

The President: I cannot say. The charges are based on the general tenor of the letter, and the Court has to consider. The Court has to consider whether you were right in making those charges.

Captain Knyvett: I respectfully ask the Court if they consider the letter as a whole is couched in the most respectful terms to the Minister.

The President: The whole of this question will come on later. You are now discussing the question as to whether you are innocent of the charge or not.

Captain Knyvett: No, sir, I am not. I am asking whether the charges are properly laid. I submit that the Court cannot—

The President: Do you admit this letter?

Captain Knyvett: Yes.

The President: You admit this letter. Well, the Court does not propose to call any witnesses at all, and they leave it to you to prove whether you were within your rights. If you read military law you will see that it says that certain statements are privileged, but that such accusations must be relevant to your claim; but you have no right to apply for an inquiry into the conduct of any officer or of any man in the service.

Captain Knyvett: Do you hold that, sir?

The President: Yes, I hold that. Your claims must be for the purpose of exonerating yourself.

Captain Knyvett: That is all I asked for.

The President: The charges are that you made certain accusations.

Captain Knyvett: You have ruled that I had a right to send the letter.

The President: Yes; but the charges are that in that letter you made certain statements for which you are responsible. We are not here to inquire into the truth of those charges. This is not the inquiry you asked for. The convening authority has considered that you have committed a breach of military discipline in making serious charges against your superior officer. You have admitted the letter. The Court does not propose to call any evidence at all. They are going to permit you to call any evidence you may have. We are not here to consider the justice of your charges. We are here only to consider whether these charges are relevant to your claim to be exonerated.

Captain Knyvett: I take it that the Court must prove that it is "an act to the prejudice of good order and military discipline." I submit that it is for the Court to prove. I take it that the Court must, by the regulations, before I call any witnesses as to the truth or otherwise.

The President: We want to hear your witnesses as to the truth of them.

Captain Knyvett: What will you hear the witnesses then on, as to the act?

The President: We will hear your witnesses as part of your claim to be exonerated.

Captain Knyvett: I ask the Court's ruling as to whether the words complained of were used meaningfully, or with guilty intent?

The President: You wrote a letter in which you made certain charges. They do not excuse. You have no right to make a charge against a superior officer if he does injure you.

Captain Knyvett: I respectfully tell the Court I am going to fight the whole thing through from start to finish.

The President: The Court has nothing to do as to how the charges are laid. We cannot inquire into the truth of your statements. The Court is here to consider whether you were within your rights in making those charges.

Captain Knyvett quoted subsections 40 and 41 from page 299, "Military Law," as follows:—
[Not supplied.]

Captain Knyvett: I ask the Court's ruling on that—that the words must have been used meaningfully, or with guilty intent.

The President: Well, that is what the Court has got to be satisfied with.

Captain Knyvett: I only say there, "It seems to me that the Chief of General Staff has gone out of his way to belittle, discourage, and damp the enthusiasm of the whole Volunteer movement." I do not say that he has done it. I hope he has not. Well, sir, will you give a ruling on that? It says here that the Court must decide about it.

The President: The Court has only to decide before convicting.

Captain Knyvett: It is not warranted in assuming that there has been an offence. I want the Court to decide whether there has been an offence. If the words were not used meaningfully, or with guilty intent, then, I submit, I have no right to be here.

The President: You want to start at the finish.

Captain Knyvett: I respectfully contend that I have a perfect right to know if the Court decides if it is so.

The President: The Court is here to decide whether your complaint is "litigious, frivolous, or malicious."

Captain Knyvett: No, it is not. It is here to decide whether I committed "an act to the prejudice of good order and military discipline."

The President: If it does not fall under those three, then you have not done so.

Captain Knyvett: The Court must say whether it was done with malicious intent before proceeding further.

The President: You consider the Court must consider.

Captain Knyvett: I do not "consider" at all. It must be.

The Court was again cleared while the Court deliberated on the matter. On resumption, the President said: The Court rules that it cannot rule on that question—the question as to whether the statements made in that letter which form the subject of the charge were said meaningfully, or with guilty intent. The question as to whether they were said meaningfully or with guilty intent