

the hill & annoy the enemy for the purpose of covering the retreat of the 30th.

Whereupon the examination of Major Keyser being closed he was requested to withdraw & Capt Hook of the 26th regiment was called by the judge advocate as a witness. The following sworn in due form of law was examined & deposed as follows.

Quest: What was the cause of the detachment of the 38th regiment being posted on the plateau during the action of the 26th June? Answer: About the close of the action while Capt Miller's artillery was moving from the battery, I asked him, he being then of foot, if he was moving from the battery - he answered that his ammunition was expended & at the same time he informed Major Keyser that the enemy's barges were approaching, & advised him to change his front on the same ground, the right to rest where it stood. This was done immediately by Major Keyser at Capt Miller's suggestion.

Quest: How long did the action afterwards last? Answer: I do not think more than a quarter of an hour.

Quest: Did you see any communication afterwards between Capt Miller & Major Keyser? Answer: I did not. Capt Miller after offering the above suggestion to Major Keyser went to the battery to enquire about the wounded men & shortly after returned on horseback in one rear.

Quest: Were any shot fired from the eighteen pounders after Capt Miller passed you in the rear on horseback? Answer: I presume there were some, but there could not have been many as we shortly after left the field.

Quest: What was your opinion of Capt Miller's conduct from what you within your knowledge during the action of the 26th June? Answer: He was perfectly calm when I saw him & his deportment was that of an officer.

Question by Capt Miller. Did you hear Capt Miller inform Major Keyser at the time he moved from this hill, that the eighteen pounders were spiked, & advise him to retire from the field? Answer: I did not.

Whereupon the examination of Capt Hook being closed, he was requested to withdraw & the following deposition of Commodore Barney, taken with the consent of Capt Miller