

that the ravine in question afforded facilities for turning completely Valencia's camp, accompany Colonel Riley's command across the pedregal; and was this discovery made before you reached the village of Ensalda, and irrespective of your orders?

Answer. They accompanied Colonel Riley, I believe, across the pedregal; they reconnoitred the ravine before I got over, and they brought the intelligence to me after Colonel Riley had reported to me.

Question by prosecution. The witness has said Major General Pillow overtook the witness, while the latter and Brigadier General Twiggs were in pursuit of the enemy, near San Angel. About what distance is that point from the entrenched camp that had been carried by the American troops that morning?

Answer. It is, I think, between two and a half and three miles; it is nearly to the entrance of San Angel.

Question by prosecution. The witness, to a question put to him, has answered that the military presumption is, that all the greater movements on a field of battle are directed by the senior officer on the particular field. May not that *presumption* be contradicted by the facts; and was this the case with the witness's own movements and operations on the 19th and 20th of August last, about and on Valencia's camp?

Answer. This presumption, of course, may be contradicted by facts. With regard to all my movements, after taking a position alongside of Magruder's battery, all these movements were directed by myself, I being the senior officer present, in communication with no other officer, and receiving no orders. I saw no superior officer, with the exception of General Shields, who did not assume the command until next day after the battle, when General Twiggs joined.

Question by prosecution. Has the witness any reason to believe that any reinforcement was thrown into Valencia's camp after the arrival of the witness at the village, or after the arrival of Brigadier General Cadwalader, who preceded the witness?

Answer. I don't recollect. I recollect a small party that went from the direction of Valencia's camp towards Santa Anna's position; but I judged it was merely a party who had been sent from Santa Anna's position to examine the ravine on their return. It was a mere supposition.

Question by defence. Is it not a military principle, that where general orders only are or can be given to subordinates, that the details must be filled in by such subordinates?

Answer. Undoubtedly.

As General Cadwalader was absent from his post, and the defence had one or two questions to put to him in continuation of the cross-examination, the court directed him to be called. General Scott expressed the wish that the order of examination should not be interrupted.

The court directed that General Cadwalader should be heard.

Brigadier General Cadwalader recalled for defence:

Question by defence. The witness has said in his examination on behalf of the prosecution that General Pillow expressed himself opposed to the terms of the armistice before it was entered into. Did the witness understand General Pillow as being opposed to the Tacubaya armistice, or not, on the ground that we surrendered the advantages we had gained without anything in return?

Answer. At the time, neither of us understood what the terms of the armistice were, but I understood General Pillow to object to any armistice which would not give us great advantages as an equivalent.

Question by defence. Did witness understand, or not, that General Pillow's objections were that we ought not to grant the armistice, unless the capital would capitulate, or Chapultepec was surrendered?

Answer. I cannot remember now the exact stipulations that he thought should be required. I remember his saying that material advantages should be secured to us.

Question by defence. In your former examination you said you did not recollect any instructions given you by General Pillow, about attending to any reinforcements which might come up from the capital on the 19th. Say if you have since refreshed your memory by a written memorandum of your own as to your orders; and what is your memory now upon that subject?

Answer. I since have a recollection of a reference to any reinforcements that might come up, which I did not recollect when asked the question before. There was a reference to intercepting reinforcements, spoken of as having been given to Colonel Riley, and which I was to follow.

Question for defence. Were Santa Anna's reinforcements checked by your command, before General Smith reached the village of Ensalda?

Answer. They were entirely so; and had been so for half an hour.

Question by defence. Had you previously to the arrival of General Smith made *your dispositions* to receive Santa Anna, and was any material change made in those dispositions after General Smith reached the village?

Answer. I had established my command in position to resist the forces under Santa Anna, and no change in that position took place until Colonel Morgan reinforced me, when I moved my command a sufficient distance around the village to give him a position in the line which I defended, and I do not recollect subsequently having changed that position, certainly not materially, having occupied the wall and maguey bushes surrounding the exterior of the village; the 11th, with the voltigeur regiment, facing the north, and the 14th and 15th regiments facing towards the eastward, in the direction of San Angel. The wall spoken of was a very low one.

Question by defence. If Santa Anna's forces had not been checked by your command, might those reinforcements have reached the village of Ensalda before General Smith arrived there?

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

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

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

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

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

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

Mexico, April 5, 1848.

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

Major General Scott, present.

Major General Pillow before the court.

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

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

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

At this point the defence interposed an objection.

Major General Scott said that Paymaster Burns, when before the

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

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

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

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

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

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

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

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

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

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

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

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