

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

the defence, I think it was the ninth of April, in a conversation which I had with Lieutenant Tilton, the adjutant of the fifteenth, a witness summoned both for the prosecution and defence, he (Lieutenant Tilton) told me that, although he could not give me the information that I had asked of him, that there was another officer of his regiment in town, namely, Lieutenant Bennett. He did not state that he was a witness for defence, nor was I myself aware of that fact. Hereupon, I started to visit Lieutenant Bennett at his quarters. I met him on my way there, in the street, in company with Lieutenant Martin, 3d dragoons. Not knowing him by name, though I had frequently conversed with him, and was well acquainted with his person, I addressed him as follows: "Is this Lieutenant Bennett, of the fifteenth, sir?" He replied, "yes, sir." I then added that I was on my way to his quarters to ask him a question. He asked me what it was. I replied, that I wished to know what his recollections were as to the movements of his regiment on the 19th of August last, more particularly referring to the point of time at which the regiment had received the order to advance across the pedrigal, to the support of the troops who had been previously thrown forward in that direction. His reply was, that his recollections were much about the same as those of Major Woods, of the same regiment. I think the words "much about the same as those of Major Woods," were the words used by him. I also put a further question to him, as to whether he knew that Captain Hooker had, upon the day, (the 19th of August last,) and about the time specified, delivered more than one order to Colonel Morgan's regiment; if so, where and at what time, stating at the same time my impression, though I was not present upon the ground, that Captain Hooker had done so, and that probably he had confounded the times of the delivery of the several orders one with another; that, as Colonel Morgan was not here, whose evidence as commanding officer would be the best evidence in the case, I had applied to him at the suggestion of Lieutenant Tilton. Some further general conversation ensued, in reference, part of it, to the same subjects, but which I do not recollect. He told me that Captain Hooker had delivered the order to the regiment to move across the pedrigal, and either that he had no recollection, or that his recollection was not clear, I cannot be positive which, as to Captain Hooker's having delivered any other order to the regiment on that day. This conversation was carried on in an ordinary tone of voice, Lieutenant Martin being on one side of Lieutenant Bennett, and myself on the other, and I presume Lieutenant Martin heard all that passed; though I do recollect that, when I first told Lieutenant Bennett that I wished to put a question to him, Lieutenant Bennett separated a short distance, two or three feet, from Lieutenant Martin. This conversation was entirely without the knowledge of General Scott; nor have I at any time during or previous to the session of this court, knowingly had a conversation with a witness for the defence, except in one single instance, or perhaps two, those of Major Cadwell and Lieutenant Colonel Johnston, of the voltigeurs, to whom I put a simple ques-

tion as to whether they had heard General Pillow state that General Scott was stunned or paralyzed by the disaster or disasters of Molino del Rey; and then I understood that they were to be called as witnesses for the prosecution on that point. These two conversations without the knowledge or instance of Major General Scott. I have no knowledge of any staff officer of General Scott, either at their own instance, or at the instance of the general, having inquired of any witnesses of the defence what their knowledge was.

Question by defence. Is witness aid-de-camp of Major General Scott?

Answer. I am acting in that capacity.

Question by defence. Witness has said, in the conversation with Lieutenant Bennett, that he, witness, stated "his impressions" as to the orders delivered by Captain Hooker. If witness was not upon the ground, (and could not, therefore, have any knowledge of facts,) what was his (witness's) object in stating to Bennett what were his impressions, when witness, in point of fact, could have no impressions?

Answer. My impressions were derived from the testimony that had been previously given, and from conversation with others. The remark was made, as to my impressions, after Lieutenant Bennett had said that Captain Hooker had delivered the order to the regiment to march across the pedrigal, but did not recollect of his having delivered any other. I told him of my impressions, as to the reasons for my asking the question.

Question by defence. Has witness been in the habit of submitting his reports of the proceedings of this court to Mr. Freaner, for his information? Has witness been in the habit of furnishing other information to Mr. Freaner, which, but for the facilities thus afforded Mr. Freaner, he could not have obtained; knowing that Mr. Freaner was the correspondent of the Delta?

Some objection was made by a member of the court.

The witness said that as reporters had been admitted by the court, he thought the question an improper one, as he had as much right to report the proceedings of the court as any one. He said, however, that he was perfectly willing to answer the question, if the court so directed.

General Pillow offered the following question, which he said would follow the one now objected to by one of the court, in case the court allowed the first to be put:

"Witness will state if Mr. Freaner has been in the habit of submitting his letters and correspondence, designed for his paper, to witness for his examination, information, and correction; and did General Scott not know that witness was thus furnishing information to Mr. Freaner; and that Mr. Freaner was submitting his letters and correspondence to witness; and has the habit of supervising the correspondence of Mr. Freaner by witness, been known to, and approved by General Scott?"

And then read the following paper, in support of the question:

The defence submits the two last questions, and desires that

they may be answered. He deems them important as showing the habits of close intimacy and personal relations existing between the witness, Freaner, and prosecutor, so as to enable the court properly to estimate the testimony of that witness. The defence also deems the proof material, as sustaining and justifying the conduct of the defence, in himself furnishing the information asked for by Freaner, which is now the subject matter of a distinct specification, in the charges against the defendant, viz: the paper marked No. 1. The defendant admits he caused it to be furnished said Freaner, and the defendant has proved that that paper was furnished upon the application of the said Freaner. The facts in that paper the defendant has proved to be substantially true, he believes. If the prosecutor was, himself, through a confidential staff officer, furnishing the same kind of information to the same correspondent, it is a justification of the very act which the prosecutor condemns in the defendant, by doing the very thing condemned in the defendant.

This view of the case is greatly *strengthened* by the practice, already proved, of the general staff of the prosecutor having, in five different instances, written letters which have appeared in the public press, giving very partial and inaccurate accounts of the operations of the army in this valley, two of which, it is proven, were known to the prosecutor himself, and parts thereof read to him: one, grossly and scandalously false and abusive of the defendant, misrepresenting the conduct of the defendant, and discussing the very matters which this court is now considering, and intended and calculated, as the defence believes, to *poison the public mind* against the defence, and to cause it to prejudge the very matters at issue while the defendant was held under arrest, awaiting the application of the prosecutor to the government for a court martial for the trial of the defendant. Surely, under the circumstances, it is *legal* testimony, and proper to go before this court, as showing the motives of this prosecution, as well as justifying the act of defendant in furnishing the paper No. 1, already referred to; and in both points of view it is offered.

The defendant does not consider the proof sought to be made by the two questions above as calling for proof of conduct, which is in violation of regulations, or wrong. If *right* in the prosecutor, it cannot be *wrong* in the defendant. But as the prosecutor considers it wrong in the defendant, he, the defendant, has a right to show the prosecutor did the same thing.

GID. J. PILLOW,
Major General, U. S. A.

General Scott read the following in reply:

Mr. President and gentlemen of the court:

The question to the witness has not been objected to by him nor by the prosecutor; but if the court allow it to be answered, the prosecutor will ask to be permitted to inquire what papers or notes connected with this investigation the defendant and his staff have

furnished to the reporters for the public press. And the court will recollect that reporters openly copy evidence and documents belonging to the case from its records in open court.

In reply to the paper of the defendant, I will merely add that it has assumed, as proven, a great number of assertions which have not been proven, and which are entirely unsupported by facts.

Respectfully submitted:

WINFIELD SCOTT.

In court, April 21, 1848.

The court decided that the question should not be put.

Lieutenant J. R. Bennet, 15th infantry, recalled for defence:

Question by defence. Is the witness acquainted with the general character for *veracity* of Private Ayres, of company H, 15th infantry? If so, he will say if he would give said Ayres credit upon his oath in court?

Answer. I have been acquainted with his character for about ten months, and would give credit to his testimony under oath.

Question by defence. Where is the 15th infantry now stationed?

Answer. At Cuernavaca.

Question by defence. Does witness know the gambler, Miller, a witness for the prosecutor in this case? If so, he will state what he has heard him say, within the last few days, about General Pillow?

Answer. I have known him for about nine months. I think it was about three evenings ago last evening that I saw him in the Gran Sociedad. I heard some person abusing General Pillow. I stepped up close to the crowd. There were four, I believe, together. Miller remarked that General Pillow ought to be taken out of the city and shot. Nothing more, I believe.

General Scott read the following paper to the court:

Mr. President and gentlemen of the court:

Under the rule you have established, I briefly reduce to writing the remarks which I yesterday submitted verbally.

I have not had time to consult the mass of evidence which has been spread upon the record of the court, and, therefore, can only here speak from memory. Among the side issues the defence has been allowed, in the progress of this investigation, to raise, by cross-examination and direct testimony, are the following:

1. The merits of the attack upon the Molino del Rey, the 8th of September last, whereas that battle is only alluded to in one of the specifications, (the fourth, charge second,) to introduce an assertion of the defendant, which the specification alleges to be false.

2. The relative merits of the attack, commenced September 12, on the castle of Chapultepec, compared with an attack that might have been made, about the same time, upon the gate of San Antonio, one of the southern entrances of the city, whereas the latter attack is only alluded to, in the same specification, to introduce declarations of the defendant, which are alleged to be false.