

make a mistake in entering the time of day in his journal, on the second day after the event, as would General Scott, in his official report, written on the very day the event occurred?

Answer. I do not know upon what information the general acted in that report; whether by his own observation of a watch or by other means; and, therefore, I cannot judge of his liability to err; I cannot, therefore, make any comparison; I can only state, conditionally, that, if he did look at a watch, he would probably be as little likely to err as myself; whether he did so or not, I cannot say.

Question by defence. Does the witness know that General Scott has a watch which he wears about his person regularly?

Answer. The question reminds me that I heard the general speak of losing his watch; I am doubtful about the time, but think it was at San Augustin; I have, in the city, seen him refer to a watch, which I suppose he habitually wears.

Question by defence. When did witness hear General Scott say he had lost his watch; and how or where did he find it?

Answer. I think it was at San Augustin, in the evening, after having been absent on official duty the greater part of the day; whether it was on the 19th or 20th of August I do not recollect; I do not think he has ever recovered that watch; I never heard him speak of recovering it.

Question by defence. Will the witness please to refer to his journal, and see if he made, at the time, or a day or two after, a record of the loss of General Scott's watch?

Answer. I know that I made no such record, without referring to the notes.

Question by defence. What does witness know of the accuracy of the time of three watches, whose time was seen by Lieutenant Hodge, by all of which it was after four o'clock, p. m., when General Scott came upon the field, all confirmatory of General Scott's official report in this particular?

Answer. I have heard remarks about that evidence; I have no knowledge on the subject.

Mr. C. S. Miller, for prosecution, duly sworn:

Question by prosecution. On the 20th of August last, and about the time the *bridge head* at Churubusco was carried by the American troops, did the witness chance to be near Major General Pillow? and if so, state the place where they came together and the place where the witness became separated from the said Pillow.

Answer. I was at the battle of Churubusco, on the evening of the twentieth, at the time the bridge head was carried; I chanced to see General Pillow at the time the three Mexican officers either came out of the convent and fort or road into a small corn-field; I was very near him when I saw the three Mexican officers enter the corn-field; I suppose ten steps from him, immediately in his rear; I suppose that we were twenty-five or thirty yards from the bridge head, on the side from the city; I can't exactly tell the distance;

it was a very short distance from the ditch surrounding the bridge head; the last I saw of General Pillow was as we passed out of the bridge head, on the side next the city, in pursuit of the retreating enemy.

Question by prosecution. How long had the witness been near Major General Pillow, before the said Pillow crossed the bridge at Churubusco?

Answer. I suppose upwards of an hour—from some time previous to Colonel Duncan's battery being moved up the road, in order to fire upon the convent. I can't be precise as to the length of time, as I was too much excited to note it.

Question by prosecution. The witness has spoken of seeing a party of three Mexican officers coming from the convent, or from that direction. Which way were those officers going at the time?

Answer. The officers came out of the road or convent, and went into this corn-field, about fifty or seventy-five yards from the road, on which General Worth's division had advanced to the attack on the bridge head.

Question by prosecution. Did the witness chance to hear Major General Pillow, or any one else, give directions to catch a loose saddle-horse about that time?

Answer. I did. I heard General Pillow give directions to a soldier, who had jumped across a ditch to catch a Mexican horse, saddled and bridled.

Question by prosecution. During the time witness was near Major General Pillow, did the witness, or not, see the said Pillow draw or level a pistol, carbine, or other fire-arm, and fire at any Mexican officer, or party of hostile Mexicans?

Answer. I did not.

Question by prosecution. From the position of witness, in respect to Major General Pillow, during the time witness has spoken of, could the said Pillow have fired upon a Mexican officer or small party of hostile Mexicans, without being seen or heard by the witness?

Answer. He might have done it, but I don't think he could. There were a great many shots fired, but I could not tell who fired them. The Mexicans were without range of pistol—or at a very long rang for pistols.

Question by prosecution. The witness says there were a good many shots fired about that time. Towards whom were those shots fired?

Answer. Towards the Mexican officers, I supposed. There were no others of the enemy in sight, except those three officers—that is, that I saw—on the side of the bridge head that we were. I saw, a few moments after, a good many Mexicans retreating out of the fort, on the road passing through it.

Question by prosecution. How far was witness from the person of Major General Pillow, at the time the many shots were fired?

Answer. I suppose about ten steps, five or ten—very close to him.

Question by prosecution. What does the witness know about the

loose saddle-horse he has spoken of? Does he know whose horse it was, or how the horse happened not to have a rider at the moment?

Answer. I can't say whose horse it was. I saw the horse come out of the corn-field, after the shots were fired, and to the ditch near where we were standing. It looked like one of the horses the Mexicans were on. I was under the impression that it was one, from the fact of its having a tolerably fine saddle, such as officers only ride on in this country.

Question by prosecution. While Major General Pillow and witness were together, were they both on foot or on horseback—or part of the time on foot and part on horseback?

Answer. When I first met with General Pillow, he was on foot, and I also. I went with General Pillow from the first bridge beyond the bridge head, to where Colonel Duncan's battery was. There he had a horse which had been loaned to him during the morning, and which he wished to get somebody to take care of, and loaned him to me. I went then from the battery to the church, where Colonel Andrews's regiment was lying down, and where the officers were observing the enemy. The next time I saw General Pillow after that, he was on horseback, I think. I am pretty certain of it.

Question by prosecution. Was the firing the witness heard, towards the party of Mexican officers, from muskets, rifles or pistols?

Answer. I supposed, at the time, they were muskets, from the loudness of the reports. I did not recognize any pistol shots, or rifles, among them; though I cannot say that both were not fired.

Question by prosecution. How was Major General Pillow armed, at that time; or had he either musket, rifle, or carbine?

Answer. I don't think he had musket, rifle, or carbine. He had, I think, belt pistols and holsters, and a sword. I did not pay any particular attention to the arms of General Pillow.

Question by prosecution. Did the witness see any person fall from the loose saddle-horse he has spoken of?

Answer. No, I did not. The corn was very high, and hid the person. I suppose that some one did, though. The horse appeared to be wounded.

Question by prosecution. Tell, as far as witness knows, who caught the loose saddle-horse; and what was done with that horse at the time?

Answer. I can't say who caught him; the man was dressed as a soldier. General Pillow ordered him to keep the horse for him, as I understood him. I am not certain, however, that that was the remark he made. I don't know what became of the horse after that time.

Question by prosecution. After the three Mexican officers went into the corn-field, could those officers be plainly distinguished from the place where Major General Pillow and the witness were, at the moment?

Answer. I think not, after they went in. As they were going in, they were very plainly distinguished; after they got in, I saw

them several times. They appeared to be hiding themselves, or screening themselves. The corn-field was a very small one.

Question by prosecution. Was the firing witness has spoken of upon the Mexican officers, before or after they went into the corn-field?

Answer. As they went in, and after they got in, both, firing of many shots.

Question by prosecution. How far were the men who fired upon the Mexican officers from the witness, at the time of the firing?

Answer. There were several round about where we stood, and several further off; I could not tell the distance.

Question by prosecution. Who was nearest to Major General Pillow—the witness, or the men who fired upon the Mexican officers, as they entered the corn-field, or after they got into that field?

Answer. I suppose I was nearer, or as near, as any one. I did not see any one nearer General Pillow, at the time.

*Cross-examination.*

Question by defence. What is the present occupation of the witness; what has been his employment, since the army entered this city, and what was it on the 20th of August?

Answer. I have, at the present, no occupation. I was, on the 20th of August, attached to Captain McKinstry's company; though I was not with it on that day. I have had no employment, in particular, since the army entered the city.

Question by defence. How long has the witness been accompanying the army, and what has been his occupation, livelihood, or means of gaining his support, since, with the army?

Answer. I have been with the army since a few days after the battle of Palo Alto. I came to this country with the Louisiana volunteers; since which time I have been in several different employments. I was in a sutler's store, in Camargo, while General Pillow was there; since which time I have done pretty much as I pleased—done anything I wanted.

Question by defence. Has or has not the witness been the whole, or a part of the time, a professional gambler, or in the employment of persons of that character?

Answer. I don't know that I am bound to answer that question. I refer the question to the court.

The court said the witness might answer the question, or not, as he pleased.

The witness then said he would answer the question, although he thought the party had no right to ask it.

Answer. I never was in the employment of any person in that capacity; I have myself gambled, as every one almost in Mexico does; I have been but about three weeks interested in any bank since I have been in Mexico, and never before I was at Puebla—and for the last four months I have not been interested in any gambling bank. I have played against banks, and do every day when I have any money.

Question by defence. Since you have been in this valley, have

you had any other means of subsistence than that afforded you by your interest in the banks, or playing against them? If so, state what those means have been?

Answer. I have not.

Question by defence. Where did witness first fall in with General Pillow on the twentieth of August?

Answer. I fell in with him on the right of the road looking to the bridge head; he was going back towards Colonel Duncan's battery; I think there was a staff officer with him at the time; I don't know whether he belonged to his staff or not.

Question by defence. How long did General Pillow stay at that place?

Answer. I can't say, for I went off to the church where Colonel Duncan was, as soon as General Pillow gave me the horse I rode that day.

Question by defence. What sort of a horse was General Pillow riding, and what sort of a horse did he loan you? Was it a dragoon horse, or not?

Answer. It was an American horse that General Pillow was riding, and looked like a very fine one too; he loaned me a Mexican horse, with a Mexican saddle and bridle; the horse was claimed about dark that same evening from me by Mr. Legrand, interpreter for Captain Allen, quartermaster, who said he had lent the horse to Major General Pillow in the morning, or before General Pillow lent it to me.

Question by defence. What was the color of the horse General Pillow was riding?

Answer. I can't say; I don't know a sorrel horse from a bay; I took very little notice of the horse; I don't know much about horses?

Question by defence. Witness has just said he went to Duncan's battery with General Pillow while they were both on foot—was the battery at that time in the road engaged firing upon the convent fort; if not, where was it?

Answer. It was not in the road—just at the side of the road, behind some mud houses; it was some two hundred yards from the position it was afterwards moved to, to fire upon the fort; I am not a good judge of distances, and it might have been more or less than two hundred yards. The battery was on the side of the San Antonio road, and on the right hand side as you advance on the bridge head.

Question by defence. How long, after you left General Pillow to go to the church where Colonel Duncan was, was it before his battery commenced firing?

Answer. I can't say how long; when I got to the church Colonel Duncan was on the top of it; he was sent for by General Pillow to place his battery in position, as far as I could understand. Some few minutes after, Colonel Duncan came down and returned to his battery, and had two pieces of his battery moved on the road to about one hundred and fifty yards from the bridge head; I can't say whether both pieces were carried at the same time or not; one of

the pieces was a six-pounder and one a howitzer; he opened with the six-pounder first, and made some very pretty shots; he had fired only some twenty rounds at the convent when the white flag was shown; I can't say exactly how many rounds, but about twenty.

Question by defence. Witness has stated there was *much firing* about the time he was with General Pillow near the bridge head, and that he, witness, was *a good deal excited at the time*—was his attention *particularly attracted* to General Pillow at that time; if so, from *what circumstance*?

Answer. I don't believe I made the statement that I was much excited at the time I was with General Pillow at the bridge head. I referred to the time previous, during the heat of the battle. At the time we were at the bridge head the battle was almost entirely over and the Mexicans in retreat. I was elated at the idea of our having whipped the Mexicans in a very hard fought battle, and, as I thought at the time, a very doubtful one. My attention was attracted to General Pillow at that time, from my waiting for him to go ahead, as I thought we were going to charge upon the defeated enemy, as I wished to follow him, as I did.

Question by defence. Witness has said he heard a number of shots fired at the Mexican officers, that a horse ran to the road near General Pillow, that he heard General Pillow direct a soldier to catch the horse for him, but that he did not see General Pillow shoot. Does witness mean to swear that General Pillow did not shoot at the Mexican officers?

Answer. I do not mean to swear that he did not shoot at him. It was my impression that he did not, but I don't mean to swear he did not.

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

CITY OF MEXICO, April 21, 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 Schuyler Hamilton, 1st infantry, duly sworn:

Question by prosecution. State to the court what passed between you and Lieutenant Bennet, respecting what the latter knew about the movements of the 15th infantry on the afternoon of the nineteenth of August last; how you happened to accost Lieutenant Bennet on that occasion. Whether General Scott knew anything of your intention in advance, and whether, as far as the witness knows or believes, the said Scott, or any officer of his staff, has ever, before or since, designedly spoken to any witness summoned for the defence, about the testimony to be given, by such summoned officer, before this court?

Answer. On the morning of the Sunday previous to the day on which Lieutenant Bennett was called to the stand as a witness for