

No. 26.

NEW ZEALAND DEFENCE FORCES.

PROCEEDINGS of a COURT of INQUIRY assembled at the Garrison Hall, Auckland, on the 21st Day of December, 1909, by Order of Captain Richard John Seddon, Staff Officer, N.Z.M., in absence on Leave of Colonel H. D. Tuson, Adjutant-General, for the Purpose of investigating certain Charges against Captain Frank Berners Knyvett, No. 1 Company, Auckland Division of New Zealand Garrison Artillery Volunteers.

President.

Edward Walter Clervaux Chaytor (Lieut.-Colonel, N.Z.M.).

Members.

Julius Sandtmann (Captain, Acting-Major), 4th Regiment Wellington (East Coast) Mounted Rifle Volunteers.

John Thomas Bosworth (Captain, Active List).

I, EDWARD WALTER CLERVAUX CHAYTOR, Lieut.-Colonel, N.Z.M., do declare upon my honour that I will duly and impartially inquire into the matters to be brought before the Court.

I further declare upon my honour that I will not on any account or at any time disclose or discover my own vote or opinion, or that of any particular member of the Court, or divulge any portion of the proceedings unless required to do so by competent authority.

Auckland, 21st December, 1909.

E. W. C. CHAYTOR, Lieut.-Colonel.

I, JULIUS SANDTMANN (Acting-Major), 4th Regiment, Wellington Mounted Rifle Volunteers, do declare upon my honour that I will duly and impartially inquire into the matters to be brought before the Court.

I further declare upon my honour that I will not on any account or at any time disclose or discover my own vote or opinion, or that of any particular member of the Court, or divulge any portion of the proceedings unless required to do so by competent authority.

Auckland, 21st December, 1909.

J. SANDTMANN, Acting-Major.

I, JOHN THOMAS BOSWORTH (Captain), Active List, do declare upon my honour that I will duly and impartially inquire into the matters to be brought before the Court.

I further declare upon my honour that I will not on any account or at any time disclose or discover my own vote or opinion, or that of any particular member of the Court, or divulge any portion of the proceedings unless required to do so by competent authority.

Auckland, 21st December, 1909.

J. T. BOSWORTH, Captain.

The Court, having assembled pursuant to order, proceed to take evidence.

The order convening the Court is read, marked [see Enclosure No. 1].

The charge-sheets marked [see Enclosures Nos. 2 to 5 in No. 20] were read to the accused, and are attached.

First charge having been read, accused objected to the charge, and the Court was closed to consider the point.

The Court reopened, and informed the accused that the charges against him are covered by section 54 of the Defence Act and paragraph 180 of regulations, which must be taken as a whole.

Charge one (1).—Accused pleaded "Not guilty" to the charge.

Charge two (2).—Accused pleaded "Not guilty" to the charge.

Charge three (3).—Accused pleaded "Not guilty" to the charge.

Charge four (4).—Accused pleaded "Not guilty" to the charge.

Accused objects to the charges, on the ground that lines picked out of the letter cannot be charged as an act. The Court disallowed accused's objection after having adjourned for consideration.

Accused claims (1) the right to have the assistance of a friend; (2) the expressions used in his letter of the 10th November, 1909, were privileged, as they were written in the course of asking for a judicial inquiry (page 275, Manual of Military Law, subsec. 2, pars. 3 and 4).

The Court adjourned to consider these objections, and disallowed objection (1) by two votes to one.

Note to section 43, Army Act, paragraphs 174, 178, 180, New Zealand Regulations, were considered by the Court to override the point raised by accused. The Court therefore disallowed objection (2).

Accused hands in following statement marked [see Enclosure No. 2].

Accused stated that the charges upon which he was placed under arrest are totally distinct in every way to the charges now made against him.

Copy of original charges made were handed in by accused, marked [see Enclosure No. 3].

Accused asked for information by whose instructions he was placed under arrest.

Accused claimed that the evidence given at the preliminary inquiry should be accepted by the Court.

The Court was cleared, and after consideration the accused's claim was disallowed.