

to *pre-judge* 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 his story to advantage, he would have learned that the remembrance of the recent achievements 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 exhibiting 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, United States Army.

Y.

Mr. President and gentlemen of the court:

The court has permitted me, the prosecutor in the case of Major General Pillow, to offer—though quite indifferent on the subject—a summary of the evidence that had been taken, and to apply the same to the several allegations which have been investigated.

Still under medical treatment, and low in physical strength, I will attempt to execute the duty; but, writing in the short intervals from rest, I foresee that I shall be able to touch, and that but very imperfectly, only a few of the accusations. My summary or analysis, and its application, will, therefore, be of but little assistance to the court, in that greater and more minute labor which, no doubt, it will take care to perform for itself.

CHARGE I, AND ITS SPECIFICATION.

The support of this charge and its specification, which accuse Major General Pillow with having written and despatched, or caused to be written and despatched, for immediate publication, the

Leonidas letter, rests, in great part, on the identity, *in substance and design*, of the said letter, (marked by the court No. 3,) with the twin paper or letter, marked No. 1, also addressed, on its face, to the *New Orleans Delta*, and delivered by the said Pillow, (after, with his own hand,) interlining many words, to Mr. Freamer, the known agent and correspondent for the said newspaper.

The court has only to compare the two papers, (Nos. 1 and 3,) side by side, and paragraph by paragraph, to establish an identity in substance and design between them.

It is shown, even by the testimony of Paymaster Burns—evidently conned and delivered by rote—that No. 3 (the *Leonidas* letter) also emanated from Major General Pillow; at least in respect to heads, derived from a paper clandestinely copied by Burns, as he says, in part or in whole, from a paper found by him in the private office or room of the said Pillow. Nos. 1 and 3 being almost identical, Paymaster Burns was obliged, in order to account for that substantial identity, without connecting Major General Pillow directly with No. 3, to resort to the finding of the copied paper, by accident—that is, without the permission, knowledge or contrivance of the said Pillow. The story, on its face, is infinitely improbable.

The said Burns further swears that Major General Pillow never saw, before it was transmitted, the *Leonidas* letter. Did the assumed writer withhold the letter, from delicacy, on account of its panegyrics on the said Pillow? This is equally improbable. Look at the closing paragraph of No. 1, in these words: "The general's [meaning Pillow's] well devised plans of battle; his judicious dispositions of his forces; his coolness and daring, during the whole of this terrible battle, [meaning all the operations of August 19 and 20,] is the subject of universal congratulation among his friends, and general remark with all." Of which paragraph it is in evidence, that the words "universal" and "general remark with all," were inserted by Major General Pillow himself. Certainly, no laudation in the *Leonidas* letter surpassed this.

To show the *habit* of Major General Pillow, of passing, open to the public press, similar articles from the pen of Burns, the prosecutor submitted the following question to Mr. Freamer:

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

Major General Pillow objected to the question as *irrelevant!* and the court sustained the objection.

To establish the same habit, the prosecutor submitted to the said Burns, this question:

"Has, or not, the witness written a letter or letters, other than the *Leonidas*, for publication, as 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 hesitating to answer, and Major General Pillow supporting that hesitancy, the court would not compel the witness to answer.

There are many other internal evidences of a departure from truth and all human probability in the sworn statements of the said Burns.

1. He swears: "I got it [order of arrangement of the heads in Leonidas] from a memorandum or partial report of General Pillow's of the operations of his division on the 19th and 20th of August. I found it on his table, in his private office." And in another place the said Burns swears that he never had seen paper No. 1, until before this court. Yet the two papers (No. 1 and 3) have, besides the other identities, a common heading—"Great battle of Mexico!!!"—three notes of admiration in each case, with this only difference, that the heading is underscored for italic printed letters in one case, and in the other not. This, by itself, is conclusive of a common origin, that one was copied from the other, and that both papers were prepared for the press; for certainly no report ever commenced with a *great battle*, and the addition of three notes of admiration.

2. Burns swears: That the interlineations on the manuscript, Leonidas letter, were made by himself; whereas, Judge Walker, the editor of the Delta, states that he made the interlineations, and specifies them one by one. Here the witness, Burns, overleaped his object. Anxious only to prove that Major General Pillow has not touched the Leonidas manuscript with a pen, Burns claims on oath, as his own, Judge Walker's, interlineations and all.

3. Burns being asked "When did witness write or copy the paper or article signed Leonidas, and in what particulars did it differ from the paper from which he copied it?" answered, "I have stated that I copied it in General Pillow's office. I cannot point out the differences, never having compared the Leonidas letter with the original, from which I copied it." And being further asked: "Was the witness secure against interruption whilst copying the letter in General Pillow's office?" replied, "I never was interrupted in any way in particular." And again: "Did the witness do more, in respect to the Leonidas letter, than copy (address and all) the paper found in Major General Pillow's private apartment or office?" replied, "I did." So, too, to the question: "Did the witness write the Leonidas letter at one sitting, the interlineations and all, or at several; and did he show it to any one in its progress?" answered, "I did not show it to any body, I believe. I have no recollection of it. I wrote it at different times." Yet the same witness came into court the following day, after the benefit of consultation, and asked, in a writing carefully prepared, to make a correction, as follows: "In relation to writing the Leonidas letter, I wish to state that it was written in my own office and not in General Pillow's, as might be inferred from my evidence yesterday." Here the court

cannot fail to remark that, with the point fully and repeatedly brought to the mind of the witness, and his positive answers, he speaks of these answers as affording only a mere *inference*!

4. The witness, Burns, shows a fresh and minute memory on one side of the question, and no memory at all on the other. A few instances, out of many furnished by the record, are here offered: Being asked about the "differences" between the Leonidas letter and the paper from which it was copied, he could say nothing, "never having compared the Leonidas letter with the original from which I copied it." Yet, to the next question but one, "who called the attention of the witness to the interlineations in the twin paper before the court, marked No. 1; and were they the same interlineations in the paper the witness accidentally found?" he answers, positively, and at once, "they were not." Had he compared them? certainly not, for, in the same breath, he swears that "this is the first time I have seen No. 1." With the dates of the battle of August 19th and 20th, and the date of Leonidas, to help him, he answers the question: "State, as nearly as the witness can, the day on which, during the absence of Major General Pillow, &c., he found and copied the report in said Pillow's office?" "I could not say the day. It is impossible that I could answer that question correctly." When the interlineations in No. 1, "major general," after "mud and water," was pointed out to him, he answers, "I do not recollect" that they were in the rough report. When the remaining interlineations, in No. 1, viz: "battery," "general," before "Worth," and "in conjunction," were also pointed out, and the witness asked if they were in the rough report, again he replies, "I do not recollect." Yet, to a previous question, when first asked if the interlineations in No. 1 were in the original rough report, the witness swore, positively, they were not. He recollects that Major General Pillow forwarded for him a family letter from Mixcoac; yet cannot remember whether or not he (Pillow) forwarded the Leonidas letter for him; but remembers well that he, Burns, "wrote it, [Leonidas,] enveloped it, and thinks directed it." He swears that "General Pillow was in the habit of frequently transmitting letters for him to his family and friends;" but can say nothing, positive, of the notorious fact that there were but few and accidental opportunities, about that time, for despatching letters to the United States, and he cannot recollect whether Major General Pillow rebuked him or not, for clandestinely taking a copy of the rough report.

5. *Burns's denial of the authorship of the Leonidas letter.*—See the testimony of Captain Merrill, Lieutenants Beaman and Davis. The denials, to those witnesses, were so many wilful falsehoods. To Lieutenant Davis the subject was wholly introduced by Burns himself, and Captain Merrill, believing the serious denial, was rendered the active defender of the said Burns among his army friends generally.

6. The writer of Leonidas, towards the close of the letter, says, in order to impose credence on the public at home, "the foregoing account of this unparalleled victory, I was myself an eye witness

to, and will vouch for its correctness;" and Paymaster Burns swears, "I am the author of that letter." To another question, he answered: "On the 19th, I saw a portion of the operations. I was not at the battle on the 20th of August." If the Leonidas letter, therefore, speaks the truth, on its face, the said Burns cannot be its author, notwithstanding his oath.

7. The same conclusion plainly results from what is said, in Leonidas, respecting "the last meal he [the late Colonel Butler] took prior to his death."—See the evidence.

So much for the credit due to the principal witness for the defence, Paymaster Burns, who does not know whether the Leonidas letter, sealed or open, was handed by him to Major General Pillow, for transmission or not.

Through what channel, then, did that famous letter find its way to the New Orleans Delta?

Mr. Trist swears that he, August 31, 1847, received a package of letters from Major General Pillow—one of the letters addressed to the editors of the *Delta*, and another to the editors of the *Union*—and that those letters, as far as he recollected or believed, were forwarded through the channel of Mr. Freamer's express. And Mr. Maginnis, a principal in the *Delta* office, swears that the Leonidas letter, he believes, would not have been published in the *Delta* if it had not been supposed to have come in the said Freamer's package, who was the agent, &c., for that paper in Mexico. Lieutenant Ripley, an aid-de-camp to and witness for Major General Pillow, testifies that he took the package on August 31st to Mr. Trist, and that he saw the same package about three weeks later, after it had been returned to the said Pillow's quarters by Mr. Trist, through Midshipman Rogers. (And here the court will please recollect the defendant spoke of calling Mr. Rogers, who has never appeared before the court, and, it is believed, has never been summoned.) Mr. Trist remembered that he opened the package sent to him, August 21, and looked at the enclosed letters; and, to a question from the defence, further said, he felt satisfied that the package returned through Mr. Rogers was different from the parcel mentioned in his (Mr. Trist's) former answer; whereas, the returned package seen by Lieutenant Ripley had, apparently, (he says,) *not* been opened.

That the package of the 31st August did *not* contain letters to the families and friends of persons about Major General Pillow, is evident from the remarkable note of the said Pillow to Mr. Trist of that date. He says in that note, "I have a *direct interest* in their going." And in a postscript he adds: "But do send them, if possible; they are *all for my benefit*." The court will please connect this pregnant testimony with the declaration of Major General Pillow to Mr. Freamer, also in evidence, about "first impressions," and there will be no room to doubt that the Leonidas letter, with the said Pillow's full knowledge of its character and contents, was in the package sent to Mr. Trist, and by him forwarded, according to the urgent entreaty of the said Pillow.

Further, to show Major General Pillow's frequent connexion and tampering with the public press, see, besides Mr. Freamer's testi-

mony, quoted in part above, that of Mr. Peoples, editor of the *American Star*, Judge Walker's, the editor of the *Delta*, and General Pierce's, in support of Mr. Freamer.

The testimony of Major General Quitman (of which I have only an imperfect note with me) is also strong in support of the same general conclusion. At the time of the conversation Major General Pillow had with him, (given in evidence,) it is highly probable that a defence, through the extraordinary testimony of Paymaster Burns, had not been conceived; or, if conceived, that the details of that testimony had not been fully arranged.

CHARGE II.

Specification 1, head 1.—Captain Hooker, assistant adjutant general in the staff of Major General Pillow down to the capture of Chapultepec, and a witness for the defence, testifies that he, in the name of the said Pillow, put Colonel Morgan's regiment in march to cross the pedrigal in the afternoon of August 19; next that he returned to the said Pillow, and then went to meet me, coming up from San Augustin, and conducted me to the position of the said Pillow, on the mound that overlooked the field of Contreras. Consequently, the order that finally put Morgan's regiment (the 15th infantry) in march to support the American forces which had before crossed the pedrigal, could not have emanated from me, but originated with the said Pillow. The witness evidently intended, as far as in him lay, to make a clear case for the defence on this point, and labored with equal zeal to contradict or discredit the testimony of Captain Taylor, on another matter, (specification 3, charge 2,) respecting Major General Pillow's declared purpose of asking me, in the night of August 19, to withdraw the American forces from their positions about Contreras.

But that Captain Hooker was mistaken relative to the time of my joining Major General Pillow on the ground, in the afternoon of August 19, in connexion with the time at which Morgan's regiment commenced its final march into the pedrigal, is evident from the replies of all the officers of that regiment who have been examined; each of whom testifies that he was made aware of my presence either by the cheering of the dragoons, or otherwise. Major Woods swears that I was on the mound at least fifteen minutes before his regiment (Morgan's) was finally put in march to cross the pedrigal. Their testimony is conclusive, except that of Lieutenant Bennett, same regiment, a witness for the defence, who, to support the said Hooker, goes too far, and makes Hooker continue with the regiment (to conduct it) into the pedrigal, and after my arrival on the mound. Consequently the said Hooker could not, according to the said Bennett, have met me beyond the mound, towards San Augustin, for the purpose of conducting me to the position of Major General Pillow.

It is clear, then, from the testimony of Major Woods, and other witnesses of the same regiment, that I joined Major General Pillow on the mound in time to have given him the order for the

march of Morgan's regiment, and that I did give such order. See the evidence of Captain Scott, Lieutenant Williams, Lieutenant Lay, not to mention my own testimony on Major General Pillow's official report, and the notes between the said Pillow and myself, dated the 2d and 3d of October, 1847.

The court will please further to recollect that Morgan's regiment was standing *in reserve*, behind Pierce's brigade, to which it belonged, and was therefore forced out of its natural position when ordered to support Cadwalader's brigade on the opposite side of the pedregal.

Seeing, from the want of physical strength, that the time limited by the court will fail me, I hasten to add one or two fragmentary comments on other parts of the voluminous testimony of this case, leaving, from that cause, most of the specifications, all of which I hold to be fully proved, unnoticed in this paper.

CHARGE II.

Specification 3.—Major General Pillow claims to have conceived and given the original plan and order of battle, by which the enemy's entrenched camp at Contreras was carried by the American troops in the morning of August 20, 1847. General Twiggs, next in rank to the said Pillow on the field, August 19; Brevet Brigadier General Smith, the immediate commander in the attack; Brigadier General Shields, who powerfully assisted by holding the village of Ensalda; Brigadier General Cadwalader, and Captain Lee, of the engineers, all on the ground in the night of August 19, have been examined, and neither recollected, either there or before, ever to have heard a word of that pretended plan or order of battle. Compare that claim with what passed in the presence of the said Pillow, and without a remark from him, at my quarters the same night; and particularly with the said Pillow's declarations: 1. To Captain Taylor, (a little before,) that the said Pillow was going to my quarters to advise that the American troops should be withdrawn from the attack upon Contreras. 2. Later the same night, privately, to Mr. Trist, viz: that the attack upon Contreras "is going to be a failure," "I call upon you now to remember, and bear me witness hereafter, that I have had nothing to do with it."

And why did not Major General Pillow, at my quarters, in the night of August 19, make the suggestion to me which he stated to Captain Taylor he intended to make? He found Captain Lee, just in from Brigadier General Smith, with me, and learned at once the said Smith's plan and my orders for the attack early the next morning. It was then too late to risk the advice to withdraw the troops. Hence his, the said Pillow's, silence in my presence; but believing the attack would fail, he made the above declaration to Mr. Trist aside, to exonerate him (the said Pillow) from all blame that might result from failure.

CHARGE II.

Specification 4.—Lieutenant Tilton swears that Major General Pillow said to him "that General Scott was stunned or paralyzed

by this loss, (loss in the battle of Molino del Rey,) and consequently, upon him, (the said Pillow,) second in command, devolved the subsequent movements, or words to that effect." And Major Woods testifies that the said Pillow asked him whether he was "aware that General Scott had opposed the attack upon Chapultepec, or, rather, that he (Scott) had proposed another plan?" viz: "that General Quitman, with his division, was to advance by the Tacubaya road, General Pillow, with his division, on the north side of Chapultepec; the two generals were to shake hands at the juncture of the roads, pass on to the city, and make Chapultepec feel its isolation?" and that, by the said Pillow's opposition, the said Scott was led to change his plan and adopt the said Pillow's, thus claiming the credit of the plan of carrying Chapultepec, as he had claimed the plan of carrying Contreras.

In these claims of the said Pillow, the court will perceive the spirit that breathes in Leonidas and the twin paper, marked No. 1.

The evidence of the officers most connected with general headquarters will show whether I was stunned or not by the events of the battle of the 8th at Molino del Rey. The same witnesses give my plans and employments up to the entrance into the capital. I refer to their testimony generally; but cannot forbear to make some special quotations from other parts of the testimony.

Speaking of the conference held at Piedad, September 11, Major General Quitman swears "that General Scott was decidedly in favor of the attack on Chapultepec;" and that General Pillow appeared to be, that evening, more reserved to me than usual in expressing his opinions. He discussed the subject very briefly, and, to the best of my recollection, did not express any decided opinion upon either attack, although I inferred, from the general tenor of his remarks, that he was inclined to prefer the advance upon the works in front of San Antonio and near Piedad." (The court will recollect that there is much other testimony to the same effect.) Major General Quitman continues: "I regard the general plan of attack on the fortress of Chapultepec, as subsequently executed, definitively settled by General Scott in that conference." See Captain Lee's testimony on the same points, and particularly the agreement between him and what Quitman subsequently said as to Pillow's objection to separating the brigades of the said Pillow.

As to the absurd suggestion of marching the divisions of the said Pillow and Quitman around the base of Chapultepec hill, and the shaking of hands between the two commanders at its foot, imputed to me, and much labored in the examinations by the defence—Major General Quitman, in whose presence it was pretended the suggestion was made—further swears: "I cannot say that there was any expression used as to shaking hands, other than at the meeting of the two columns; nor can I recollect that any place was designated, except in my remark, which was in the fortress."

Major General Pillow, who claims the merit of suggesting and commanding the operations of the army, in consequence of my being stunned and paralyzed by the battle of September 8, was, as we have seen in the conference of Piedad, the 4th of the same month, not very eager for any attack at that time, but between

Chapultepec and the San Antonio gate, he rather inclined to the latter. That indifference is fully accounted for by the following explanation.

Mr. Trist swears: "After the affair of the 8th, and before the attack was commenced on Chapultepec, I had a visit from General Pillow in my room at General Scott's quarters," when he, "General Pillow, expressed it as his very decided opinion that there should be no more active operations until the army was reinforced."

Major General Pillow attempted, by his aid-de-camp, Lieutenant Ripley, to get rid of this decisive testimony by means, always suspicious, of an *alibi*. Accordingly, Lieutenant Ripley, in his testimony, takes the said Pillow from the field of the Molino del Rey, through Tacubaya (without saying a word about a halt at my quarters) to San Borgia, Piedad, &c., and proves clearly, that the said Pillow was not again at my quarters till the evening of the 11th of the same month. Mr. Trist was most clearly contradicted and discredited by that *alibi*. But Lieutenant Ripley having been called up again, by the defence, to establish another *alibi* in respect to Lieutenant Lay, I put to him this question.

Question by the prosecution. The witness has heretofore given in his evidence reasons for knowing or believing that Major General Pillow was not at the quarters of Major General Scott on the 9th and 10th September last, nor until the night of the 11th; he has also spoken of the said Pillow's passing from the battle field of the 8th (Molino del Rey) to the hacienda San Borgia. Did not the said Pillow call at the said Scott's quarters, in Tacubaya, and there breakfast, lunch, or dine, before proceeding to the said hacienda, on the said 8th of September?

Answer. I think I stated in my evidence before, that I rode from Tacubaya, after the battle of Molino del Rey, with General Pillow to the hacienda San Borgia. I came into Tacubaya from the battle field by a different road from the one which General Pillow came in. I stopped some little time at the quarters of my regiment; afterwards rode down to General Scott's quarters. General Pillow came from General Scott's quarters shortly afterwards, mounted his horse and rode off. What happened in the quarters, I know nothing of; I don't think I was in there. This was about 2 or 3 o'clock in the afternoon.

Again, it is also shown by other witnesses that Major General Pillow did call, and remain some time, at the quarters of Mr. Trist and myself on the 8th of September, where he staid some time, as late as two or three o'clock in the afternoon. The *alibi*, therefore, falls to the ground.

Strength and time being equally exhausted, I can only add that, writing at a distance from the records of the court, I have, where inverted commas are sometimes used, quoted from the printed minutes, and may, therefore, not have conformed to those written records.

Respectfully submitted:

WINFIELD SCOTT.

FREDERICK COUNTY, MD., June 21, 1848.

DOCUMENTS APPENDED TO THE PROCEEDINGS.

CITY OF MEXICO, February 22, 1848.

SIR: On the 22d of November last, I forwarded to General Scott, for transmission to the government at Washington, an appeal to your department from a decision of the then commanding general of the army. For this communication I was arrested, and have been suspended from command, and in arrest from the 22d of November, 1847, until February 19, 1848, when I was released by orders from the government.

On the 19th instant, I addressed an official note (of which I enclosed a copy marked "A") to General Scott's acting assistant adjutant general, desiring to be informed if my appeal had been forwarded to the government. I enclose a copy of his reply, (marked B,) by which I learned with astonishment that General Scott had wholly failed to transmit my appeal to the government, as he was bound (by paragraph 296 of regulations) to have done.

The reason assigned for suppressing this appeal, it will be perceived by reference to the correspondence, and the principal of duty, as fixed in the above-cited paragraph, constitutes no sort of excuse for the gross violation of duty. He was distinctly informed, in my note of the 23d November, 1847, that the *original* and *not a copy* of that communication was in his hands; and if I had chosen to send a *copy* to any man in the nation, (which I had a right to do,) it would afford no sort of reason why he should withhold the *original*, passed through his hands as the proper channel of transmission; upon *none other* than such as *passed through his hands* could the government have acted, *which he knew*, as you will perceive by his note to me of the 23d of November.

Inasmuch as the original appeal has thus been suppressed or *withheld*, I now forward a copy through the present commanding general of this army, upon which I request the action of the government.

This becomes the more necessary, inasmuch as I distinctly see indications of a desire, in a portion of the press at home, to endeavor to produce upon the public mind that I had appropriated to myself the *two howitzers*, which Midshipman Rogers and Mr. Welsh had taken and claimed as trophies, and which I ordered to be restored to the garrison of Chapultepec.

You will perceive from the proof in the case that I had no other agency in the transaction than that of giving this order.

I trust, therefore, that the government will perceive the necessity of giving this subject its prompt attention and action.

I transmit copies of the order for my arrest, of my note of the