

*The President:* I did not say that.

*Captain Knyvett:* You have. I submit that you cannot go beyond the exact wording of each charge.

*The President:* Yes, well?

*Captain Knyvett:* I want to ask the Board's decision whether this is a charge, whether the phrase has a meaning?

*The President:* Well, the Board has already——

*Captain Knyvett:* The charges have not been before the Board at all yet, sir.

*The President:* The Court considered the matter this morning, and came to a decision. It is not the phrase that is the crime. It is the insinuation it carries.

*Captain Knyvett:* Does it say who, sir? I may be preventing—

*The President:* The Court when they sat first had to consider the question whether there was a charge. They decided that there was a charge.

*Captain Knyvett:* But I submit that each charge must be taken separately. I respectfully ask whether a charge can be read out of a meaningless phrase. The Court has no knowledge outside that at present. There is nothing in front of that. You cannot make a charge out of that, sir.

*The President* (after the Court had deliberated): The Court considers that it discloses an offence.

*Captain Knyvett* proceeded to deal with the second charge, that he had committed "an act to the prejudice of good order and military discipline" in that in a letter to the Minister of Defence, dated the 10th day of November, 1909, he made use of the following words: "It seems to me that the Chief of General Staff has personally gone out of his way to belittle, discourage, and damp the enthusiasm of the whole Volunteering movement."

*Captain Knyvett:* If you notice there I only say that "it seems to me." It certainly did "seem to me," and it does so now. That is why I asked for an inquiry. It is clearly an expression of my own opinion, which, I consider, I had a perfect right to make. Am I not allowed to have an opinion just the same as Colonel Robin? I had very strong reason for stating that, and I want to ask the Court now if they consider that this was "an act to the prejudice of good order and military discipline"?

*The President:* Well, the Court has already done so. Before the Court can open the proceedings they must consider whether the charge as made discloses an offence.

*Captain Knyvett:* Well, I understood that the Court wanted to assist me in an endeavour to get at the truth. I submit that the Court must give a decision on each charge. I have nothing to do with what the Board did before.

*The President:* Well, the Court has already decided that it discloses an offence.

*Captain Knyvett* then proceeded to deal with the third charge that he "had committed an act to the prejudice of good order and military discipline" in that in a letter to the Minister of Defence, dated the 10th day of November, 1909, he made use of the following words: "Since these articles have appeared I have been approached by many officers throughout the whole of the North Island, who have had similar experiences of the unwarranted interference and unexampled officialism of Colonel Robin."

*Captain Knyvett:* I would like to point out that I cannot be convicted of putting in the words "unwarranted interference." You have admitted that the other parts of the letter were privileged. I ask if it could be couched in more respectful language?

*The President:* Under certain circumstances such charges are distinct breaches of military discipline; under others they are not.

*Captain Knyvett:* I certainly wrote the letter to exonerate myself. I certainly had a right to do it.

*The President:* It says, "you in your defence," but the whole thing hinges largely on whether you acted on your *bona fides*, whether you really acted to exonerate yourself solely, or to prefer charges against your superior officer.

*Captain Knyvett:* I am prepared to show that on the charges as they stand there is no charge.

*The President:* We are not here to try the truth of your charges. We are here to try whether you committed an offence in making specific charges against your superior officer.

*Captain Knyvett:* I say that "unexampled officialism" is a most complimentary phrase. If an officer is doing his duty to say "unexampled officialism" is a most flattering phrase.

*The President:* The Court rules that to use the words "unexampled officialism" is an offence.

*Captain Knyvett:* The Court is not ruling on two words, surely.

*The President:* The Court rules that the charge discloses an offence.

*Captain Knyvett* proceeded to deal with the fourth charge that "he committed an act to the prejudice of good order and military discipline" in that in his letter to the Minister of Defence, dated the 10th day of November, 1909, he made use of the following words: "I have documents in my possession, which, if published, would have created a grave scandal in Volunteering throughout the whole Dominion."

*Captain Knyvett:* I want to know whether there is any crime in having "documents in my possession." I got them honourably. I do not say anything about Colonel Robin. What is "Volunteering"? Is there any such department? I submit most respectfully that the charge is absolutely absurd. It cannot be a crime. I have never heard of the crime of having "documents in one's possession," unless they were stolen.

The Court made no reply.

*Captain Knyvett:* Will the Court give its decision, sir?