmless, and does not admit of the construction placed upon it by the Prosecutor. That, if true, it imports no offence, and I have actually disproved the charge in the eighth specification, of trying to control the paper there referred to by improper means.

Having thus met these charges of the Prosecutor, and shown myself innocent of every accusation brought against me, it remains for me to take a glance at the conduct and motives of my accuser. That Gen. Scott was once kindly disposed in his feelings towards me, I entertain no doubt. I believed I possessed his entire confidence, and certainly did to some extent—possibly, too, in a greater degree than I had a right to expect; but surely not greater than was warranted by my *zeal* and *fidelity*. He placed me in positions of great responsibility, and devolved upon me high and important duties, which I spared no effort to discharge faithfully; and for a time I enjoyed the proud satisfaction of believing I had fulfilled every reasonable expectation. For these acts of kindness, evincing so much consideration, it was natural and proper that I should feel grateful to Gen. Scott, and such were sincerely my feelings. Hence, the great concessions I made in altering my official reports against my conviction of facts, to gratify and conciliate him. I knew that, owing to the high military reputation and great weight of character which Gen. Scott enjoyed, any controversy between him and myself must be very unequal; that however much I might be in the right, I had nothing to gain and everything to lose; hence my anxiety to avoid a rupture with him, shown in my effort to secure the interposition of Gen. Quitman, in whose high sense of honor and chivalric bearing I placed much confidence.

At the end of the correspondence between Gen. Scott and myself, it was manifest that his friendly feelings towards me had undergone a change. Being confined to my bed by a recent wound, and Gen. Scott having failed to do me the honor to call on me as I requested, I could not obtain a personal interview with him, and not knowing or suspecting the influence which was at work, I sent to Mr. Trist, [whose high official position, and, as I then believed, friendly relations both with Gen. Scott and myself, pointed him out as the most suitable person to bring about a reconciliation between us,] and desired his mediation. The result proved that I was very unfortunate in the selection of a mediator, for whatever “ability” he may have for diplomacy in national affairs, he certainly has shown very little in social; at

least his *art* is *not* in "pouring oil upon the troubled waters," for the developments of this investigation have, according to his own showing, exhibited on his part a degree of perfidy, depravity and wickedness, almost without a parallel.

In justification of these remarks, I need only refer to the misrepresentations of the object of that interview—to his agency in the use made of the private note accompanying the package of letters, in bringing about this prosecution—to his agency in procuring the Freamer paper and the use he made of it, and of his pliant tool Freamer—to his infamously false and abusive letter to Secretary Buchanan, to destroy me with the government—to Senator Dix, to defeat, as he says, my nomination before the Senate—and his unblushing falsehoods, voluntarily put forth, and disclosing pretended *private conversations*, which I have shown to be, in point of fact, pure *fabrications* of the basest character; all of which are sworn to with a degree of coolness almost commanding admiration.

While I do not hesitate in believing that this honest "Iago" is at the bottom of this conspiracy against me, and by his falsehood and intrigues, has exercised an influence over Gen. Scott, which, by poisoning his feelings and blinding his judgment, precipitated him into a series of wrongs, oppression and injustice against me; yet I cannot hold him *guiltless* who suffered the power and influence of his exalted station to be thus *used* and *abused*. This series of wrongs began by the abrupt termination of a correspondence introduced by Gen. Scott, desiring alterations in my official reports, thirty-nine days after *one* of these had been filed in his office, and long after he had made up his own. To gratify him, I made all the alterations desired, except one, [which in no way related to himself,] notwithstanding which he took offence, and said he would send the whole correspondence to the Secretary of War.

But a few days had elapsed before I was informed that, in presence of a number of officers of rank and character, he grossly reflected upon me about the removal of two small howitzers (from Chapultepec) which I had never seen and never heard of, until I was informed that they had been removed from their carriages, when I ordered them to be restored to the garrison. I placed in his possession the proofs of my innocence, and of the injustice he had done me; but he refused to relieve me of the censure. I demanded a Court of Inquiry. The record of that Court exhibited the facts upon which my innocence was clear and manifest; but the Court committed an obvious error in reporting them, which resulted in an unjust reflection upon my character.

I pointed out the error to Gen. Scott, and asked him to refer the case back for its correction. He refused to do so. I appealed from his decision to my government, as I had a right by law to do. For this he arrested me, and held me suspended from command, a prisoner within the limits of the city of Mexico, for nearly three.

months, while he *suppressed* entirely my appeal, in violation of law and regulations, and gave the government no official information of the cause of my arrest.

In the meantime, he issued General Order No. 349, in which he denounced me as the author of the Leonidas letter, with puffing myself, and malignantly excluding others, and invoked upon me the indignation of all officers "who loved their country and the truth of history;" thus *condemning* me *unheard* and *without trial*, and using the power and influence of his official station and high command, to degrade and disgrace me. He preferred charges against me — grossly false and calumnious — applied to the government for a court martial for my trial; and when a court was ordered to investigate the facts, and had reached the city of Mexico, he withdrew from the prosecution; while in the very act of withdrawal, he, in effect, reiterated the truth of the charges, and sought to fix more indelibly the stain which his false charges had inflicted, and at the same time to deprive me of all opportunity to investigate the facts. And it was not until I applied to the court to *order him* to prosecute his charges, that he consented to do so.

He has prosecuted this case as if I were a murderer, and a fit subject for the gallows, seeking, by his tyrannical and overbearing manner, to *intimidate* my witnesses, and to crush me by the weight of his character. For nearly ten months my official and private character has been assailed with most relentless ferocity, from one end of the Union to the other. During the whole of this time I was in the presence of the enemy, fighting the battles of my country, far from my native land, whence these poisoned shafts have been directed. Nor is this all. Whilst I was held a prisoner in the enemy's capital, awaiting trial on charges preferred against me by the Prosecutor, there issues from his camp, nay, from his very office, not only with his *knowledge*, but with his own *sanction* and *approbation*, a false, calumnious and *savage* article, written by the chief of his own staff, and sent forth for the very purpose of prejudicing the public mind, already much abused, still further against me, and causing it to *prejudge* the merits of these very issues. All this I have borne in silence; and if not with the meekness and resignation of a Christian, at least with the subordination which becomes a soldier.

I will not trust myself to remark upon the foregoing recital, nor does it require that I should. I submit the *naked facts* to this Court, and the consideration of all truthful and candid minds, without one word of comment. Had the Prosecutor read history to advantage, he would have learned that the remembrance of the recent achievement of our gallant army will be associated with his name long after the memory of all other names shall have passed away, and even his own faults and follies are forgotten.

Had history taught him this — or had he profited by its instructions — this Court might have been spared the labor of this investigation; I might have been spared the unpleasant task of exhib-

iting the wrongs and injustice he has heaped upon me ; his countrymen might have been spared the contemplation of the picture, and he might have been spared the consequences.

I have now done. This case goes out of my hands into those of the Court, and before a just, and, I trust, impartial public. In the decision of both I shall be compelled to acquiesce. To the one and the other I will say — "Speak of me as I am, nothing extenuate, nor set down aught in malice." Let this just rule be observed, and so strong is my faith in the omnipotence of truth, that I submit my case with the utmost confidence.

Respectfully submitted,

GIDEON J. PILLOW,

Major General U. S. A.