

*The President:* You are charged under section 180 of the New Zealand Defence Regulations, which says that although it is intended that every opportunity shall be given for inquiry into well-founded complaints and the redress of grievances, members of the Defence Forces shall be personally responsible if they prefer complaints of a litigious, frivolous, or malicious character.

*Captain Knyvett:* Well, sir, do you consider my letter is of a "litigious, frivolous, or malicious character"?

*The President:* No; but these extracts are covered by the charge of committing "an act to the prejudice of good order and military discipline."

*Captain Knyvett:* I object to being charged under that section. I have to be charged with doing something "litigious, frivolous, or malicious" before I can be charged under that section. I protest against being charged under Regulation 180.

*The President:* It comes under the heading of "insubordination."

*Captain Knyvett:* I have already been charged with insubordination, and those charges have been withdrawn. Do you mean to say that the act I am charged with comes under that?

*The President:* Where not specifically defined in the New Zealand Act the nature of the offences may be charged under the English Act. You object?

*Captain Knyvett:* Yes, sir.

*The President:* I will note your objection. The only section which covers it is "insubordination." After reading the Act I consider that is the only section of the Act which covers it.

*Captain Knyvett:* I want to know what "insubordination" is. I cannot find any definition of it in the Defence Act.

*The President:* It is given in Regulation 180.

*Captain Knyvett:* There is nothing about "insubordination" there at all, sir. I do not think, sir, you will find it arise from any New Zealand statute. The wording of the charges is under the English Act, in the first place. If you charge me under the English Act you must allow me to defend under that Act. Section 47 of the Defence Act is the only section that deals with it at all, and that says,— [Not supplied.]

*The President:* Under most circumstances this would be an act of "insubordination."

*Captain Knyvett:* "Insubordination" is breach of lawful authority. I have not committed any breach of lawful authority. That cannot be said of me.

*The President:* That is a question of opinion afterwards.

*Captain Knyvett:* If you say it afterwards, then I protest against it.

*The President:* I rule that you do come under it. Regulation 180 is an attempt to define the Act. In these paragraphs you make definite charges against your superior officer.

*Captain Knyvett:* Is there anything "insubordinate" in preferring charges against a superior officer?

*The President:* Yes.

*Captain Knyvett:* I would like to refer you to the articles the letter arose out of.

*The President:* We rule that the charges are not laid under the English Act.

*Captain Knyvett:* Then, if they are not laid under that Act, how can I be charged under that Act?

*The President:* I rule that it is covered by our Act.

*Captain Knyvett:* I wish to know then, under what part or words of Regulation 180 you charge me?

*The President:* You mean the three words defining the complaint? Well——

*Captain Sandtmann:* It appears to me that it is not a question of under what he is charged. He is charged.

*Captain Knyvett:* Fortunately we are not working under the laws of the Medes and Persians. You must tell me the section under which I am charged.

*The President:* The Court cannot tell you immediately. We will clear the Court, and tell you later.

The Court was cleared accordingly. Upon resumption, the *President* stated that all officers except Captain Knyvett must leave the table, and sit at the back of the room.

*Captain Knyvett:* I respectfully point out that the charges are framed under the English Act, and that Act distinctly states that an accused person may have someone to assist him during the trial.

*The President:* I again point out that our Act says that where not otherwise provided the accused shall not receive any assistance. Section 209 says he must not be assisted by a barrister and solicitor during the inquiry.

*Captain Knyvett:* It makes no comment about a friend at the trial. You say a friend is not permitted under the New Zealand Act, but he is under the Army Act. It says the accused person may have a friend to assist him.

*The President:* Is your friend a solicitor?

*Captain Knyvett:* I respectfully refuse to answer that question. He is an officer in my own company. If he is a solicitor it is fortunate for me. I may just as well object to any member of the Court being a solicitor or a member of the Civil Service.

*The President:* Well, we will consider that point next. The Court considers that the charges may come under section 54 of the New Zealand Defence Act, and Regulation 180, and the regulation and the section may be taken as a whole, because the charges might be construed, according to their meaning, under any one of them.

*Captain Knyvett:* Are any of the expressions complained of "litigious, frivolous, or malicious" then?

*The President:* The Court has to consider.

*Captain Knyvett:* Does the Court refuse to give me which definition the extracts come under?