

Question by prosecution. When did the witness make the interlineations on the manuscript letter, signed Leonidas; or were they, or any one of them, copied from No. 1, also before the court?

Answer. They were never copied from No. 1; a paper which I say I never have seen before this day. I made the interlineations in the letter Leonidas after the letter was written.

Question by prosecution. The witness answers that the interlineations were made on Leonidas, after the letter was written. No doubt; but how long after, and at whose suggestion?

Answer. I can't say how long after; but they were made at no one's suggestion.

Question by prosecution. Did the witness write the Leonidas letter at one sitting, interlineations and all, or at several; and did he show the letter, in its progress, to anybody, and to whom?

Answer. I did not show it to anybody, I believe; I have no recollection of it. I wrote it at different times.

Question by prosecution. How many different pens, and shades of ink, did the witness employ, including interlineations, upon the Leonidas letter?

Answer. I can not say. I sometimes write with a steel pen—sometimes with a quill.

Question by prosecution. In how many different hands can the witness write for the body of a paper, and for interlining the same?

Answer. I can write various different hands. I can write a hand that would not be known by my most intimate acquaintances. My hand varies very much; it depends upon the pen I write with.

Question by prosecution. In writing the Leonidas letter, did the witness consider himself, by public duty or private engagement, the historiographer of Major General Pillow?

Answer. I did not.

Question by prosecution. Has the witness been indemnified in advance; promised future indemnity or pardon, for violating the standing regulations of the army against publications by an officer, like the letter of Leonidas?

Answer. He never has been promised any indemnity.

Question by prosecution. The witness says he has not been promised any indemnity. Will he say whether he has actually been indemnified?

Answer. He never has been indemnified; he never asked any consideration; I would scorn it.

Question by prosecution. Has the witness, since the printed letter of Leonidas appeared in this capital, ever denied its authorship, or all knowledge thereof?

Answer. I never have; if I have, it has been in a jocose way.

Question by prosecution. What hand has the witness had in certain papers got up for signature in the late 3d (or Pillow's) division, one for presenting a sword to that general, another respecting a personal conflict said to have occurred between that general and a Mexican in the battle of Contreras or Churubusco, or respecting a general address to the said Pillow on his conduct in those fields, and at Chapultepec?

Answer. I drew up the paper for presenting a sword to General Pillow. I know of no paper respecting the personal conflict between General Pillow and a Mexican officer. I have no recollection of any paper respecting an address to General Pillow on his conduct in the battles of Mexico.

Question by prosecution. Was the paper exhibited by the witness to Major General Pillow?

Answer. No; I think not.

Question by prosecution. Has not the witness written a letter, or letters, other than Leonidas, for publication at home, highly laudatory of Major General Pillow; and has not the witness shown one or more such letters to the said Pillow in manuscript, or forwarded open one or more such letters through him for publication at home, with or without his, the said Pillow's, corrections or approbation?

The witness asked the court if he should be compelled to answer the question.

After hearing the remarks of the parties, the court closed and decided that, if the witness should state that the answer to the question would tend to criminate him, he would not be required to answer.

The witness then declined answering the question upon the ground that the answer would tend to criminate him.

General Scott stated that he wished to place upon the record of the court the remarks he had made, and would present them to-morrow.

The court then adjourned until to-morrow morning, at 10 o'clock.

MEXICO, March 25, 1848.

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

General Scott present.

General Pillow before the court.

General Scott submitted the annexed paper, marked D. General Pillow read the annexed paper, marked (D, 1.)

Paymaster Burns, under cross-examination:

The witness said that he wished to correct an answer given yesterday by him, which might be misunderstood. The witness said, "I wish to state that the Leonidas letter was written in my own office."

Question by prosecution. How did it chance that the witness became attached, as paymaster, to the division of Major General Pillow? Was there any special request to that effect, and to whom, to bring about that association?

Answer. It was at my own request to Major Kirby.

Question by prosecution. The witness has said that he saw the



battle of Contreras—on what part of the field was witness, between what hours, and with whom?

Answer. I went out with General Pillow on the morning of the 19th. I was on different parts of the field, on the brow of the hill, and saw Major General Scott on the field. I left the field after dark.

Major General Scott made the following:

Major General Scott, before the court as prosecutor of certain charges against Major General Pillow, moves this honorable court that Paymaster Burns, now under cross-examination, who has sworn that the letter signed Leonidas is in his own handwriting, interlineations and all, be furnished, under the orders of the court, with pen, ink and paper; and that the said witness be directed to write out the interlined words in the same letter Leonidas, as they shall be singly given to him by the judge advocate—each word several times. The paper with the said interlined words to be received by this court as a part of the cross-examination. The object of this motion being to impeach the testimony of the witness generally, and particularly that part in which he says the interlineations of said letter are all in his, the witness's, handwriting.

Respectfully submitted:

WINFIELD SCOTT.

This motion was objected to by the defence.

The court overruled the motion.

Question by prosecution. Is the handwriting of the paper No. 1 known to witness; if so, state whose it is, and in what relation he stands or stood to Major General Pillow?

Answer. I cannot say that I recognize that handwriting.

Question by prosecution. Look at paper No. 1, and say whether, previously to the meeting of this court, the witness ever heard of the existence of a paper of that character—that is, of a certain paper bearing a close resemblance to the "Leonidas" letter, and having interlineations in the handwriting of Major General Pillow, reported to have been received from him by Mr. Freaner, the correspondent of the New Orleans Delta?

Answer. I have heard of a paper being in the possession of Mr. Freaner similar to this one in character, and with interlineations in General Pillow's handwriting.

Question by prosecution. Has the witness ever, before the meeting of this court, had any conversation with Major General Pillow, or heard him speak on the subject of the paper No. 1; if so, state the time and place, or times and places, and what he said on the subject?

Answer. I have heard him speak in common conversation in his office upon a certain paper which Mr. Freaner had. I cannot recollect the times. I have heard him say that Mr. Freaner had a paper, which I think he said was written by his clerk, with interlineations in his own handwriting. I cannot recollect what he said on the subject further than what I have stated.

Question by prosecution. Did the witness understand General Pillow as giving a general denial of the truth of the report referred to in the two last questions—the fact that he had delivered the paper No. 1 to Mr. Freaner? Did what he said on the subject impress the witness with the belief that such delivery was not true; or was what he said about the delivery calculated to impress the witness with the belief that he had delivered, for transmission and publication, no such paper as No. 1 to Mr. Freaner?

Answer. I don't recollect and cannot speak upon the subject.

Question by prosecution. Did Major General Pillow deny that any such paper as as No 1 had ever been received from him by Mr. Freaner; or did you understand him as making such denial?

Answer. I never heard him speak upon that question to my knowledge; I don't believe I ever had any conversation with him on it; I don't recollect it.

Question by prosecution. Has the witness ever heard it stated by Major General Pillow, or those officially connected with him, that a paper corresponding to No. 1—that is, a paper bearing a resemblance to the "Leonidas" letter—had been purloined from said Pillow, or from the custody of some person attached to his staff or office; if so, state by what person, or persons, you have heard such statements made, with time and place?

Answer. I don't recollect of having heard of a paper of that kind being purloined. I never heard of it.

Question by same. Before sending off witness's letter, signed "Leonidas," did he read it to any one, or give it to any person to read; if so, to whom? State particularly whether it was read to or by any member of General Pillow's staff or Dr. Heistand, his clerk?

Answer. I have no recollection of reading it to them or giving it to them to read—not the remotest.

Question by prosecution. State, as nearly as witness can, the precise day on which, in the absence of Major General Pillow from "his private office," witness "found" that "memorandum," of which he took a partial copy?

Answer. I could not say the day. It is impossible that I can answer that question correctly.

Question by prosecution. Will the witness read with attention the paper No. 1, commencing with the second paragraph, "General Pillow's order of the attack was," &c., down to the words, near the end of the ninth paragraph, "here his force and General Worth's were joined, and went forward and gallantly carried this work;" and having so read it, state whether that part of it is identical with the portion of witness's letter, commencing and ending with same words? if not absolutely identical, state what are the words in which the two differ?

Answer. The first paragraphs appear to agree, with the exception of the words "battery." It differs also in the substitution of "now" for "then" on the second page of No. 1, and the interpolation of "colonel" before "Riley," and of "general" before "Cadwalader," and "most" before "gallantly," and 1, [the words



"killing and wounding in the general engagement between 2,600 and 2,800 of the enemy," instead of the words, "and killing in the general engagement between 600 and 800 of the enemy." 2 [Said to be erased in No. 1.] 3 [In No. 1, "General Pillow moved;" in Leonidas, "General Pillow then moved."] 4 [In Leonidas, "*triumphant*" is erased before forces, and "*victorious*" interlined. In No. 1, the term "*triumphant*" is used.] 5 [In Leonidas (Cuycuca) is inserted before the words, "within one mile of San Antonio." It is not in No. 1.] 6 [In Leonidas the words, "in the distance;" in No. 1, "at the distance."] 7 [In No. 1, "in rear;" in Leonidas, "in the rear."] 8 [In No. 1, "Santa Martha;" in Leonidas, "Churubusco."] 9 [In No. 1, "General Scott, who now assumed command;" in Leonidas, "General Scott, who now assumed command for the first time."] 10 [In Leonidas, "ordered general;" in No. 1, "directed."] 11 [In No. 1, after "retreating forces of the enemy," it reads: "while he ordered General Pillow to lead Cadwalader's brigade to advance, and assault the enemy upon the right and in front;" in Leonidas, after the same words, "and assault the strong work at this place on the right, while he ordered General Pillow to lead Cadwalader's brigade to advance and assault the enemy upon the left and in front of the main work at the bridge or causeway."] 12 [In Leonidas, "enemy's right at Churubusco;" in No. 1, "enemy's left at Santa Martha."] 13 [In No. 1, "got entangled among some ditches wide and waist deep in mud and water;" in Leonidas, "were compelled to wade waist deep in mud and water."] 14 [In Leonidas, "which they did with great order;" in No. 1, "which they nobly did."] 15 [In No. 1, "general" is interlined before "Worth's."] 16 [In No. 1, the words "in conjunction" are interlined.]

Question by prosecution. How does the witness account for that remarkable coincidence? was this portion of his letter composed by witness, or was it copied word for word from that "memorandum or partial report," which was "found" on Major General Pillow's "table in his private office?"

Answer. I cannot account for the coincidence. I have already said that I copied from a memorandum or partial report, which I found on a table in General Pillow's quarters at Mixcoac. I cannot say that I took an exact copy. I derived my information from various sources. I might have made mistakes in my copy. I never saw the paper No. 1 until I saw it in court.

Question by prosecution. If this portion of witness's letter was composed by himself, how did it find its way into the paper No. 1, so as to constitute more than three-fourths of its contents. Is witness's intimacy with Dr. Heistand, the clerk, so great as to warrant the supposition that the clerk took the same liberty with the "Leonidas" letter that the witness took with Major General Pillow's "memorandum?"

Answer. I cannot account for the article finding its way in paper No. 1, that was contained in the Leonidas letter. I never knew Dr. Heistand took any liberties with the Leonidas letter. I never showed it to him.

Question by prosecution. Among the interlineations in the paper No. 1 are the following: the words "it," (after "carried,") "ground;" (after "battle,") "the general;" (after "mud and water.") State, if the witness's memory permits him, whether those interlined words were also interlined or not in that "memorandum" or "partial report" of Major General Pillow, which witness referred to in compliance with the request that witness would "state where he obtained the order of arrangement of the letter of Leonidas?"

Answer. I do not recollect; it is long since I took my notes or copy from that paper.

Question by prosecution. The remaining interlineations contained in the paper No. 1 are the following: the words "battery;" (after "howitzers,") "general;" (before "Worth's,") and "in conjunction;" (after "work.") These words are found wanting in the "Leonidas" letter. State, if witness's memory permits, whether those interlined words were in that "rough report," of which witness took "a partial copy?"

Answer. The witness does not recollect.

Question by prosecution. Upon being asked by Major General Pillow whether a copy of that "rough report" was taken by witness, witness replied, "I took a partial copy of it," what has become of that copy? If witness has it still, produce it.

Answer. I destroyed that copy.

Question by prosecution. What does witness mean by a partial copy? Are we to understand that he took an exact copy of one or more parts of the "rough report," or that witness merely took notes from it?

Answer. I took notes and copies of parts of it.

Question by prosecution. Read again the paper No. 1, attending particularly to its general character and language, and state, so far as your memory permits, whether it is identical in those respects with the original paper found by witness on Major General Pillow's table, and of which witness took "a partial copy." If not identical, does it closely resemble that paper?

Answer. I cannot say it is identical with that paper. It resembles it in some respects.

Question by prosecution. Among the words in which the long passage referred to in one of the foregoing questions, contained in paper No. 1, differs from the same passage as contained in your Leonidas letter are the following: near the end of paragraph 8 and the beginning of paragraph 9 of paper No. 1, to wit, the name "*Santa Martha*" twice occurs there, and these phrases occur: "assault the enemy upon the right," "desperately engaged with the enemy's left." In your letter the name "*Churubusco*" stands in the place of "*Santa Martha*," and the words "left" and "right" occupy, in the same phrases, the places of "right" and "left." State whether your letter accords in these respects with that "memorandum" of which you took a partial copy, or whether these variations result from changes subsequently made by you. If the latter, how did they become suggested to your mind?



Answer. I cannot say whether these variations were in the rough report or memorandum that I copied from or whether I made them myself; it has been so long since.

Question by defence. State if when the purpose of the officers of my division to present me a sword was made known, I did not disapprove of the measure, and make my disapproval known to the officers, and state that I should be compelled to decline the sword if tendered?

Answer. He did. The amount of subscription raised has been returned to the officers who subscribed, with the exception of about five dollars.

The letter annexed read, marked F.

Captain Naylor, Pennsylvania volunteers; duly sworn:

Question by defence. State if about the 27th or 30th of August last I forwarded from Mixcoac for you a letter to your wife?

Answer. On the 27th of August last I left a letter addressed to my wife at the quarters, at Mixcoac, of General Pillow, and I was informed by him, after that, that it was sent. I was on my way from San Augustine to Tacubaya to get the general-in-chief to forward a letter to my wife. I met General Pillow on the road, and he offered to forward a letter for me with his own, if he could get an opportunity.

Question by defence. State if General Pillow has forwarded many letters for you from this city by express, and if he has, or not, been in the habit of forwarding letters for many of his friends?

Answer. He has forwarded letters for me since he has been in the city. Since I have been in the army I have never failed to avail myself of any known opportunity of sending a letter to my family, and in three or four instances I have taken letters of my own and of my friends to the quarters of General Pillow, and sometimes to Captain Scott, and everywhere where I heard that any one would take them. I do not know whether he was in the habit of forwarding letters for his friends.

Question by defence. State if General Pillow always promised to forward your letters, and if you have any reason to believe they have always been forwarded.

Answer. He always promised to forward them, and I have every reason to believe they were forwarded. I have no doubt of it.

Question by prosecution. Does the witness know that the first letter mentioned by him, delivered to Major General Pillow about the end of August last, was received by the witness's family in about the ordinary time?

Answer. I have no knowledge upon the subject; I don't know it.

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

Mexico, March 27, 1848.

The court met pursuant to adjournment.

Present: all the members and the judge advocate and recorder. Major General Pillow before the court.

Major General Scott present.

General Scott here presented to the court a motion, that he be allowed to proceed at once to impeach the testimony of a witness who had appeared for the defence. (See paper annexed, F.)

The court closed and decides, that it would hear the testimony in impeachment of the witness after the defence had finished on the charge and specifications now before the court.

Captain Hooker, assistant adjutant general, recalled:

Question by defence. State if General Pillow forwarded for you while at Mixcoac, about the last of August, 1847, a letter to your sister?

Answer. I cannot state positively that he forwarded a letter for me to my kindred at that time, although I am under the conviction that he did. I think that he did from the fact, that almost every opportunity that presented itself to forward letters quickly, I sent them through him. What confirms me still more in the conviction is, that I saw a letter I had written published in one of the newspapers in a country town, and when I asked why it was published, I was told that it was the first news received. I don't remember whether the letter was to my sister or brother-in-law; I have sent letters addressed to both through General Pillow.

Question by defence. State if you know that General Pillow was in the habit of showing his official reports to the officers of rank of his division, who desired to see them?

Answer. I have known him to show his reports often to the officers of his division, as well as to others.

Question by defence. State if you know that General Pillow has been in the habit of forwarding letters for the officers of his division and his friends?

Answer. I know that he has.

Question by prosecution. Was the witness, at the time of writing the letter referred to attached, as a general staff officer, to the head-quarters of Major General Pillow?

Answer. I was.

Private Jacob D. Heistand, 11th infantry, duly sworn:

Question by defence. Where were you and what was your employment in August last?

Answer. I was clerk to General Pillow, at Mixcoac.

Question by defence. What is your present employment and what is your profession in civil life.

Answer. I am at present employed in the medical purveying department under the charge of Dr. Simmons; I am a physician.

Question by defence. To what regiment do you belong?

Answer. In the 11th infantry.