

1910.
NEW ZEALAND.

THE KNYVETT CASE

CORRESPONDENCE AND EVIDENCE IN CONNECTION WITH).

Laid on the Table of the House by Leave.

No. 1.

Captain KNYVETT, Auckland, to the Hon. the MINISTER OF DEFENCE, Wellington.

No. 1 Company's Trip to Wellington.

SIR,—

Auckland, 10th November, 1909.

I have the honour to most respectfully bring the following complaint officially under your notice, and in support thereof attest the facts as under :—

1. That on Friday, the 29th October, I in company with two officers and sixty-five men of my company, at the invitation of the officer commanding the Petone Navals, travelled to Wellington by the ordinary express as ordinary passengers, paying our own fares, in order that we might visit the Petone Navals' camp during their course of training, and benefit in efficiency by the knowledge gained at this camp.

2. That this visit was the outcome of a conversation with the officers of the Petone Navals when they were in Auckland at our manœuvring camp last Easter. As a result of this conversation, I wrote to the officer commanding the Petone Navals on the 9th October, and asked if they were still of the same mind and were prepared to receive an unofficial visit from the members of my corps to their camp.

I received a reply from the officer commanding the Petone Navals on the 13th, giving myself and company a most cordial invitation to stay for a whole week as the private guests of the Petone Naval Volunteers, in which it is stated they would be glad to privately ration and look after our men while they were there, if I would wire to him when we anticipated leaving Auckland.

On the 26th ultimo I wired the officer commanding Petone Navals, asking if he were ready and willing to receive us if we left on Friday, the 29th. I received a wire to the effect that he would be most delighted to do so.

On the 27th ultimo I wrote and asked permission of the officer commanding my division (to whom I am alone responsible) for leave to travel a section of my corps in uniform. (I may here state that this is probably the first time in the history of the Defence Council where such a request has been made). It has invariably been the custom for members and sections of corps to travel from one end of New Zealand to the other, without permission to travel in uniform; and passes have been granted without question for all sorts of military tournaments, and to meet to compete for all kinds of money-prizes, from one end of New Zealand to the other. We asked for nothing more than permission to travel in uniform.

My reason for this was that I desired to have an opportunity of upholding the best traditions of the Volunteer service in the Auckland District, by having under control the men who formed the party leaving for Wellington. If I did not travel in uniform I would not have had the control over the men which I have exercised, and possibly a very grave scandal might have resulted from such a number of men being without any control and in all sorts of private clothes.

3. That I received a notification from the officer commanding the Petone Navals that arrangements had been made to officially welcome and receive my corps on arrival at Wellington. This wire I got in the early morning on the express train.

To my intense astonishment, and to the consternation of my officers and men, we found on arrival at Wellington there was no one to receive us. After half an hour's wait two officers of the Petone

Navals met us in mufti, and informed us that the Chief of General Staff, Colonel Robin, had taken it upon himself to inform them that we would not be allowed to travel to visit the corps, and consequently they had abandoned the preparations to receive us.

4. That these officers were certainly astounded to find, after what the Chief of General Staff had told them, that we had arrived. Under the exceptional circumstances, they made strenuous endeavours to cover up and prevent any possibility of a scandal leaking out to the public of the want of tact and the interference of the Chief of General Staff.

To my officers' and my own intense astonishment, on Monday morning the *Dominion* newspaper, published in Wellington, came out with a most scurrilous and untruthful article as to the object of our visit to Wellington; in addition to which they imputed and stated that I and sixty-five officers and men of my corps were a surprise party to the Petone Navals, that we had come down there in defiance of all military regulations and usage, and altogether we had committed a very grave breach of military discipline, and burlesqued the whole Volunteering movement throughout New Zealand.

On applying at the office of the *Dominion* for the writer of the article, we were introduced to a Mr. Plimmer, sub-editor of the paper; and in the presence of Dr. Murray, Lieutenant Greenhough, and myself we found to our intense astonishment that the informant of the writer of the article and the whole of the matter of the article had been supplied to the *Dominion* by the Chief of General Staff, Colonel Robin. (Article marked.) [See Appendix No. 1.]

I am prepared to submit an affidavit from the three officers who were present at the interview as to my authority for saying the matter above was supplied by Colonel Robin.

The result of this article in the *Dominion* has been, sir, that the Volunteer movement, and my corps in particular (which is the largest, without question, in the whole of New Zealand), have been belittled and burlesqued to an astounding extent. Article after article has appeared in the Wellington papers, and interview after interview has been accorded by the Chief of General Staff, and the statements made by him in these interviews I am prepared to prove are absolutely false.

In addition, 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.

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. Not only have Volunteers themselves been subject to his interference, but many prominent Force officers have told me (which I am prepared to prove at any inquiry) that he has many times had private interviews with persons, from privates to colonels, to the undoubted disadvantage of the discipline of the Forces throughout the Dominion.

5. That in the duties laid down for the Defence Council I find the duties for the Chief of General Staff are—Field organization, military operations, staff duties, military training, military education, military intelligence, mobilisation, and war regulations. No mention of any kind in this to the duties of discipline. If any member of the Defence Council had any complaint to make about the action of myself and the corps, it was Colonel Tuson, A.G.

I respectfully submit that at no time have my officers or myself committed the smallest breach of the Regulations. I have been under provocation owing to the many articles which have appeared last week in the *Dominion* from the pen of Colonel Robin, but I have withheld writing to the Press, well knowing that I should obtain from you justice.

I have documents in my possession which, if published, would have created a grave scandal in Volunteering throughout the whole Dominion.

I most respectfully ask for an official inquiry into the conduct of the head of the Defence Department, Colonel Robin, an officer who has a private channel of communication with an Opposition paper (the *Dominion*) in Wellington, and gives articles and information of a nature calculated to be contrary to the best traditions and interest of the service.

I most respectfully request that an inquiry be held at the earliest possible moment.

I have, &c.,

F. B. KNYVETT, Captain,
Officer Commanding No. 1 Company, Auckland Garrison Artillery.

10/11/09.—O.C.D.—Forwarded.—G. W. PATTERSON, Lieut.-Colonel.

No. 2.

The OFFICER COMMANDING AUCKLAND MILITARY DISTRICT to the OFFICER COMMANDING AUCKLAND DIVISION GARRISON ARTILLERY VOLUNTEERS.

Auckland, 12th November, 1909.

WITH reference to the attached communication making specific charges against a superior officer, I feel it my duty to call upon you to inform Captain Knyvett as follows:—

(1.) This letter should have been addressed to the Officer Commanding Division, with a request that it be forwarded through the proper channel to the Right Hon. the Defence Minister.

(2.) The tone of the letter is not such as should be used, according to military discipline and the usages of the service, when referring to any officer, and especially one of superior rank.

(3.) The letter contains matter which is irrelevant, for, besides dealing with the affair in connection with the visit to Wellington, it calls into question and criticizes the administration of the Defence Department, expressly forbidden by General Regulation 175.

(4.) Captain Knyvett's alleged grievance should be made in accordance with General Regulation 176, and should at this stage deal in general terms with the acts which occurred and which he requires to be investigated.

(5.) Without first cautioning Captain Knyvett as to the gravity of the action he is taking, and calling upon him to couch the language of his letter in more moderate and general terms, I do not feel justified in forwarding this communication.

(6.) It pains me to receive an official communication of such a character.

G. C. B. WOLFE, Lieut.-Colonel,
Commanding Auckland District.

13th Nov., 1909.—O.C. No. 1 Coy.—Forwarded for your information and reply.—G. W. S. PATTERSON, Lt.-Col., Commanding Auckland Division, N.Z.G.A.V.

13/11/09.—To O.C. G.A.V.D.—Noted, and regret unable to alter letter.—FRANK KNYVETT, Capt.

No. 3.

The OFFICER COMMANDING AUCKLAND DIVISION NEW ZEALAND GARRISON ARTILLERY VOLUNTEERS to the OFFICER COMMANDING THE AUCKLAND VOLUNTEER DISTRICT.

Auckland, 13th November, 1909.

DISCIPLINE: Forwarded with Captain Knyvett's explanation.—G. W. S. PATTERSON, Lieut.-Colonel, Commanding Auckland Division New Zealand Garrison Artillery Volunteers.

No. 4.

The OFFICER COMMANDING AUCKLAND DISTRICT to the ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington.

Auckland, 12th November, 1909.

No. 1 Company New Zealand Garrison Artillery Volunteers' Visit to Wellington.

I REGRET being obliged to forward the attached correspondence according to regulation.

Captain Knyvett has been cautioned and given the opportunity to reconsider his action, but refuses to do so. I can therefore only forward the correspondence for your consideration.

G. C. B. WOLFE,
Lieut.-Colonel, Commanding Auckland District.

No. 5.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington to the OFFICER COMMANDING AUCKLAND VOLUNTEER DISTRICT.

Wellington, 29th November, 1909.

WITH reference to the attached correspondence, I beg to inform you that, as Captain Knyvett is considered to have been guilty of an act of gross insubordination in having forwarded the letter in question, in which he not only criticizes the administration of the Defence Department, but also brings charges against a superior officer couched in most insubordinate language, and as he refuses to withdraw the said letter, you are to place this officer under arrest, prefer a charge of insubordination against him, and proceed in accordance with section 54 (1) of the Defence Act.

H. D. TUSON, Colonel, Adjutant-General.

The Officer Commanding Auckland District.

No. 6.

The OFFICER COMMANDING AUCKLAND VOLUNTEER DISTRICT to the ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington.

Auckland, 3rd December, 1909.

WITH reference to your instructions contained in minute dated 29th November, 1909, I placed Captain Knyvett under arrest and preferred a charge against him (see Enclosure No. 1). On the evening of the 2nd December, 1909, at 7.30 p.m., I held a preliminary inquiry into the case under 54 (1) of Defence Act. The summary of evidence will be found on sheet marked (see Enclosure No. 2).

On considering the whole matter I have come to the following conclusion: Captain Knyvett either does not or will not realise the gravity of his action, and refuses either to moderate the tone of his letter or withdraw it. Neither does he admit that when referring to his superior officer there is anything insubordinate in his language. I think there ore the case is too serious and involved for me to deal with, and I therefore beg to forward the same to you for your consideration and action.

G. C. B. WOLFE, Lieut.-Colonel,
Commanding Auckland District.

The Adjutant-General.

Enclosure No. 1 in No. 6.

Charge Sheet.

Auckland, 1st December, 1909.

CAPTAIN F. B. KNYVETT, an officer serving in the Volunteer Forces of the Dominion, having forwarded a letter for transmission to higher authority, is charged with insubordination in that he is considered to be guilty of—(1) An act of gross insubordination in having forwarded the letter in question, in which he criticizes the administration of the Defence Department; (2) bringing a charge against his superior officer couched in the most insubordinate language.

G. C. B. WOLFE, Lieut.-Colonel,
Commanding Auckland District.

Enclosure No. 2 in No. 6.

Summary of Evidence taken at Preliminary Inquiry into Charges against Captain Knyvett, held at Drill-hall, Auckland, 2nd December, 1909, at 7.30 p.m.

(1.) *1st Charge.*—An act of gross insubordination in having forwarded the letter in question, in which he criticizes the administration of the Defence Department.

O.C. District: What have you to say?

Captain Knyvett: I submit that I have not forwarded such a letter criticizing the administration of the Defence Department.

O.C. District: Do you not consider that the words you used in your letter are a reflection on the Defence Department?

Captain Knyvett: No, Sir; I consider that the words I forwarded are simply a reflection on the Chief of the General Staff and his *personal* administration of Department.

O.C. District: *Re* last paragraph asking for an inquiry into the conduct of the head of Defence Department, &c.—what do you mean by that?

Captain Knyvett: I mean an inquiry into his *personal* administration inside and outside of the Department.

O.C. District: You say that the Chief of the General Staff has private interviews with persons, from privates to colonels, to the undoubted disadvantage of the discipline of the Force?

Captain Knyvett: Yes, I do.

(2.) *2nd Charge.*—Bringing a charge against a superior officer couched in the most insubordinate language.

O.C. District: You speak of "the unwarranted and unexampled officialism of Colonel Robin." Do you consider that a correct way to speak of your superior officer?

Captain Knyvett: Yes, I do, under the circumstances.

O.C. District: Could you not have moderated your language?

Captain Knyvett: No; I think the words are most temperate.

O.C. District: You say the article in the *Dominion* was a most scurrilous and untruthful article, and you have traced it to Colonel Robin. Do you think this is moderate?

Captain Knyvett: Yes, I do, as I consider it *was* false and scurrilous.

Captain Knyvett here called Surgeon-Captain Murray to give evidence.

Captain Knyvett: You remember the article in the *Dominion*, and going with me to the *Dominion* office in company with Lieutenant Greenhough?

Captain Murray: Yes, I went with yourself and Lieutenant Greenhough to the office, and was introduced to a Mr. Plimmer. I heard Mr. Plimmer say he had seen Colonel Robin, and that he lived in the same street as Colonel Robin. I heard Mr. Plimmer say that Colonel Robin did not write the article, but he gave me the impression that he was covering up his tracks when he made this statement.

(3.) Captain Knyvett stated, on being asked by O.C. District, that he still adhered to his letter, and could not make it more temperate, and that he had provocation.

(4.) Captain Knyvett wished it noted that he had asked what is the act of gross insubordination, and in what paragraph he had criticized the administration of the Defence Department.

O.C. District: The answer to these questions is sufficiently indicated by the questions I have asked you previously.

Captain Knyvett wished to remind Lieut.-Colonel Wolfe that he (Lieut.-Colonel Wolfe) had investigated the matter of Mr. Plimmer's interview before the letter was forwarded, and Lieutenant Greenhough was prepared to swear that what Captain Knyvett stated took place in the presence of Mr. Plimmer was correct.

(5.) Lieutenant Greenhough could not be present at inquiry on account of a sudden illness, but did on the previous occasion say he was prepared to swear that what Captain Knyvett stated took place in the presence of Mr. Plimmer was correct.

G. C. B. WOLFE, Lieut.-Colonel,
Commanding Auckland District.

No. 7.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the Right Hon. MINISTER OF DEFENCE.

Wellington, 8th December, 1909.

Discipline : Captain Knyvett.

IN connection with the above matter, a preliminary inquiry having been held in accordance with section 54 (1) of the Defence Act, 1908, the case is now submitted, in accordance with section 54 (2) of the same Act, with a recommendation, that a Court of Inquiry be convened to investigate charges against Captain Knyvett.]

R. J. SEDDON, Captain
(In absence of Colonel, Adjutant-General).

For Cabinet.—J. G. WARD.—10/12/09.

In Cabinet, 15th Dec., '09.—Court of Inquiry to sit in Auckland.—J. HISLOP, Acting-Secretary

No. 8.

Captain KNYVETT, Auckland, to the OFFICER COMMANDING GARRISON ARTILLERY VOLUNTEERS, Auckland.

Drill Hall, Auckland, 9th December, 1909.

SIR,—

Arrest of Captain Knyvett.

I have the honour to most respectfully request that I may be informed when the Board of Inquiry which is to deal with my case will be held.

I would also most respectfully point out that over a week has passed since the preliminary inquiry held by the Officer Commanding the District, and so far I have not had any further word as to when the Board of Inquiry will be held.

I would like to point out that my business has been seriously affected by the public accounts throughout the whole of the Dominion as to my arrest, and the garbled accounts of the reasons thereof. I have already received letters from my agents in the South, which may probably considerably affect my business relationship with them; also it is very likely that I shall be making a business trip before the holidays to Australia, and I could not go with the knowledge that I was still under arrest.

I would most respectfully ask that this letter be forwarded through the proper channel to the proper authority for immediately dealing with it.

I have, &c.,
FRANK KNYVETT, Capt.

9/12/09.—O.C. District.—Forwarded.—G. W. S. PATTERSON, Lt.-Col., Commd. Auck. Div., N.Z. G.A.V.

No. 9.

Copy of MEMORANDUM from Captain R. J. SEDDON, Wellington, to Major SANDTMANN, Napier.

Wellington, 12th December, 1909.

As there is every likelihood of a Court of Inquiry being convened at Auckland about the end of this week, and in the event of your services being required to sit as a member on same, I write to ask whether you could make arrangements to get away.

R. J. SEDDON, Capt. S.O.

No. 10.

Major SANDTMANN, Napier, to Captain SEDDON, Wellington.

(Telegram.)

Napier, 14th December, 1909.

CAN arrange attend Court Inquiry, Auckland, provided sitting continuously and I am not required be absent from Napier more than five days.

Major SANDTMANN.

No. 11.

Lieut.-Colonel WOLFE, Auckland, to ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington.

(Telegram.)

Auckland, 14th December, 1909.

OFFICER Commanding Division has again approached me respecting Captain Knyvett's case, the officer concerned complaining of the length of time he is being kept in arrest. I respectfully request information whether there will be Court of Inquiry, and, if so, when.

Lieut.-Colonel WOLFE.

No. 12.

The ADJUTANT - GENERAL, New Zealand Defence Forces, Wellington, to OFFICER COMMANDING DISTRICT, Auckland.

(Telegram.)

Wellington, 14th December, 1909.

WITH reference to your wire of even date: on decision being arrived at, matter will be expedited.

ADJUTANT-GENERAL.

No. 13.

Captain SEDDON, Wellington, to Captain BOSWORTH, Auckland.

(Telegram.)

Wellington, 16th December, 1909.

In the event of your services being required for Court of Inquiry, Auckland, probably commencing Monday, could you arrange get away? Reply.

Captain SEDDON.

No. 14.

Captain BOSWORTH, Auckland, to Captain SEDDON, Wellington.

(Telegram.)

Auckland, 16th December, 1909.

CAN obtain leave. Will act if required.

Captain BOSWORTH.

No. 15.

Major SANDTMANN, Napier, to Captain SEDDON, Wellington.

(Telegram.)

Napier, 17th December, 1909.

CAN you wire me definitely if and when I am required leave for Auckland. My business engagements necessitate one day's previous notice enable me leave without inconvenience.

Major SANDTMANN.

No. 16.

ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to Major SANDTMANN, Napier.

(Telegram.)

Wellington, 17th December, 1909.

COURT of Inquiry convened for nine-thirty a.m., Tuesday⁵ morning, twenty-first, at Garrison Hall, Auckland. Please report to Colonel Chaytor, President. Sorry unable to inform you earlier.

ADJUTANT-GENERAL.

No. 17.

ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to Captain J. T. BOSWORTH, Auckland.

(Telegram.)

Wellington, 17th December, 1909.

PLEASE call on Officer Commanding District to-morrow for instructions.

ADJUTANT-GENERAL.

No. 18.

ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to OFFICER COMMANDING MILITARY DISTRICT, Auckland.

(Telegram.)

Wellington, 17th December, 1909.

RE my wire of yesterday: Was unable to post matter by last night's train. Letter posted twelve-fifteen train to-day with instructions written thereon to be called for by an officer at General Post Office after arrival of train. Please arrange accordingly.

ADJUTANT-GENERAL.

No. 19.

Wellington, 17th December, 1909.

I, RICHARD JOHN SEDDON, Captain, Staff Officer, in absence on leave of Harry Denison Tuson, Colonel, Adjutant-General, Council of Defence, do hereby summon you,

EDWARD WALTER CLERVAUX CHAYTOR,

JOHN THOMAS BOSWORTH,

JULIUS SANDTMANN.

in terms of section 107 of the Defence Act, 1908, to attend at the Garrison Hall, Auckland, at the hour of nine-thirty o'clock on the morning of the twenty-first day of December, 1909, to investigate certain charges against Captain Frank Berners Knyvett, No. 1 Company, Auckland Division of New Zealand Garrison Artillery Volunteers.

R. J. SEDDON, Captain,
Staff Officer (in the absence on leave of
Colonel, Adjutant-General).

No. 20.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the OFFICER COMMANDING
AUCKLAND MILITARY DISTRICT.

(Memorandum.)

Wellington, 17th December, 1909.

ENCLOSED herewith please find letter addressed to Captain Knyvett containing a letter informing him of the time and date of the Court of Inquiry to be held, and the members thereof, also four charge-sheets.

Please see that this letter is delivered to him by an officer on Saturday, and obtain receipt for same on attached form.

R. J. SEDDON, Captain,
Staff Officer (in absence on leave of
Colonel, Adjutant-General).

Enclosure No. 1 in No. 20.

ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to Captain F. B. KNYVETT, Auckland
Naval Artillery Volunteers.

Wellington, 17th December, 1909.

A COURT of Inquiry consisting of the undermentioned officers has been convened to assemble at the Garrison Hall, Auckland, at nine-thirty o'clock on the morning of the twenty-first day of December, 1909, to investigate certain charges preferred against you: President, Lieut.-Colonel E. W. Chaytor, N.Z.M.; members, Captain (Acting-Major) Julius Sandtmann (4th Regiment, Wellington, East Coast Mounted Rifles); Captain John Thomas Bosworth, Active List.

Please submit to the President of the Court a list of names and addresses of the witnesses you desire to call upon to give evidence.

A copy of the various charge-sheets, setting forth the charges preferred against you, are herewith attached.

R. J. SEDDON, Captain,
Staff Officer (in the absence on leave of
Colonel, Adjutant-General).

[Enclosure No. 2 in No. 20.]

Charge-sheet.

Wellington, 17th December, 1909.

The accused, Captain Frank Berners Knyvett, No. 1 Company, Auckland Division of New Zealand Garrison Artillery Volunteers (Auckland Naval Artillery Volunteers), is charged with

An act to the prejudice of good order and military discipline,
in that he, in a letter, signed by him, dated the 10th day of November, 1909, addressed to the Honourable the Minister of Defence, did make use of the following words in paragraph 4 of the said mentioned letter: "Prevent any possibility of a scandal leaking out to the public of the want of tact, and the interference, of the Chief of the General Staff."

R. J. SEDDON, Captain,
Staff Officer (in the absence on leave of
Colonel, Adjutant-General).

E. W. C. Chaytor, Lieut.-Col., President, Court of Inquiry.

[Enclosure No. 3 in No. 20.]

Charge-sheet.

Wellington, 17th December, 1909.

The accused, Captain Frank Berners Knyvett, No. 1 Company, Auckland Division of New Zealand Garrison Artillery Volunteers (Auckland Naval Artillery Volunteers), is charged with

An act to the prejudice of good order and military discipline,
in that he, in a letter, signed by him, dated the 10th day of November, 1909, addressed to the Honourable the Minister of Defence, did make use of the following words in paragraph 4 of the said mentioned letter: "It seems to me that the Chief of the General Staff has personally gone out of his way to belittle, discourage, and damp the enthusiasm in the whole Volunteer movement."

R. J. SEDDON, Captain,
Staff Officer (in the absence on leave of
Colonel, Adjutant-General).

E. W. C. Chaytor, Lieut.-Col., President, Court of Inquiry.

[Enclosure No. 4 in No. 20.]

Charge-sheet.

Wellington, 17th December, 1909.

The accused, Captain Frank Berners Knyvett, No. 1 Company, Auckland Division of New Zealand Garrison Artillery Volunteers (Auckland Naval Artillery Volunteers), is charged with

An act to the prejudice of good order and military discipline,
in that he, in a letter, signed by him, dated the 10th day of November, 1909, addressed to the Honourable the Minister of Defence, did make use of the following words in paragraph 4 of the said mentioned

letter: "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."

R. J. SEDDON, Captain,
Staff Officer (in the absence on leave of
Colonel, Adjutant-General).

E. W. C. Chaytor, Lieut.-Col., President, Court of Inquiry.

[Enclosure No. 5 in No. 20.]

Charge-sheet.

Wellington, 17th December, 1909.

The accused, Captain Frank Berners Knyvett, No. 1 Company, Auckland Division of New Zealand Garrison Artillery Volunteers (Auckland Naval Artillery Volunteers), is charged with

An act to the prejudice of good order and military discipline,
in that he, in a letter, signed by him, dated the 10th day of November, 1909, addressed to the Honourable the Minister of Defence, did make use of the following words in paragraph 5 of the said mentioned letter: "I have documents in my possession which, if published, would have created a grave scandal in Volunteering throughout the whole Dominion."

R. J. SEDDON, Captain,
Staff Officer (in the absence on leave of
Colonel, Adjutant-General).

[Minute.] Charge withdrawn by order of convening officer.—E. W. C. CHAYTOR, Lieut.-Col.

Enclosure No. 6 in No. 20.

ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the OFFICER COMMANDING AUCKLAND MILITARY DISTRICT, Auckland.

Wellington, 17th December, 1909.

IN further reference to this matter, a Court of Inquiry, consisting of the undermentioned officers, has been ordered to assemble at the Garrison Hall, Auckland, at the hour of nine-thirty o'clock on the morning of the twenty-first day of December, 1909, to investigate certain charges preferred against Captain Knyvett: President, Lieut.-Colonel E. W. Chaytor, N.Z.M.; members, Captain (Acting-Major) Julius Sandtmann (4th Regiment, Wellington, East Coast Mounted Rifles) Captain John Thomas Bosworth, Active List.

R. J. SEDDON, Captain,
Staff Officer (in the absence on leave of
Colonel, Adjutant-General).

No. 21.

Captain KNYVETT, Auckland, to Lieut.-Colonel CHAYTOR, Wellington.

Auckland, 18th December, 1909.

Arrest of Captain Knyvett.

SIR,—

I have the honour to submit herewith a list of the names and addresses of the witnesses whom I desire to give evidence on my behalf. This is in accordance with your request of the 17th December, and I trust that you will not delay to issue the necessary subpoenas.

I have, &c.,

FRANK KNYVETT, Captain.

[Minute.] The Adjutant-General.—I found this letter on my return from Auckland. It was delivered here on Tuesday afternoon, 21st instant.—E. W. C. CHAYTOR, Lieut.-Colonel.

Enclosure No. 1 to No. 21.

Captain KNYVETT, Auckland, to Lieut.-Colonel CHAYTOR, Wellington.

Auckland, 18th December, 1909.

Arrest of Captain Knyvett.

SIR,—

In response to the charges laid by the A.G. New Zealand Defence Force, and to the memo. accompanying the same, I request that the following officers be warned as witnesses on my behalf, and, also, that all correspondence between Wellington, Auckland, or elsewhere relating to or incidental to the above subject be produced at the inquiry: Lieut.-Colonel Smythe, O.C. Otago District; Lieut.-Colonel Bauchop, C.M.G., O.C. Wellington District; Colonel Robin, C.G.S., Wellington; Lieut.-Colonel A. Bell, W.M.R., Hamilton; Captain Richardson, C.A.O., Wellington; Captain Trask, Staff Officer

to C.G.S., Wellington; Captain Ellis, O.C. No. 2 G.A.V., Wellington; Captain Chesney, A.A.G., Wellington; Major Hazard, Auckland; Colonel Holgate, Auckland; Colonel Wolfe, Auckland; Colonel Reed, Auckland; Surgeon-Captain Murray, Auckland; Captain Dawson, Auckland; Captain Shera, Auckland; Captain Archibald, Auckland; Captain Nicholson, Te Kuiti; Lieutenant Pullen, Auckland; Captain Samuel, Petone; Lieutenant Greenhough, Auckland; Sergeant-Major McKerras, Auckland; Sergeant-Major Cheater, Auckland; Sergeant-Major Cardale, Auckland; Sergeant-Major Bell, Auckland; Sergeant-Major Atwell, Auckland.

I have the honour to protest that, owing to the charges being totally different to the ones under which I was arrested, I am unable to, without consideration, give further names of witnesses, but will notify the Board at the inquiry.

I have, &c.,

FRANK KNYVETT.

No. 22.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the OFFICER COMMANDING AUCKLAND MILITARY DISTRICT.

(Telegram.)

Wellington, 18th December, 1909.

COLONEL CHAYTOR will arrive Auckland Monday afternoon train.

ADJUTANT-GENERAL.

No. 23.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the OFFICER COMMANDING AUCKLAND MILITARY DISTRICT.

Wellington, 19th December, 1909.

ADVERTING to my wire of the 14th instant, please arrange to be in Auckland to-morrow afternoon. Wiring later.

ADJUTANT-GENERAL.

No. 24.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the OFFICER COMMANDING AUCKLAND MILITARY DISTRICT.

Wellington, 18th December, 1909.

WITH reference to your memo. of the 9th instant, forwarding a letter from Captain Knyvett, No. 1 Company, Auckland Division, New Zealand Garrison Artillery Volunteers, complaining of the delay in the settlement of his case, and your further wire of the 14th instant, notifying complaint of the Officer Commanding Division: The papers relating thereto were only received on the 7th instant, and were forwarded in accordance with section 54 (2) to the Defence Minister. Owing to the time taken in transit of correspondence to and from Auckland, the importance of the matter, and pressure of parliamentary business with the Minister, it is regretted that the case could not be further expedited.

R. J. SEDDON, Captain,

Staff Officer (in the absence on leave of Colonel, Adjutant-General).

No. 25.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the PRESIDENT, Court of Inquiry.

Wellington, 18th December, 1909.

(Memorandum.)

Court of Inquiry: Captain Knyvett.

HEREWITH please find file containing order convening Court of Inquiry, four charge-sheets [see Enclosures Nos. 2-5 in No. 20] and all papers relating to the above matter.

As Captain Knyvett may wish to call witnesses and see you relating thereto, it will be necessary for you to leave for Auckland not later than the 8.55 p.m. train on the 19th instant.

R. J. SEDDON, Captain,

Staff Officer (in absence on leave of Colonel, Adjutant-General).

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.

Accused's contention against charges was considered and disallowed, as the Court considers that the charges now being investigated are covered by charge No. 2 of the preliminary inquiry.

Accused stated that he considers it most unusual and improper that the charges should be distinctly changed since the preliminary inquiry ended when he was placed under arrest, and wished it noted that he could not notify witnesses before the opening day of the Court of Inquiry.

In support of his objection to the charges the accused referred to Manual of Military Law, p. 299, subsecs. 40 and 41, second and third subdivision of para. 32 (note *re*).

The accused admitted that he wrote the letter of the 10th November, 1909, addressed to the Minister of Defence. The original was shown to him. [See No. 1.]

The accused asked that the Court should rule whether the statements which are the subject of the charges were made meaningfully—*i.e.*, with a guilty intent.

The Court decided that they cannot rule on this question, which is really the subject-matter of the inquiry.

The accused claimed that the whole contents of his letter of the 10th November, 1909, was privileged, and quoted the case of *Dawkins v. Lord Paulet* (5 L.R. Q.B., p. 94).

The Court ruled that the case quoted by accused does not apply, and further ruled that the letter of the 10th November is not a privileged communication.

The accused claimed that the first charge is a meaningless phrase, and that none of the charges disclosed any offence.

The Court was closed to consider the claim, and on being reopened the Court announced that accused's claim was disallowed as regards charges one (1), two (2), and three (3), but the Court upheld accused's claim that charge four (4) does not disclose any offence.

The Court adjourned to 2 p.m. on Wednesday, 22nd December, and referred charge four (4) to the convening officer.

The Court was reopened at 2 p.m. on Wednesday, 22nd December, 1909, and recommended that charge four (4) should not be proceeded with.

Lieutenant Pullen, of No. 1 Company, Garrison Artillery Volunteers, in spite of being warned by the Court that the accused was not to receive any suggestions from him, handed to the accused a written suggestion, attached, marked [see Enclosure No. 4], and was therefore excluded from the proceedings.

The accused elected to give evidence on his own behalf, and was sworn.

Q. You honestly believe the statement you made forming charge one (1) to be true?—A. I believe now, as I did then, that it is absolutely true.

Q. You consider that Colonel Robin's want of tact, and interference, spoiled your trip to Wellington?—A. Yes, most decidedly.

Q. In what way do you consider that this want of tact, and interference, gave you cause for grievance?—A. I arrived at Wellington with my corps on Saturday night, 30th October, after being granted official leave, as shown in statement handed in by me and accepted by the Court, and marked [see Enclosure No. 2]. I found at 4.30 a.m. on Monday in an issue of the *Dominion* an article marked [see Appendix No. 1].

Q. You consider that this article seriously affected the success of your trip?—A. It absolutely spoilt it.

Q. In what way do you consider you were interfered with by the Chief of the General Staff?—A. By the articles which appeared in the *Dominion*, *New Zealand Times*, and *Post*, marked [see Appendices Nos. 2, 3, 4, 5].

The Court did not consider it necessary to call additional evidence on the first charge.

Q. You believed the statement forming the second charge to be true?—A. Yes.

Q. How do you consider this affected your grievance?—A. The articles handed in, marked [see Appendices Nos. 1, 2, 3, and 4], were belittling me personally as the officer commanding the company; belittling the object and authority for the object. The articles most distinctly discouraged the men, and damped their enthusiasm.

Q. You think that the belittling of yourself and your company would discourage and damp the enthusiasm of the whole Volunteer movement?—A. Most decidedly it would assist in damping the enthusiasm in the whole Volunteer movement.

The Court did not consider it necessary to call additional evidence on the second charge.

Q. Is it true that since these articles have appeared you 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?—A. It is true.

Q. Are you prepared to give the names of officers who so approached you?—A. I refuse to answer the question.

The Court was closed to consider this point, and decided that accused must answer.

Q. Are you prepared to give the names of officers who so approached you?—A. Yes, I am.

Q. Are you prepared to call evidence that officers having this experience have approached you?—A. Yes.

Q. I will ask you for the names of officers with this experience who so approached you?—A. (1) Captain Thomas Henry Dawson, Officer Commanding College Rifles, and Signalling Staff Officer for the Auckland District; (2) Captain Louis Murray Shera, commanding the Auckland Company of the New Zealand Engineers; (3) Colour-Sergeant Mackerras, Newton Rifles, Auckland.

Q. Those are all the names you wish to give?—A. Yes, at present.

The evidence was read over to the witness.

Captain Thomas Henry Dawson, College Rifles, and Signalling Staff Officer of the Auckland District, duly sworn.

Q. Are you an officer of considerable service?—A. I have about fifteen years' service, counting my cadet service, including two years and three months on active service, two years of which were as a subaltern in the First Border Regiment.

Q. Are you a Staff officer in this district without pay?—A. Yes.

Q. Since Captain Knyvett's return from Wellington did you approach the accused and give to him similar examples of unwarranted interference of the Chief of the General Staff?—A. Yes, examples of what I considered unwarranted interference.

The evidence was read over to the witness.

Captain Louis Murray Shera, Captain of No. 3 Company New Zealand Engineers, duly sworn.

Q. What service have you had?—A. Twelve years in the College Rifles, and about twelve months in the No. 3 Company New Zealand Engineers, to which I was transferred from the College Rifles. Active service from February to August, 1902.

Q. Were you mentioned in despatches?—A. No.

Q. Since Captain Knyvett's return from Wellington have you approached him as to having experience of similar unwarranted interference of Colonel Robin?—A. Yes.

The evidence was read over to the witness.

Colour-Sergeant James Murray Mackerras, Newton Rifles, duly sworn.

Q. What service have you?—A. About fifteen years' broken service, ten years' consecutive service. I served as a Corporal in the Highland Rifles, Dunedin, in 1888; private in the Clutha Mounted Rifles; Sergeant-major in the Feilding Mounted Rifles; and Colour-Sergeant in the Gisborne Rifles.

Q. Since Captain Knyvett's return from Wellington have you approached him as to having experience of unwarranted interference by Colonel Robin?—A. Yes.

The evidence was read over to the witness.

The Court adjourned until 10 a.m. on Thursday, 23rd December.

The Court met at 10 a.m. and deliberated, and was reopened at 10.22 a.m.

The Court addressed the accused and asked if he wished to call any officers not residents of Auckland in support of his statement forming charge No. 4.

The accused stated that he did not wish to give the names of officers who might be damaged in their public career.

Q. On the presumption that your grievance was caused by the action of Colonel Robin, do you consider you were justified in using such terms of your superior officer?—A. I considered it my duty, as well as having justification. I realised when sending it that I should be a marked man whilst the officer I complained about was still in the service. I did not do it with any malicious intent.

The accused objected that the witnesses who gave evidence were called by him, and not by the Court.

The accused wished to know by whose instructions the Officer Commanding the District placed him under arrest. The Court declined to answer the question.

The accused stated that he was being injured by reason of the length of time during which he was being kept under arrest, and requested the Court to telegraph the proceedings to the convening officer, in order to obtain an early decision.

The Court stated that this request could not be complied with, but undertook to convey his request to the convening officer.

E. W. C. CHAYTOR, Lt.-Col., President.

J. SANDTMANN, Acting-Major, Member.

J. T. BOSWORTH, Capt., Member.

[Enclosure No. 1 in No. 26.]

Order convening Court of Inquiry.

Headquarters, Wellington, 17th December, 1909.

A COURT of Inquiry consisting of the undermentioned officers is hereby ordered to assemble at the Garrison Hall, Auckland, at the hour of nine-thirty o'clock on the morning of the twenty-first day of December, 1909, to investigate certain charges preferred against Captain Frank Berners Knyvett, No. 1 Company, Auckland Division of New Zealand Garrison Artillery Volunteers:—

President: Lieut.-Colonel E. W. C. Chaytor, N.Z.M.

Members: Captain (Acting-Major) Julius Sandtmann, 4th Regiment, Wellington (East Coast) Mounted Rifle Volunteers; Captain John Thomas Bosworth, Active List (Unattached).

R. J. SEDDON, Captain,

Staff Officer (in absence on leave of
Colonel, Adjutant-General).

E. W. C. Chaytor, Lieut.-Colonel, President, Court of Inquiry.

[Enclosure No. 2 in No. 26.]

That an inquiry was held on Wednesday, the 10th instant, in Auckland, by the Officer Commanding the Auckland District, into the circumstances attending No. 1 Company leaving Auckland. As a result of the inquiry, Lieut.-Colonel Wolfe officially informed Captain Knyvett that he himself, as an officer, had in no way committed any breach of the regulations; that he was quite satisfied that Captain Knyvett had received official leave to travel in uniform; and that there was nothing he had done that was contrary to regulations of any kind.

[Enclosure No. 3 in No. 26.]

Captain F. B. Knyvett, O.C. No. 1, G.A.V., is charged with,—

1. An act of gross insubordination in having forwarded the letter in question in which he criticizes the administration of the Defence Department.
2. Bringing a charge against his superior officer couched in the most insubordinate language.

[Enclosure No 4 in No. 26.]

No Court may require you to prove what witness you require—it is for you alone (accused) to decide common fair play.

The law as to evidence of witnesses a long distance away is civil. This is a military Court, and I consider the gravity of my case warrants my having any evidence I require. No Court may inquire as to a witness being necessary or not : it is for the accused.

No. 27.

Lieut.-Colonel CHAYTOR, Auckland, to ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington.
[Telegram.] Auckland, 21st December, 1909.

ACCUSED objects to charge 4, *re* having documents in his possession, &c., as not disclosing any offence. Court upholds objection, and refers question of striking out or amending charge to convening officer. Please reply urgent. Lieut.-Colonel CHAYTOR.

No. 28.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to Lieut.-Colonel CHAYTOR, Auckland.

[Telegram.]

Auckland, 21st December, 1909.

Re your wire regarding objection raised : Is the objection to fourth charge only ?

ADJUTANT-GENERAL.

No. 29.

Lieut.-Colonel CHAYTOR, Auckland, to ADJUTANT-GENERAL, Wellington.

[Telegram.]

Auckland, December, 1909.

ACCUSED objected to all four charges, but Court disallowed objection except as regards fourth charge. Lieut.-Colonel CHAYTOR.

No. 30.

ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to Lieut.-Colonel CHAYTOR, Auckland.

[Telegram.]

Auckland, 21st December, 1909.

AMEND charge four mentioned by deleting the words "an act," and substituting the word "conduct" This allows charge being dealt with as originally outlined. Proceed with all four charges.

ADJUTANT-GENERAL.

No. 31.

ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to Lieut.-Colonel CHAYTOR, Auckland.

[Telegram.]

Auckland, 21st December, 1909.

DAILY newspapers here state inquiry open to Press. Please report thereon.

ADJUTANT-GENERAL.

No. 32.

Lieut.-Colonel CHAYTOR, Auckland, to ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington.

[Telegram.]

Auckland, 22nd December, 1909.

Re your instructions to amend charge four, Court considers particulars of charge—namely, accused's statement that he possesses certain documents—does not constitute an offence, nor does his letter disclose any intention of publishing such documents. Lieut.-Colonel CHAYTOR.

No. 33.

Lieut.-Colonel CHAYTOR, Auckland, to ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington.

Auckland, 22nd December, 1909.

Re your telegram of twenty-first instant : Court decided that in accordance with Manual of Military Law inquiry must be open. Lieut.-Colonel CHAYTOR.

No. 34.

ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to Lieut.-Colonel CHAYTOR, Auckland.

[Telegram.]

Te Aro, 22nd December, 1909.

IN reference to your telegram of to-day *re* charge four, this charge need not now be proceeded with, and may be struck out.

ADJUTANT-GENERAL.

No. 35.

REPORT OF THE COURT OF INQUIRY convened at the Garrison Hall, Auckland, on the 21st December, 1909, for the Purpose of investigating certain Charges against Captain Frank Berners Knyvett, No. 1 Company, Auckland Division of New Zealand Garrison Artillery Volunteers.

1. THE Court sat from Tuesday, 21st December, at 9.30 a.m. to Thursday, 23rd December, at 1.30 p.m.
2. The accused, having admitted the letter of the 10th November, 1909, addressed to the Right Hon. the Minister of Defence and the signature thereto as being his, was informed that the Court did not propose to call any witnesses for the prosecution.
3. The accused gave the Court the names of witnesses whom he wished to call. The names of these witnesses are shown on list marked [see Enclosure No. 1] attached to proceedings.
4. Accused was informed that he would not be allowed to call evidence in support of the allegations against the Chief of the General Staff, contained in his letter of the 10th November, 1909, but was at liberty to bring evidence which would show that the portions of his letter which form the charges against him are not offences under section 54, Defence Act, 1908, and paragraph 180, General Regulations of the New Zealand Defence Forces.
5. The Court acted on the principle that the accused must bring evidence showing that when he wrote the letter of the 10th November, he honestly believed that he was justified in making the statements which form the subject of this inquiry, and that these statements were relevant to his claim for redress of his grievance.
6. The Court therefore decided that, having brought forward such evidence by means of several witnesses, it was unnecessary to call further evidence of a similar nature.
7. The Court informed the accused that, notwithstanding this decision, it was open to the convening officer to require additional evidence, if he deems it necessary.
8. With reference to the accused's complaint that his witnesses were not subpoenaed by the Court, but called by him, the Court wishes to state that the witnesses examined were waiting at or in the vicinity of the Garrison Hall, and that no delay was occasioned by reason of formal subpoenas not having been sent to them. Had further evidence been deemed necessary, subpoenas would have been sent to any material witnesses to insure their attendance.
9. List of witnesses examined is attached, and marked [see Enclosure No. 2].

E. W. C. CHAYTOR, Lieut.-Col., President.

J. SANDTMANN, Acting-Major, Member.

J. T. BOSWORTH, Captain, Member.

[Enclosure No. 1 in No. 35.]

Colonel Robin, Chief of the General Staff.
 Colonel Smythe, Officer Commanding District, Otago, Dunedin.
 Colonel Beauchop, Officer Commanding Wellington District.
 Captain Chesney, Assistant Adjutant-General, Wellington District.
 Captain Trask, Staff Officer to Chief of General Staff.
 Captain Nicholson, Te Kuiti.
 Lieut.-Colonel Wolfe, Officer Commanding Auckland District.
 Lieut.-Colonel Holgate, Officer Commanding 1st Regiment A.M.R. Volunteers.
 Major Hazard, Auckland Division, Garrison Artillery.
 Captain Kay, Officer Commanding Gordon Rifles.
 Captain Dawson, Officer Commanding Cycle and Signalling Corps.
 Captain Shera, Officer Commanding No. 3 New Zealand Engineers.
 Captain Richardson, Officer Commanding No. 2 New Zealand Native Rifles.
 Captain Archibald, Active List.
 Lieutenant Greenhough, No. 1 Company, Auckland Division, Garrison Artillery.
 Surgeon-Captain Murray, No. 1 Company, Auckland Division, Garrison Artillery.
 Sergeant-major Cheater, Staff Instructor, Auckland District.
 Sergeant-major Bell, Staff Instructor, Auckland District.
 Sergeant-major Atwell, Staff Instructor, Auckland District.
 Colour-Sergeant McKerras, Newton Rifles.
 Sergeant-major Cardale, Staff Instructor, Auckland District.

[Enclosure No. 2 in No. 35.]

Court of Inquiry.—Captain Frank Berners Knyvett.—List of Witnesses (Defence).

Rank and Name.	Address.	Occupation.	Dates of Attendance.
Captain T. H. Dawson	Remuera, Auckland ..	Solicitor ..	22nd December.
Captain L. M. Shera	Remuera, Auckland ..	Civil Service	22nd December.
Colour-Sergeant J. J. Mackerras ..	C/o — Owen, land agent, Auckland	Land agent	22nd December.

E. W. C. CHAYTOR, Lieut.-Colonel,
President, Court of Inquiry.

No. 36.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the Right Hon. MINISTER OF DEFENCE.

The Right Hon. the Minister of Defence. Wellington, 29th December, 1909.
In accordance with section 54 (2), Defence Act, I beg to forward herewith the proceedings of a Court of Inquiry held at Auckland on the 21st instant for the purpose of investigating certain charges preferred against Captain F. B. Knyvett, No. 1 Company, New Zealand Garrison Artillery Volunteers.

Having carefully perused the evidence, I am of opinion that the said charges have been proved, and that Captain Knyvett has been guilty of an act of gross insubordination in forwarding an official letter couched in such insubordinate language, and in which he brings grave charges against a superior officer.

I would therefore recommend that His Excellency the Commander in Chief be advised to dismiss Captain Knyvett from the Defence Forces.

H. D. TUSON, Colonel,
Adjutant-General.

For Cabinet.—J. G. WARD.—30/12/09.

In Cabinet, 31st December, 1909.—Adjutant-General's recommendation approved.—J. HISLOP, Acting-Secretary.

No. 37.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the Right Hon. the MINISTER OF DEFENCE, Wellington.

Wellington, 31st December, 1909.

Captain F. B. Knyvett, Dismissal of.

WARRANT for submission to His Excellency the Governor and Commander-in-Chief for the dismissal of Captain Frank Berners Knyvett, No. 1 Company, Auckland Division, New Zealand Garrison Artillery Volunteers, from the New Zealand Defence Forces, is forwarded herewith for favour of your signature; Cabinet having approved of my recommendation of the 29th instant.

H. D. TUSON, Colonel, Adjutant-General.

No. 38.

Wellington, 31st December, 1909.

His Excellency the Governor is respectfully advised to signify his pleasure, under section 54 (2) of the Defence Act, 1908, upon the dismissal from the New Zealand Defence Forces of Captain Frank Berners Knyvett, No. 1 Company, Auckland Division, New Zealand Garrison Artillery Volunteers, he having been found guilty of "an act to the prejudice of good order and military discipline," and with effect from 31st December, 1909.

Papers attached for His Excellency's information.

J. G. WARD,
Minister of Defence.

Right Hon. the Minister of Defence.—Captain F. B. Knyvett to be dismissed from the New Zealand Defence Forces.—PLUNKET, Governor. 1st January, 1910.

No. 39.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the OFFICER COMMANDING, Auckland Military District.

Wellington, 5th January, 1910.

Court of Inquiry, Captain Knyvett.

In connection with the above Court of Inquiry, convened for the 21st ultimo, for the purpose of investigating charges preferred against Captain Frank Berners Knyvett, No. 1 Company, Auckland Division,

New Zealand Garrison Artillery Volunteers, he having been found guilty of "an act to the prejudice of good order and military discipline," His Excellency the Governor has been pleased to signify his pleasure, under section 54 (2) of the Defence Act, 1908, upon this officer's dismissal from the New Zealand Defence Forces, and with effect from 31st December, 1909, and you will please inform him accordingly.

Notification will appear in the next issue of the *New Zealand Gazette* and General Orders.

H. D. TUSON, Colonel,
Adjutant-General.

No. 40.

Memorandum from the CHIEF OF THE GENERAL STAFF to the Right Hon. the MINISTER OF DEFENCE.

Defence Department, Wellington, New Zealand,
18th January, 1910.

The Right Hon. the Minister of Defence.

For your Information : Re Visit No. 1 Company, Garrison Artillery, to Wellington.

THE file shows clearly the company left Auckland without any official sanction.

That an application arrived at Headquarters office, Wellington, at 9.30 o'clock on Saturday morning, 30th October, asking to visit Petone Navals. This was returned to Auckland by midday express same day, asking for what purpose was the visit intended, and, as per regulations, what would be the approximate cost; by this time the company were half-way to Wellington, having started on the Friday night, 29th October, without permission of the Officer Commanding the Auckland District.

No word of their being *en route* to Wellington had been received by Headquarters or the Officer Commanding District, Wellington; neither had the officer commanding Petone Navals any notification of their intending to arrive on Saturday night.

On return of the company to Auckland the Officer Commanding the District was asked to inquire into the matter; and the outcome was that those concerned were to be informed that the visit was irregular, and must not again occur, District Order being issued to that effect by the Officer Commanding District, to apply generally; and, further, that as no cost was entailed on the Government, the company having paid for railway transport, the matter could rest there.

This act alone should have justified severe punishment, but the Council of Defence considered that as the company had to find the cost of the trip that would be sufficient punishment.]

File re Letter to the Hon. the Minister of Defence.

The matter was, however, reopened in a much more serious manner by Captain Knyvett when he wrote a most insubordinate letter to the Minister of Defence, forwarding same through the Officer Commanding District. Although the Officer Commanding District returned the letter to Captain Knyvett, pointing out that it should not be couched in such language, he (Captain Knyvett) refused to amend same, and stated he wished it to go as it was.

In due course this letter came to hand; Captain Knyvett was placed under arrest; charges were made; a Court of Inquiry formed. The papers and their finding were in the usual course forwarded to the Hon. the Minister of Defence, thence to His Excellency the Governor; and the award was, "That Captain Knyvett be dismissed from the service."

I desire to say that as Chief of the General Staff I took no part whatever in the matter, either in the formation of the Court, the charges, the finding, or the punishment, the section of the Defence duties under my charge not requiring me to deal with questions of discipline.

The letter on which the dismissal is based is a direct attack on myself, and is unwarranted. I in no way stopped or blocked the trip, as no application to visit Wellington was received until the company was half-way on their journey.

The only connection I had with the matter was that the representatives of the Press, by telephone, asked the question, "Is it a fact these men are here without authority?" (See newspaper report on file [Appendix No. 1]).

I definitely state that I had nothing whatever to do with the writings or articles in the Press, and all the abuse that has fallen on me is most unjust.

It has been suggested that officers are prevented from bringing forward any complaint or grievance. This is not so. Any officer can represent any grievance through the proper channel—the Officer Commanding District, who, if he could not deal with such locally, would refer it to the Council of Defence, when every and just consideration would be given to it; but such insubordinate and unwarranted personal attacks on any Government official should not be permitted.

I beg to request that a full inquiry be held into any charges made against me. I have no prejudice of any kind against Captain Knyvett, and have only done my duty, as I would do in the case of any officer who was breaking the regulations of the service.

Re Claim refund Railway Fares, Wellington Visit.

Captain Knyvett forwarded an application for refund of railway fares, under the circumstances already described. Payment of same was declined.

Re Technical School Costs.

An account for £83 came to hand for instruction of the Electrical Engineers and Engine-drivers of the Artillery Volunteers in Auckland. Captain Knyvett, with three others, shared in this. No authority had been obtained from either the Council of Defence or the Officer Commanding District.

If officers of corps are to carry out any idea they may have, and then ask for authority afterwards, in matters of visits and administration, where is it to end? And, as in the case of Captain Knyvett, when called on to explain same, to retaliate in public abuse of senior officers whose duty it is to control such matters, will all discipline end?

File re Promotion to Major

Shows Captain Knyvett joined New Zealand Forces in 1905; resented not being promoted to Major, and in public expressed his intention of resigning, though every consideration was given him, even to agreeing to count-in South African service for time he might have been an officer in such service, although not in a New Zealand contingent.

The whole affair shows that Captain Knyvett has at all times been given every consideration, and treated with leniency.

A. W. ROBIN, Colonel.

No. 41.

The Right Hon. the MINISTER of DEFENCE to the ADJUTANT-GENERAL, New Zealand Defence Forces.

Prime Minister's Office, Wellington,
20th January, 1910.

Memorandum for the Adjutant-General.
I SEND you herewith the file of the Knyvett papers in order that you may ascertain from the President of the Court whether the statement made by the deputation [see Appendix No. 6] that waited upon me yesterday is correct—viz., that the evidence upon which you made your recommendation to the Government is incomplete. I also send you a copy of the evidence [see Appendix No. 7] which the deputation declared had been taken by a Court shorthand-writer, and certified to by him to them as correct, in which evidence they pointed out that the President of the Court is alleged to have stopped Captain Knyvett from calling further witnesses upon the ground that the Court was satisfied that it was unnecessary, and from this Captain Knyvett is alleged to have concluded that the charges against him were not proven, and it was unnecessary for him to proceed further. On receipt of the President's reply I shall be glad if you will fully consider the matter and report to me as soon as possible.

J. G. WARD,
Minister of Defence.

No. 42.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the PRESIDENT, Court of Inquiry.

Wellington, 25th January, 1910.

I BEG to forward herewith a memorandum received from the Right Hon. the Minister of Defence requiring, in connection with the Court recently held in Auckland, information on the following points,—viz., (1) Whether the evidence recorded by the Court and on which I made my recommendation to the Government was complete; (2) Whether you, as President of the Court stopped Captain Knyvett from calling further evidence, on the ground that it was considered unnecessary, and from which Captain Knyvett is alleged to have concluded that the charges against him were not proven, and it was unnecessary for him to proceed further.

The file in connection with the case is forwarded, together with a copy of the evidence taken down by a shorthand writer.

H. D. TUSON, Colonel, Adjutant-General.

No. 43.

The PRESIDENT, Court of Inquiry, to the ADJUTANT-GENERAL, New Zealand Defence Forces.

Wellington, 28th January, 1910.

REPORT, by Court of Inquiry, on points raised by you in your letter of the 25th instant is attached.

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

President, Court of Inquiry.

[Enclosure in No. 43.]

1. PROCEEDINGS OF COURT OF INQUIRY reassembled at Headquarters, Wellington, at 2.30 p.m. on Thursday, 27th January, 1910, to report on certain Points in Connection with the Court of Inquiry, which sat at Auckland, on the 21st, 22nd, and 23rd December, 1909, to investigate certain Charges against Captain Frank Berners Knyvett.
2. THE order convening the reassembling of the Court was read.
3. The letter from the Adjutant-General dated 25th January, 1910, was read.
4. The typewritten report of proceedings of the Court held at Auckland, handed in by the deputation was read.
5. The Court has to report as follows on the questions contained in the Adjutant-General's letter above referred to, viz.:—
6. Question 1.—“Whether the evidence recorded by the Court, and on which I made my recommendation to the Government, was complete.”

7. No evidence on oath was taken during the first day.

8. The proceedings on the first day (the record of which handed in by the deputation occupies twenty-three pages of the type-written statement) dealt almost entirely with points raised by the accused as to privilege, objections to the charges against him, and with his right to be assisted by counsel or a friend.

9. The Court deliberated from time to time on the various objections raised by the accused, and recorded them, as well as its ruling, on the proceedings previously submitted.

10. The questions and the answers given on oath by accused and his witnesses were recorded in the proceedings.

11. The evidence of each witness was subsequently read over to him, and each witness agreed that the record of his evidence was correct.

12. The Court had no facilities for making a verbatim record of the whole proceedings, but nothing essential was omitted.

13. *Question 2.*—"Whether you, as President of the Court, stopped Captain Knyvett from calling further evidence, on the ground that it was considered unnecessary, and from which Captain Knyvett is alleged to have concluded that the charges against him were not proven, and it was unnecessary for him to proceed further."

14. The President did not stop the accused from calling further evidence. The Court (as clearly stated in paragraphs 4, 5, and 6 of their report attached to the proceedings) explained to the accused that any evidence produced by him must be relevant to the charges against himself; also that the Court was not concerned with the truth or untruth of the allegations against the Chief of the General Staff, and that consequently no evidence in support of them would be admitted.

15. The accused stated on oath that he honestly believed the newspaper articles commenting on his company's visit to Wellington correctly reported the views expressed by Colonel Robin regarding it; that these articles completely spoiled his undertaking; and that they belittled him before his men and the public. The accused swore that he was not actuated by malice in writing the letter which is the subject of this inquiry.

16. He also brought witnesses in support of his statement that he had been approached by other officers who considered they had suffered from unwarranted interference on the part of the Chief of the General Staff.

17. After this evidence, as recorded in the proceedings, was given, the Court informed the accused that it was unnecessary to produce further evidence of a similar nature.

18. The Court did not make any statement which could have justified the accused in concluding that the charges against him were not proven.

E. W. C. CHAYTOR, Lieut.-Col., President of Court.

J. SANDTMANN, Acting-Major, Member.

J. T. BOSWORTH, Captain, Member.

ORDER FOR REASSEMBLING OF COURT OF INQUIRY, CAPTAIN F. B. KNYVETT.

I, HARRY DENISON TUSON, Colonel, N.Z.M., Adjutant-General, Council of Defence, do hereby order the Court of Inquiry, as convened for the 21st December, 1909, at Auckland, to investigate charges preferred against Captain Frank Berners Knyvett, No. 1 Company, Auckland Division, New Zealand Garrison Artillery Volunteers, to reassemble in accordance with paragraph 206, General Regulations of the Defence Forces of New Zealand, 1906, at Headquarters, Buckle Street, Wellington, at the hour of two-thirty o'clock in the afternoon, on the 27th January, 1910, to reconsider certain points in connection therewith, which will be duly laid before the Court.

President: Lieut.-Colonel E. W. C. Chaytor, New Zealand Militia.

Members: Captain (Acting-Major) Julius Sandtmann, 4th Regiment, Wellington (East Coast) Mounted Rifle Volunteers; Captain John Thomas Bosworth, Active List (Unattached).

Headquarters, 26th January, 1910. H. D. TUSON, Colonel,
Adjutant-General.

I, EDWARD WALTER CLERVAUX CHAYTOR, 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.

E. W. C. CHAYTOR,
Lieut.-Colonel, N.Z. Militia.

I, JULIUS SANDTMANN, 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.

J. SANDTMANN, Major (Acting),
4th Regiment, Wellington Mounted Rifle Volunteers.

I, JOHN THOMAS BOSWORTH, 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.

J. T. BOSWORTH, Captain,
Active List (Unattached).

No. 44.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the Right Hon. the
MINISTER OF DEFENCE.

The Right Hon. the Minister of Defence.

Wellington, 29th January, 1910

IN accordance with your instructions, I beg to report that the Court of Inquiry reassembled at Wellington on the 27th instant, and I attach herewith its report [see Enclosure in No. 43] on the points on which you required information.

I would suggest that the file be submitted to the Solicitor-General for his opinion on the following points:—

(1.) Whether Colonel Robin was a material witness, and, if so, whether the Court was justified in refusing to allow his evidence on the grounds of irrelevancy.

(2.) Whether the Court was justified, from a legal point of view, in refusing to admit evidence in support of the allegations against the Chief of the General Staff, as thereby the accused was unable to prove "provocation by a superior" (*vide* par. 23, p. 61, and par. 5, p. 16, Manual of Military Law.)

H. D. TUSON, Colonel,
Adjutant-General.

The Solicitor-General.—For your opinion.—J. G. WARD. 31/1/10.

Hon. the Attorney-General.—I had partially dealt with this matter when the recent official changes transferred me to the Public Trust Office. I think, therefore, I should not now deal with it. Accordingly I forward the papers to you.—FRED. FITCHETT. 31/1/10.

No. 45.

The SOLICITOR-GENERAL to the Right Hon. the MINISTER OF DEFENCE.

The Right Hon. the Minister of Defence.

Law Drafting Office,
Wellington, 1st February, 1910.

Captain Knyvett's Case.

My opinion is asked as to the regularity and validity of the proceedings of the Court of Inquiry in this case. I consider that those proceedings were substantially correct and that Captain Knyvett was lawfully dismissed from his office.

In particular, I think that the Court was justified in refusing to hear the evidence of Colonel Robin, and of the other witnesses whose evidence was rejected. It is evident from the report of the inquiry that Captain Knyvett's intention in examining Colonel Robin and those other witnesses was to prove the truth of the accusations made by him against that officer. This issue was, however, as the Court rightly pointed out, irrelevant to the inquiry. The question before the Court was not whether those accusations were true or false, but whether, in making them in the manner in which they were made (and irrespective of their truth or falsehood), Captain Knyvett was guilty of an offence against military discipline which justified his dismissal. I am of opinion that the evidence is sufficient to justify, as a matter of law, the conclusion that Captain Knyvett was guilty of "insubordination" within the meaning of section 54 of the Defence Act, 1908.

That term is wide enough to include any conduct on the part of an inferior which is inconsistent with his proper relation of subordination to his superior officers, and includes therefore such an attack on the character and competence of Colonel Robin as was made in this case. Independently of section 54 of the Act, it would seem that Captain Knyvett had also committed a breach of the regulations as to the discipline of the Defence Forces: See Regulations 174 to 180. These regulations prescribe the method in which aggrieved members of the Defence Forces are to bring their complaints to the notice of the authorities, and the prescribed method was not followed by Captain Knyvett.

It is true that the charge formulated for the Court of Inquiry does not specifically refer to section 54 of the Act or to the regulations, but I think that the defendant had sufficient notice of the nature of the offence with which he was charged, and a sufficient opportunity of answering that charge.

JOHN W. SALMOND,
Solicitor-General.

I have perused the copy of the evidence supplied by Capt. Knyvett, as has the Solicitor-General. I concur in the views expressed by the Solicitor-General, assuming that the copy of the evidence supplied by Capt. Knyvett is correct.—J. G. F. 1/2/10.

Referred to the Adjutant-General.—J. G. WARD. 1/2/10.

No. 46.

The ADJUTANT-GENERAL, New Zealand Defence Forces, Wellington, to the Right Hon. the MINISTER OF DEFENCE.

The Right Hon. the Minister of Defence.

Wellington, 2nd February, 1910.

IN view of the report of the Court of Inquiry which reassembled at Wellington on the 27th ultimo, and the opinion expressed by the Solicitor-General on the regularity and validity of the proceedings, I consider,—

(1.) That all essential evidence was before me when I made my recommendation;

(2.) That the Court made no statement which could justify the accused in concluding that the charges against him were not proven.

Under these circumstances I can see no reason for reopening the case, or for altering my previous recommendation.

H. D. TUSON, Colonel,
Adjutant-General.

No. 47.

The Right Hon. the MINISTER OF DEFENCE to His Excellency the GOVERNOR.

Memorandum for His Excellency the Governor. Wellington, 3rd February, 1910.
THE Prime Minister presents his compliments to His Excellency the Governor, and forwards herewith for His Excellency's information the further report of the Adjutant-General [see No. 46] with reference to the Court of Inquiry into the charges against Captain Knyvett, together with the papers in connection therewith. J. G. WARD.

Seen.—PLUNKET. 3/2/1910.

For Cabinet.—J. G. WARD. 4/2/10.

In Cabinet.—4th Feb., 1910.—Previous decision to stand.—J. F. ANDREWS, Secretary.

No. 48.

Memorandum from the Right Hon. the MINISTER OF DEFENCE to the CHIEF OF STAFF.

Memorandum for the Chief of Staff.

Wellington, 5th February, 1910.

REFERRING to your memorandum, the Government will give you the opportunity you desire for inquiry when the new Commandant, who is to be appointed, arrives in the Dominion. At present there is no officer whose status is such that he could be appointed to make the inquiry you ask for. I will introduce legislation next session, setting up a permanent Court of Appeal in times of peace, to enable officers dismissed to have the right of appeal, and by this means prevent a recurrence of such a case as this being used to bring outside pressure to bear, and so interfere with the independent administration of the Defence Department, which, in the interests of the country, should be protected against interference of any kind. J. G. WARD.

No. 49.

The Hon. G. FOWLDS to the Right Hon. the MINISTER OF DEFENCE.

Memorandum for the Hon. the Minister of Defence.

Wellington, 26th February, 1910.

A DEPUTATION consisting of the chairman of a public meeting held in Auckland on the 14th instant, the executive of the Knyvett Defence Committee, and members of Parliament, waited upon the Hon. Dr. Findlay and me in Auckland on the 16th idem to supply us with copies of the resolutions passed at that meeting, desiring us to bring them before Cabinet with a view to the appointment of a Royal Commission of Inquiry into the administration of the Defence Department.

I promised to convey the representations to you, and accordingly forward the following papers herewith :—

- (1.) A copy of the resolutions referred to ;
- (2.) The reports of the *New Zealand Herald* [Appendix No. 8] and the *Auckland Star* [Appendix No. 9] of the representations made by the deputation, and of our replies ;
- (3.) A pamphlet entitled "The Whole of the Facts of the Knyvett Case," published by the Knyvett Defence Committee, and handed to me by the deputation [not printed] ; and
- (4.) A leading article on the case from the *Auckland Star* of the 17th instant [not printed].

GEO. FOWLDS.

Enclosure No. 1 in No. 49.

C. H. POOLE, Esq., M.P.—RESOLUTION No. 1 (INJUSTICE TO CAPTAIN KNYVETT).—SECONDED BY DR. STOPFORD.

THAT this meeting of Auckland citizens views with regret and indignation the decision of the Government to adhere to the grossly unjust sentence passed upon Captain Knyvett with respect to charges against which he has not been allowed a proper opportunity of defending himself, which have never been proved, and for which, if they had been proved, the punishment is out of all proportion to the offence.

Enclosure No. 2 in No. 49.

F. MANDER, Esq., M.P.—RESOLUTION No. 2 (DEMAND FOR ROYAL COMMISSION).—SECONDED BY A. E. GLOVER, Esq., M.P.

THAT it is the opinion of this meeting, in view of the disclosures made in connection with the Knyvett case, as well as the general state of unrest and dissatisfaction evident throughout the country, that there are strong and undoubted grounds for believing that there should be set up a Royal Commission of Inquiry into the administration of the Defence Department, and that this meeting empowers the gentlemen constituting the executive of the Knyvett Defence Committee to place the matter before the Government and request that such Royal Commission of Inquiry be set up without delay.

Enclosure No. 3 in No. 49.

F. W. LANG, Esq., M.P.—RESOLUTION No. 3 (DEPUTATION TO HON. G. FOWLDS AND HON. DR. FINDLAY).—SECONDED BY J. KNEEN, Esq.

THAT this meeting empowers a deputation, consisting of the chairman of the meeting, the executive of the Knyvett Defence Committee, and the members of Parliament here present, to wait on the Hon.

G. Fowlds and the Hon. Dr. Findlay, supply them with copies of the resolutions passed at this meeting, and request them to bring the matter before Cabinet without delay, with a view to a Royal Commission of inquiry into the administration of the Defence Department being set up at once.

No. 50.

STATUTORY DECLARATION MADE BY COLONEL TUSON, ADJUTANT-GENERAL OF THE DEFENCE FORCES:—

I, HARRY DENISON TUSON, of Wellington, in the Dominion of New Zealand, Colonel, Adjutant-General of the Defence Forces, do solemnly and sincerely declare,—

1. On or about the 13th day of November, 1909, I received from Lieut.-Colonel Wolfe, the Officer Commanding the Auckland District, a letter dated the 10th day of that month, signed by F. B. Knyvett, then a captain of Volunteers in the Auckland District.

2. The said letter was addressed to the Hon. the Minister of Defence, and made grave charges against Colonel Robin, the Chief of the General Staff.

3. I thereupon called a meeting of the Council of Defence to consider the matter, and the meeting was held on November 22nd, the persons present thereat being Colonel Collins, Colonel Robin, and myself.

4. At that meeting Colonel Robin made a statement in relation to the charges contained in the said letter, but no resolution was proposed or passed as to any action to be taken in the matter.

5. On November 26th I received from Colonel Robin a written statement in reply to the charges made in the said letter.

6. On November 29th I directed the Officer Commanding the Auckland District to take proceedings under section 54 of the Defence Act, 1908, with the view of having a charge of insubordination preferred against Captain Knyvett.

7. A preliminary inquiry was thereupon, in accordance with the Defence Act, 1908, made by the Officer Commanding the Auckland District, who reported, in accordance with section 54 of the said Act, that he considered the matter too serious to be dealt with by him.

8. The Minister of Defence thereupon, on the 15th day of December, while I was absent in Australia, directed, in pursuance of the said Act, that the charge so preferred against the said Captain Knyvett should be heard before a Board of Inquiry.

9. On the 17th day of December the said Board of Inquiry, consisting of Lieut.-Colonel Chaytor, Captain Julius Sandtmann, and Captain Bosworth, was summoned to sit at Auckland on December 21st.

10. On that day, while I was still absent from New Zealand, the inquiry was held accordingly, and the report of the Board of Inquiry was duly forwarded by the Board to Headquarters.

11. On December 29th, having carefully considered the said report, and being of opinion that Captain Knyvett had been proved guilty of an act of gross insubordination, I laid the report before the Right Honourable the Minister of Defence, with my recommendation that His Excellency the Governor should be advised to dismiss Captain Knyvett from the Defence Forces.

12. On December 31st this recommendation was approved, and, by Warrant signed by His Excellency the Governor on January 1st, 1910, Captain Knyvett was dismissed accordingly.

13. At no time in the whole course of the proceedings in connection with the aforesaid matters did Colonel Robin exercise or take part in any act of authority in relation to those matters or any of them, nor was he at any time consulted by me or, as I believe, by any other person as to any action to be taken in respect of any of those matters. The only occasion on which I held any communication with Colonel Robin on the said matters was the occasion already referred to, when a meeting of the Council of Defence was summoned and held in order that he might be afforded an opportunity of replying to the charges so made against him by Captain Knyvett.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the Justices of the Peace Act, 1908.

H. D. TUSON, Colonel,
Adjutant-General.

Declared at Wellington, this twenty-first day of May, 1910, before me—Hugh Pollen, a Justice of the Peace.

No. 51.

Letter from CHIEF REPORTER, *Dominion*, Wellington, to the Right Hon. the PRIME MINISTER.

SIR,—

Wellington, 13th July, 1910.

I wish to make quite clear to you, or any one else concerned, that the report which has been widely circulated to the effect that I admitted to Mr. Knyvett and his fellow officers that Colonel Robin supplied the information on which the *Dominion* based its news article, on the Monday succeeding the Saturday on which Knyvett and his men arrived in Wellington, is an entirely false one. When Knyvett and Co. called on me in reference to the same on the Monday morning in question I was as ignorant as anyone as to the source of the information; and also as to who wrote the article, having been off duty the previous day. Colonel Robin's name only cropped up with reference to the last line or two, which I explained was doubtless the result of a telephone inquiry (which is made quite clear in the article itself). This is what has been twisted into my saying that Colonel Robin supplied the information on which the article was based. I subsequently learned that Colonel Robin had nothing whatever to do with it beyond the telephone ring after the article was written.

I have, &c.,

HARCUS PLIMMER,
Chief Reporter, *Dominion*.

The Hon. the Prime Minister, Wellington.

APPENDICES.

APPENDIX No. 1.

[Extract from the *Dominion*, Wellington, of 1st November, 1909.]

A HUGE SURPRISE.—SIXTY GUNNERS FROM AUCKLAND.—ABSENT WITHOUT LEAVE.—ENCAMPED AT FORT KELBURNE.

Without as much as a "by your leave," in defiance of the rules and regulations, absolutely on their own initiation, in fact, sixty gunners from the Auckland Division of Garrison Artillery Volunteers walked into the training-camp of the Petone Navals at Fort Kelburne on Saturday evening, and announced that they had come down to knock that crack gunnery corps "kite high" in a big-gun "shoot." Strange hands were to be laid upon the big green monsters "A1" and "A2," which slumbered in their lairs, unconscious of the peril of their masters. To say that the Petone gunners were surprised is to feebly describe the situation. To arrange for the accommodation and comfort of sixty men requires some previous organization, considerable thought—not a matter of running round the corner for a few extras for tea, so to say. But when a half-company descends, as it were, from the clouds, and asks for food and lodging, and so forth, there is presented to the surprised host a problem of some difficulty.

A Costly Match.

To begin at the beginning: The other day a rumour was circulated in Wellington that a big-gun shooting competition had been arranged to take place at Fort Kelburne, Ngahauranga, between the Auckland and the Petone gunners. The rumour was investigated by a representative of *The Dominion*, and, as the result of inquiries made at headquarters, was subsequently contradicted in these columns. It was then stated that the cost of such a competition would run into something like £300, a sum which would be out of all proportion to the event—an inter-company match. It was, therefore, with no little surprise that one of our representatives noticed several gunners of the Auckland Garrison Artillery Division, in uniform, walking about town on Saturday night, and, upon inquiry, discovered that sixty non-commissioned officers and men of No. 1 Company, Auckland Garrison Artillery Volunteers, under Captain Knyvett, Lieutenant Greenhough, and Surgeon-Captain Murray, had arrived in Wellington by the Main Trunk express that afternoon for the purpose of challenging the Petone Navals at a 6 in.-gun competition at Fort Kelburne.

£150 out of Pocket—For Nothing.

The cost of the trip was something like £150, which was paid by the officers, non-commissioned officers, and men themselves. The half-company proceeded to Fort Kelburne, and were received with the liveliest astonishment by the Petone Navals, who temporarily accommodated their "surprise party" in their barracks and tents, the Petone men going to their own homes in the meantime. Yesterday morning a special supply of tents was sent out, and the northerners were made comfortable.

But there is to be no "shoot." The men are going home to-day, sorely disappointed. Before they go they will have an opportunity of witnessing a four-round instructional "shoot" by the Petone gunners as a preliminary to the Service Company Practice to be fixed later. This "service" practice now takes the place of the class-firing practice of previous years. So far as could be ascertained, the men themselves were under a distinct apprehension that the inter-company competition had been officially arranged, or they would not have gone to the expense and loss of time entailed in making the trip. That they actually undertook the expedition reflects the greatest credit upon them. The whole trouble appears to have been that the trip was made without the sanction of headquarters, which necessarily should have been consulted in a matter involving so much expense.

Colonel Robin interviewed.

Colonel A. W. Robin, C.B. (Chief of the General Staff), was interviewed with regard to the matter last evening. He stated that he had heard, to his complete astonishment, of the arrival of the Auckland gunners in Wellington. No application for permission to travel had been received from the company, nor had any official intimation of any kind reached him. He could not understand what the officers and men were thinking about to attempt to carry out such a scheme without permission of the responsible authorities.

The situation would be laughable in the extreme were it not for the obvious fact that the men, through some misunderstanding, have been induced to make an expensive trip which has failed in its object; they have had all their trouble for nothing, and may be excused for feeling disappointed and angry at the unexpected turn of events.

APPENDIX No. 2.

[Extract from the *New Zealand Times*, Wellington, of 2nd November, 1909.]

AUCKLAND GUNNERS.—VISIT TO WELLINGTON.—AN UNUSUAL INCIDENT.

On Saturday afternoon sixty-five men and three officers of the Auckland Garrison Artillery arrived in Wellington. They are now returning to their homes individually. The circumstances of their visit are so very unusual as to require explanation.

The Auckland Garrison Artillery is an enthusiastic corps. It takes its work very seriously and aims at high proficiency. In spite of its most strenuous efforts it has always been defeated in shooting records by the Petone Naval Artillery, whose success in the competition for the proficiency shield has been remarkable. The Aucklanders were unable to understand how Petone managed to do so well. Their desire to discover the secret of Petone's success led to their invasion of Wellington. It has been stated that they came "quite unexpectedly," and announced that their purpose was to triumph over Petone in a match with the big guns at Fort Kelburne. The captain of the Auckland Artillery denies this. He states that they came by invitation, that they were expected, and that they only came to view the equipment at the disposal of the Petone men and the methods they pursued. Having seen these they had accomplished the object of their mission. The train fares for the men were met by a small levy on those who travelled and a substantial contribution by the officers. When they arrived at Wellington they found that no arrangements had been made for their reception. Eventually accommodation was provided at Fort Kelburne, and there the visitors remained until yesterday morning.

The whole thing, however, seems to be a burlesque. It is certain that the Petone Navals had expected a visit from the Auckland corps. Communications had passed between the officers on the subject. The Aucklanders telegraphed prior to departure from home that they were leaving for Wellington, and they received a telegram from Captain Ellis stating that he was delighted at the proposed visit, and that arrangements were complete for their reception. When the train reached Wellington the visitors landed without greeting, and on going to Fort Kelburne were given to understand that their arrival was a surprise. Captain Knyvett, of Auckland, states that he was told by two of the Petone officers that no arrangements had been made to meet them because Colonel Robin had informed them that the Auckland men had not been able to make arrangements to come, as the Department had refused to issue railway passes. His company had no thought of a gunnery competition, but came to study the conditions under which the Petone men worked.

The Official Version.—No Intimation received.

Colonel Robin, Chief of the General Staff, questioned by a *Times* reporter regarding the official aspect of the matter, said that the first knowledge received at headquarters of a contemplated visit from the Auckland Garrison Artillery Volunteers was a communication from the Officer Commanding the Auckland District. This was opened at 9.30 on Saturday morning, permission being asked to make a trip to Wellington in uniform. That letter was sent back the same morning by the Main Trunk mail (in order that there should be no delay), asking for some information about the trip and the reasons. Up to then no authority had been given from headquarters for the trip to be undertaken. The next thing he heard of the matter was an intimation the same day from the Officer Commanding the Wellington District that strange troops were in the city. It appeared that the captain of the Auckland Artillery had not even reported himself on arrival to the Officer Commanding the District, a duty devolving on a responsible officer when removing troops from one place to another. If there had been such intimation in the present case it would have been the duty of a staff officer to meet them and tell them where they had to go. The matter would, of course, form the subject of inquiry.

APPENDIX No. 3.

[Extract from the *Evening Post*, Wellington, of 1st November, 1909.]

A SURPRISE PARTY.—AUCKLAND GUNNERS ARRIVE.—AN AMUSING INCIDENT.

The garrison artillerymen at present in training at Fort Kelburne, Ngahauranga, had a visit from some sixty Auckland gunners on Saturday evening. The guests were totally unexpected, and the local men were naturally anxious, with sixty more mouths to feed, as to how long the rations would hold out.

It appears that some one has blundered. Some time ago the Petone Naval Volunteers, who are in training at Fort Kelburne at the moment, agreed to a friendly contest with their Auckland comrades, conditionally upon the Northern artillerymen obtaining official permission. When the Auckland men arrived it was concluded that they had obtained permission. It was all a mistake, as it turns out. The Aucklanders, who were commanded by Captain Knyvett, Lieutenant Greenhough, and with them Surgeon-Captain Murray, come down prepared to show what they

could do with the big guns. But such a contest, however interesting it would have been to those taking part, would cost some £300, which those in authority hold to be too long a price to pay for an inter-company contest. But the officers, non-coms., and men had put up £150 in their anxiety to prove Auckland first in gunnery. Now there will be no contest. Instead, the men were ordered back to Auckland, booking their passages by the Main Trunk express to-day. They are naturally disappointed, for they felt when they arrived that the preliminary arrangements for the match were all in order, otherwise they would not have paid their own expenses to Wellington.

Colonel Robin, C.B., Chief of the General Staff, expressed himself as astonished at the enterprise. No application for permission for the Auckland contingent to visit Wellington had been received by the proper authority. He could not imagine what the Auckland officers and men were thinking about to undertake a contest of this sort without first obtaining the requisite permission.

APPENDIX No. 4.

[Extract from the *Evening Post*, Wellington, of 1st November, 1909.]

AUCKLAND GUNNERS.—“A GROSS INSULT TO THE MEN.”—CAPTAIN KNYVETT’S STATEMENT.

Captain Knyvett, officer in charge of the sixty gunners from the Auckland Garrison Artillery Volunteers, was seen by a *Post* reporter to-day with reference to the report that his men had walked into the training-camp of the Petone Navals at Fort Kelburne without notice and in defiance of the rules and regulations. Captain Knyvett characterised the statements made as “a gross insult to the Auckland Garrison Artillery.” He added that the Aucklanders came as the result of several pressing invitations. At the Easter manœuvres in Auckland there were several of the Petone Naval officers present, and it was then proposed that the Auckland men should come down to Wellington on the first opportunity offering, and see the crack Petone corps, which had so often managed to beat the Auckland corps, at work. It was decided then that the Aucklanders should visit their Petone rivals on the first occasion that they went into camp. Six weeks ago Captain Knyvett wrote to Captain Ellis, asking would it be convenient for the Auckland men to come down for this encampment. A reply was sent back that the Petone Navals would be delighted to welcome the Aucklanders. An effort was then made to secure railway-passes for the visiting men, but without avail. Not to disappoint them, however, it was decided that the gunners should put in 10s. per man towards expenses, and the two officers made up the remaining £98 between them.

On Tuesday night they telegraphed to Petone officers, asking if they were still ready to receive them, and a telegram was sent back by Captain Ellis to the effect that his corps would be delighted to receive the visitors. A letter was also sent to Colonel Robin, asking could the men travel from Auckland in uniform; but no reply was received.

A Petone Welcome.

On arrival the visitors were met by two Petone Naval officers, and were informed that no arrangements had been made to meet them because Colonel Robin had informed them that the Auckland men had not been able to make arrangements to come, as the Department had refused to issue railway-passes. “The Petone Navals put us up, and treated us splendidly,” said Captain Knyvett; “but the statements published are fabrications. We did not come down to knock the crack gunnery corps ‘kite high in a big gun shot,’ as published, and we did not come unknown to the Petone Navals. We had no thought of a gunnery competition, but came to study the conditions under which the Petone men work, and to see why they have been able to beat us. We are quite satisfied. The Petone Navals possess a thoroughly up-to-date equipment, while ours is antique and will not bear comparison. But we have profited by our visit, and enjoyed it, despite the published statement that we go home sorely disappointed.”

APPENDIX No. 5.

[Extract from the *Dominion*, Wellington, of 2nd November, 1909.]

AUCKLAND GUNNERS.—VISIT TO FORT KELBURNE.—STATEMENT BY CAPTAIN KNYVETT.—MATTERS DECIDEDLY MIXED.

From further inquiries which have been made by a *Dominion* representative concerning the surprise visit paid to the Petone Navals’ training-camp at Fort Kelburne by a half-company of Auckland Garrison Artillery Volunteers under Captain Knyvett on Saturday last, and the unfortunate position in which the visitors found themselves, there appears to be very little doubt that some one, who it is not clear, has blundered rather badly. Matters are decidedly mixed at present, and from the multitude of conflicting statements it is somewhat difficult to arrive at the real truth of the matter. One thing appears to be certain, some one in Auckland “left undone the things he ought to have done.” But let the statements hereunder speak for themselves.

Captain Knyvett explains.

Captain F. B. Knyvett, Officer Commanding No. 1 Company, Auckland Garrison Artillery, called at the office of the *Dominion* yesterday to state that the article which appeared in yesterday's issue regarding the visit did not present the facts in their true light, and was, in effect, somewhat of a reflection upon himself and the members of his company. Where the narrative was in error, he said, was in stating that the company had come down to hold a shooting competition with the Petone Navals, and also in the statement that the visit was unexpected. As a matter of fact he had been in communication with Captain Ellis, Officer Commanding the Petone Navals, for some time, and through that officer the company had been invited to visit Wellington during the time they were in camp. They had endeavoured to get passes over the railway for the men, but these had been refused. This was assumed by those in Wellington as tantamount to an announcement that they would not come south. But they were so keen on coming that even that check did not deter them. They had offers from outsiders to pay half the fares, and the officers and men did the rest. He and his fellow-officers had gone to no end of trouble to interview the employers of many of the men that they might be able to come south, and in a great many cases the men had sacrificed their pay on the off chance of learning something in the art of gunnery in Wellington. As evidence that the corps were not unexpected in Wellington, Captain Knyvett showed the following telegram received by him on the train:—

"Captain Knyvett, travelling South Main Trunk express, Marton Junction. If not on train readdress to Queen Street, Auckland. Arrangements made meet you. Proceed straight Ngahauranga. Wire 142 Willis Street numbers. Captain Ellis."

To pick up "Wrinkles."

Asked as to the reason of the visit (if it was understood there was not to be a big-gun competition), Captain Knyvett explained that for some years past the Petone Navals had held a high position in gunnery: their marksmanship was as excellent as their general efficiency. Naturally those keen on their work, as they were in Auckland, desired to note under what conditions the Petone men did such good work, and, if they could pick up "wrinkles" in gunnery as well as improve their none-too-satisfactory conditions. Surely that was a laudable ambition. Their wish to see the Petone men at work had only one aim—to improve themselves. It was pointed out that if that was all that was desired the same knowledge could have been attained by one or two officers or officers and men; but Captain Knyvett stated that they wished as many members to watch the operations as possible. In conclusion, he remarked that if a body of Wellington gunners had come to Auckland under similar conditions they would have received very different treatment to that which they themselves had received, and the misrepresentation of the facts in the paper had only made things worse. So much so, indeed, that most of the men, who were to have remained a week, returned to Auckland by yesterday's Main Trunk express.

We came to shoot.

Our representative had a conversation yesterday with one of the Auckland gunners, with the object of solving, if possible, one of the puzzles of the situation. As one of the men, can you state definitely whether or not you came down to Wellington with the object of engaging in a shooting match with the Petone Navals. "Certainly we did," he replied. There was no doubt in your mind about that? "No." Did you get permission to travel? "I suppose we did. We must have got permission, for the Officer Commanding Division came down to see us off when we fell in at the Drill-shed, and wished us every success." Have you any idea as to how this misunderstanding has arisen? "Some trouble with the Defence Department here, I suppose. Captain Richardson says it would cost too much to have a match. Another thing, the Petone Navals have got to fire for the cup, and there would not be any time for a company match." The men are naturally very disappointed. "Some of them are pretty mad about it," he replied.

What the Petone Navals say.

At 4.15 p.m. on Saturday our representative was informed, when the Petone Navals were paraded for dismissal, Captain Ellis, Officer Commanding the Corps, said, "There has been a lot of talk lately about the Auckland gunners coming down here. What I want you men to understand is this: Captain Knyvett tells me he is coming. The Defence Department tells me he is not coming. When the express arrives at Thorndon I shall not be surprised to see Captain Knyvett on board, and I shall not be surprised if he is not on board. That's all I can tell you about it." In the course of a conversation with Captain Ellis yesterday afternoon that officer said to our representative that the Petone Navals had expressed their willingness and pleasure to receive the Auckland gunners should they come to Wellington. "I might add," said he, "that I told them to be sure to get authority to come." Captain Ellis went on to say, "The matter was talked about at Auckland last Easter. Nothing further was heard here until three weeks ago, when I got a letter to say that railway passes and everything had been fixed up. I wrote back, stating that I was very pleased to hear that they were coming, and that the idea was a very good one. I impressed upon them the importance of having everything regular and official. In reply I got the following telegram: 'Propose leaving Auckland evening October 29th. Is that convenient to you?' In reply, I telegraphed as follows 'Yes, delighted. Please arrange officially with the Defence Department, so that I may requisition for tents, &c.' In the meantime I had heard nothing further from the Defence Department, and, in reply to my inquiries, was informed that nothing had come through from Auckland. It was necessary for the Auckland people to apply to headquarters for permission to travel in uniform from one military district to another."

APPENDIX No. 6.

[Extract from the *New Zealand Times*, Wellington, of 20th January, 1910.]

REPORT OF DEPUTATION WHICH WAITED ON THE RIGHT HON. PRIME MINISTER, 19TH JANUARY, 1910. YESTERDAY a deputation of Auckland citizens visited Wellington and had a lengthy interview regarding "the Knyvett" case with Sir Joseph Ward as Minister of Defence. The interview lasted for two hours and a half, the whole matter being exhaustively gone into. As a result of his attention being drawn to what was said to be an important aspect, Sir Joseph Ward has promised to refer the case back to the Board of Inquiry which investigated the charges against Captain Knyvett at Auckland recently, asking it to supply a full report in the light of the new development.

The deputation, which consisted of Messrs. J. S. Dickson (chairman of the Knyvett Defence Committee), O. Nicholson, Gerald Peacocke, and W. B. Leyland, urged that the Government's decision to dismiss Captain Knyvett must have been come to upon an incomplete report of the evidence given during the inquiry, and showed that the board set up had taken no notes at all during the first day's proceedings. Sir Joseph admitted that the point was a most important one and well worthy of careful investigation.

The Court satisfied.

In introducing the deputation Mr. T. M. Wilford, M.P., stressed the point that the Court had expressed itself satisfied with the statements made by Captain Knyvett during both the first and second days' hearing in reply to the charges then proceeded with. He had been told that the evidence his witnesses had given was quite sufficient to establish the truth of his statements, so that there was no need for him to call further evidence. Mr. Wilford contended that after the Court had so intimated that it was satisfied, Captain Knyvett was justified in believing that he had substantiated his defence and in assuming that he had exonerated himself. The Court's intimation was given before the whole of Captain Knyvett's witnesses had been called, and a man had surely no right to be dealt with under such circumstances.

The points made by the various other speakers were very fairly summarised in the article appearing in the *New Zealand Times* yesterday morning. It was also contended that the whole conduct of the case was so irregular, incomplete, and altogether unsatisfactory that they were justified in asking that the proceedings should be quashed and a new inquiry held. They did not ask the Prime Minister to reverse the previous decision in any way, but simply to consider the legitimacy of investigating again a case that had only been very imperfectly gone into so far. Auckland citizens had cast a certain amount of blame upon Colonel Robin in connection with the matter, that being done on account of the newspaper articles appearing in Wellington under his name. The interview he had given on the 1st November was really the cause of the whole trouble. If they had done him any wrong they would be only too pleased to rectify it.

No feeling against Captain Knyvett.

After expressing his pleasure at the opportunity of going fully into the matter, Sir Joseph Ward said that he was quite satisfied, as the result of a very careful investigation, that nobody connected with the Defence Department had the slightest feeling of any possible kind against Captain Knyvett. He was, moreover, of opinion that Captain Knyvett, who was reported by both Colonel Tuson and Colonel Robin to be a keen and capable officer, had in the control of his company been in some respects absolutely disregardful of the ordinary Volunteer regulations. Disrespect of these regulations was bound sooner or later to get an officer into serious trouble. He did not know of anything more grossly unfair done to one officer (Colonel Robin) with a view of exculpating another officer than what had transpired in connection with this case. He would show from the official records that from the moment that Colonel Robin became directly or indirectly concerned from the personal standpoint, owing to Captain Knyvett's reflections upon him, he did not interfere with, suggest to, or influence any one connected with the matter. He would also show from the same sources that the whole proceedings of which Captain Knyvett and his friends had been informing the people of Auckland as being moved by Colonel Robin were in reality carried out by an Imperial officer, Colonel Tuson. He was very sorry to have to say that the commencement of Captain Knyvett's hostility to Colonel Robin was not with this particular trouble, but went back much further. While anxious to see that justice was done to Captain Knyvett, he would be absolutely and utterly ashamed of the position he held if he (Sir Joseph) were to allow any officer in Colonel Robin's position to be unfairly charged in order to try to justify another man's action. A great deal of the charges of inefficiency, want of tact, &c., was largely due to personal animus against him as Chief of General Staff.

The Beginning of it.

Sir Joseph placed the beginning of the trouble between the two officers in April last, when Captain Knyvett applied for promotion to the rank of major. The application was carefully gone into, and the result was that the Adjutant-General, Colonel Tuson, reported that under the regulations it could not be granted. On receipt of this information in Auckland a statement was published that Captain Knyvett "had been made to suffer from a sheer technicality and was refused promotion, although qualified, because he had not had seven years' commissioned service

in the Dominion." The simple fact was that Captain Knyvett had only had three years and eleven months' commissioned service, and part of that was in Australia. What position would the chief of the executive staff have been in if he had improperly recommended the promotion of an officer with such service over the heads of men who had served for many years without reaching the position of major, while well qualified for it? He was led to say this because he saw from all the reports before him a distinct antipathy on the part of Captain Knyvett to Colonel Robin, which had given rise to the whole of the trouble. It was clear to him that neither the deputation nor the people of Auckland had so far had the case put fairly before them.

That Trip to Wellington.

"Now, let us get to the start of the present trouble," went on the Prime Minister in going into the history of the sudden descent on Wellington by Captain Knyvett's company at the end of October last, when it visited the Petone Navals while the latter were in camp. In a letter to Captain Ellis, of the Petone Navals, on 7th October, Captain Knyvett wrote that he had had the utmost difficulty in getting railway passes granted for the trip, but at last was assured of them. He (Sir Joseph) wanted to draw attention to the last expression. In his reply Captain Ellis wrote that the Defence Department knew nothing of the authority for passes, "and furthermore thought it was most unlikely that such an extensive and special privilege would be granted to any special company." The Prime Minister also read the telegrams which passed between the two captains on the 26th October, in which they made final arrangements for the trip south, remarking that no application for passes was received on behalf of Captain Knyvett's company by the Defence Department until 9.30 o'clock on the morning of Saturday, the 30th, when the company was actually on its way south. The next intimation the headquarters received was that the men had started the previous evening without permission of the Officer Commanding Division, Auckland. The fact was that neither Colonel Paterson nor any other man would be given authority to incur the responsibility of a train journey of this sort without permission from the Minister. The permission was never given in this instance, and could not be given to any company similarly placed.

"But we understand that they paid for it themselves," said Mr. Peacocke.

"It is no use any one saying that," rejoined the Prime Minister. "They have claimed £90 from the Government for it." Sir Joseph went on to say that every Volunteer officer in New Zealand knew that he could not take his company out of the district without the authority of the passes. Prior to 28th October the Minister of Railways had been applied to by members of Parliament for permission for the company to travel, but he had refused, and rightly so. On the same date Mr. F. Lawry, M.P., had telegraphed to him (Sir Joseph) from Auckland, urging that the passes be issued, but in his reply he had made it clear that he could not interfere, no formal application having been made.

Impossible to carry on.

But before even this reply had been sent the men were on their way to Wellington. If this sort of thing were to be allowed to continue it would be utterly impossible to carry on any Volunteer system at all. It was unfortunate that in this case there was a want of recognition of the discipline necessary not only for the control of a Volunteer corps, but for the actual administration of the whole service. In any case, why was not application sent in three weeks or a fortnight ahead in the ordinary manner, so saving the improper position of having a corps on its way before authority could be given? After the trip south complaint respecting it was received from Lieut.-Colonel Wolfe, of Auckland, in these terms: "I submit that a grave breach of discipline has been committed, which will be investigated on Captain Knyvett's return and dealt with." The Prime Minister said he wanted to establish that the matter of the trip ended on the 26th November, when a report came from Colonel Wolfe. He also remarked that it was just as well to point out that the whole discipline of the Volunteer service was under the administration of Colonel Tuson, not of Colonel Robin at all. Both officers agreed that the matter had better be allowed to rest with Colonel Wolfe's report, and he (Sir Joseph) concurred.

Colonel Robin's Position.

At some length Sir Joseph went on to deal with the impression that seemed to exist respecting Colonel Robin's connection with the affair. He wanted to make it perfectly clear that the humblest ranker had a perfect right to report any one in a superior position, the only qualification being that it should not be done in such an insulting and insubordinate manner as was shown in the letter which Captain Knyvett had written to him as Minister of Defence, complaining of his treatment and of Colonel Robin generally. Captain Knyvett first sent his letter to the Auckland O.C., with a request that it be forwarded through the proper channels, but the latter officer returned it with what practically amounted to a request that the insulting portions be cut out. Captain Knyvett was thus given an opportunity of couching his letter in proper language, and if he had done that it would have been given consideration. However, he did not, and the letter was sent unaltered. It reached the Adjutant-General—not Colonel Robin—on the 12th November, and was discussed at a meeting of the Defence Council later. Commenting upon it on the 26th November, Colonel Robin dealt with the clauses *seriatim*. Respecting the alleged interference, Colonel Robin said that he had made no interference of any kind, nor was the matter even before him except as shown in the file inquiry by O.C. District.

Connection with the Press.

So far as the newspaper article particularly referred to by Captain Knyvett was concerned, he said, "I did not or have I ever written, penned, or instigated any article on this or any other subject to any newspaper. My connection with the newspapers in the matter was their ringing me

up on the telephone asking the question, 'Is it correct that these men had no authority to travel, and did they ask for same?' These questions I judged were fair questions, and answered them accordingly, 'that no authority had been given or asked for,' as shown by separate files. It is not correct that interview after interview was granted, a two-minute telephone interview already explained is all I know of the newspaper matter, reference to the newspaper officials can settle same." Colonel Robin, in concluding his comments, said, "I submit that Captain Knyvett's letter is very insubordinate, and does not tend to the impression that this officer understands discipline. This is further shown by his insistence to forward the letter to the Minister despite the warning conveyed by the O.C. District." Every officer had a right to do what Colonel Robin did, and no breach of regulation was involved in it at all. He would be very sorry if it were supposed that this sort of thing was not allowed.

A Volunteer Arrest.

As for the arrest of Captain Knyvett, of which so much had been made, it was well to explain that it was done under instructions by Colonel Tuson on the ground of gross insubordination. As a matter of fact, it was very different to an ordinary arrest, and every Volunteer officer knew that he was liable to Volunteer arrest, without the power of which no service would be of the slightest consequence. Colonel Tuson gave directions for it without reference to the Government or anybody else, and in that he was perfectly right. The setting-up of the Board of Inquiry was done by the Government altogether, and he wanted to make it clear that Colonel Robin had nothing to do with it either directly or indirectly. It was done because the Auckland O.C. advised that it was a difficult matter for him to deal with. As to the exception which had been taken to the constitution of the Board, he pointed out that in England all military inquiries were held by Government servants, while the third officer who had been referred to as being of foreign birth was Captain Sandtmann, who had been a naturalised subject for about sixteen years. He was also known as a most impartial man, and it was much to be regretted that this aspect of the matter should have been introduced.

A member of the deputation joined in the regrets, saying that this aspect had never been referred to in Auckland.

The Wrong Man blamed.

The Prime Minister, referring to the charges made against Colonel Robin, said that if Captain Knyvett knew of anything wrong he should have made it known in the proper way, and it would have been investigated. But if it was possible for one officer to make a general reflection upon another in the way that Captain Knyvett had done it would be just as well to have no Defence Department at all. Discipline could not possibly be maintained if such a thing were allowed to pass without taking action. Captain Knyvett could have laid his charges in a proper manner, but from the very first and all along he had been blaming the wrong man.

Who ordered Dismissal.

A statement had been made that according to the Court Captain Knyvett was acquitted. But the duty of the Board was perfectly clear. It was simply to report, as it actually did, to the Adjutant-General, Colonel Tuson, who, on 29th December, in writing to him (Sir Joseph) as Minister of Defence, and forwarding a copy of the proceedings, stated his opinion that the charges had been proved against Captain Knyvett. Colonel Tuson added that Captain Knyvett had been proved guilty of an act of gross insubordination in sending his letter to the Minister, and therefore recommended his dismissal. This recommendation and report was laid before Cabinet, which, after the fullest consideration, felt that it would not be justified in passing over a recommendation by the officer specially appointed to deal with the discipline of the Volunteers. It was therefore sent on to the Governor as Commander-in-Chief, who in due course ordered Captain Knyvett's dismissal.

About the Evidence.

"May I ask," said Mr. Wilford, "whether the evidence placed before Colonel Tuson was the evidence upon which he made his recommendation?"

"Yes," rejoined the Prime Minister, amid a chorus of "That is the crux of the whole question," from the members of the deputation.

"Now, I am going to make an important point," said Mr. Wilford, who drew attention to the fact that, on their own admission, the members of the Board had not taken any notes of evidence during the first day's inquiry.

The Prime Minister said he had gone through the whole of the evidence before him, and thought it was a fair outline of what occurred.

Mr. Wilford urged that unless he had the whole of the evidence before him he could not arrive at a just conclusion. Neither the Prime Minister nor Colonel Tuson had ever seen all the evidence in this case. A reporter privately engaged to take a full report on behalf of Captain Knyvett had got twenty-three pages of type-written evidence before the Court started to take notes at all. It simply meant that the Prime Minister and Colonel Tuson had never seen those twenty-three first pages, so that it followed their decision must have been arrived at on an incomplete record of the proceedings.

"That is a very important point indeed," said the Prime Minister, "for the evidence sent on to Wellington is the evidence upon which we have acted."

"This is the feeling in Auckland," remarked Mr. Leyland, "that you have not got the hang of it yet."

Explanation wanted.

The Prime Minister said that he would at once call upon the Board for an explanation in view of the statement that had been made. He would get a full report upon this important matter, and would also bring it before Colonel Tuson. On receipt of the report he would give the deputation's representations the fullest consideration with a view of seeing whether any further action is necessary. The Prime Minister concluded with a reference to the suggested Royal Commission of Inquiry, and said: I want to say straight away that the suggestion as to the appointment of a Royal Commission to inquire into Defence matters would not be entertained by the Government for a moment. We have no sympathy with it at all.

APPENDIX No. 7.

COPY OF REPORT HANDED IN BY THE DEPUTATION WHICH WAITED ON THE RIGHT HON. THE DEFENCE MINISTER ON THE 19TH JANUARY, 1910, AND REFERRED TO IN FOREGOING MEMORANDUM No. 40.

CAPTAIN KNYVETT'S CASE.—VERBATIM REPORT OF THE PROCEEDINGS AT THE MILITARY INQUIRY HELD ON 21ST, 22ND, AND 23RD DECEMBER, 1909.

THE military inquiry into the charges preferred against Captain F. B. Knyvett, Officer Commanding No. 1 Company, Auckland Garrison Artillery Volunteers, in connection with a letter, dated 10th November, 1909, which he sent to the Minister of Defence, was commenced at the Drill Hall, Auckland, on Tuesday, 21st December, 1909. Captain Knyvett was charged on each of four counts with having committed an act to the prejudice of good order and military discipline in that in his letter, dated the 10th day of November, 1909, he made use of the following words:—

(1.) Preventing any possibility of a scandal leaking out to the public of the want of tact and interference of the Chief of the General Staff.

(2.) It seems to me that the Chief of the General Staff has personally gone out of his way to belittle, discourage, and damp the enthusiasm of the whole of the Volunteering movement.

(3.) 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.

(4.) I have documents in my possession, which, if published, would have created a grave scandal in Volunteering throughout the whole Dominion.

The Board of Inquiry (comprising Colonel Chaytor, of Wellington, President; Captain Sandtmann, of the 4th Regiment, Wellington East Coast Mounted Rifles; and Captain Bosworth, Intelligence Officer for the Auckland District) sat at 9.30 a.m., and after half-an-hour's consultation, called in Captain Knyvett and Lieut.-Colonel Wolfe, Officer Commanding the District. Lieutenants Pullen and Greenhough, of No. 1 Company, Auckland Garrison Artillery Division Volunteers, accompanied Captain Knyvett; Lieutenant Pullen taking a seat beside Captain Knyvett as his friend, and Lieutenant Greenhough a seat at the end of the table as Captain Knyvett's stenographer.

The President intimated that in New Zealand a Court of Inquiry was really more of a Court-martial than a Court of Inquiry in England, a Court of Inquiry at Home being the same as a preliminary inquiry in New Zealand. A Court of Inquiry in New Zealand had the power of punishment behind it, whereas an English Court of Inquiry did not. It was only fair, therefore, that the rules of procedure in this case should follow those of a Court-martial.

The Court objected to Lieutenant Pullen appearing in any way as Captain Knyvett's legal adviser.

At this stage the inquiry was opened to the Press.

The President, in reply to Captain Knyvett, said the convening officer was really the Minister.

Captain Knyvett: Have you authority from the Minister?

The President: Yes, signed by the Minister. I will ask you, Do you object to myself as President or to any other officers of the Board?

Captain Knyvett: No, sir, I do not object.

The President: Are you guilty or not guilty of these charges?

Captain Knyvett: No; but I would like to see at the outset if there is any case for me to answer. I have innumerable charges to answer if you take the whole of this letter. They could have chosen quite four hundred passages out of that letter had they liked.

The President: Yes, it would be quite possible to take the whole letter; but it is quite competent if you make use of one expression in your letter.

Captain Knyvett: Do you not think it is most unwise to take out a paragraph without reference to the context?

The President: I am not able to answer that question. It may alter the meaning altogether. It is not right to take away one portion of a sentence, which read by itself has a different meaning, but it is quite right to take an expression and read the meaning into it meant by the context.

Captain Knyvett: In writing the letter I consider that I have done nothing whereby I can be charged under the Act of 1908. Under what then am I charged?

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?

The President: In the meantime that is the ruling of the Court. We have considered your objection, and we have ruled.

Captain Knyvett: Does the Court consider it is for me to prove I am guilty, not for me to prove that I am innocent?

The President: Up to a certain point it is for the Court to prove the guilt, but beyond that it is for the accused to prove his innocence. The accused may be literally guilty, but technically innocent under military law. It is the duty of the prosecutor to bring it under the notice of the accused.

Captain Knyvett: I want paragraph——

The President: The Court considers that the charges come under the Defence Act. It is the only one which lays it down.

Captain Knyvett: I take that ruling, but I object to it. I want to point out that Regulation 178 under the Defence Act gives the right of appeal, if the appeal is made through the proper channel. I would like to point out to you, sir, that the letter was sent through the proper channel.

The President: There is no question about that. You did appeal through the proper channel, but you are responsible for the statements you made.

Captain Knyvett: You rule that I am responsible for what was said in the letter, but that it was sent through the proper channel?

The President: Yes.

Captain Knyvett then quoted the following passages from page 299 of "Manual of Military Law" to show his letter was privileged:— [Not supplied.]

The President: The whole thing is, are you guilty or not guilty? It is for you to plead.

Captain Knyvett: I plead "Not guilty to having committed 'an act to the prejudice of good order and military discipline.'" I am charged with sending four paragraphs in the letter.

The charges were here read, and Captain Knyvett entered a plea of Not guilty in regard to each.

Captain Knyvett: I would like to ask if the offence I am charged with having committed is an "act"? What "act" is it?

The President: In making certain charges.

Captain Knyvett: The writing of the letter is the "act"?

The President: No; the statements you made in the letter are the "act."

Captain Knyvett: Do you rule that words are an "act"?

The President: Yes.

Captain Knyvett: I hold that the "act" is the sending of the letter. I respectfully submit that I should have been charged with sending the whole letter.

The President: The Court is not competent to give a ruling now. We will sum that up in our summary.

Captain Knyvett: You refuse to give a ruling now, sir? I submit that the wrong charges have been laid against me, as usual, sir.

The President: The Court has to sum up. The Court will note your objection.

Captain Knyvett: The charge says I have committed an "act." I ask you what "the act" is? You say it is not the writing of the letter. I protest against being charged with a few small lines out of a letter, which, I submit, is not "an act" at all. It must be the whole letter that I must be charged with.

The President: No, "the act" is as laid down. I am in a difficulty. You have evidently had legal advice, and I have not. You may write a letter, and they will charge you with the charge you make in the letter. You may write a long letter, and the whole offence be contained in a few words. These words must be quoted.

Captain Knyvett: I object to being charged with four passages picked out of a letter as "an act." The whole of the letter could have been taken as "an act." Even if they are charged as "an act," I can refer you to page 275 of "The Manual of Military Law."

The President said the Court would consider the objection, and cleared the Court. Upon resumption the President said: The Court has considered your objection, which has been disallowed.

Captain Knyvett: Touching on the question of proof, I want to refer you to page 58 of "The Manual of Military Law." It says that the burden of proof lies with the Court. I understood you to say that the Court has to prove, and in order to do that the Court has to call evidence. It is for the Court to prove the charges.

The President: The Court in the present case has only to collect evidence to prove or disprove the charges. A Court of Inquiry has not the power of punishment. The power is behind it.

Captain Knyvett: I take it that you will allow me all the privileges according to military law? The onus of proof is on the Court.

The President: Certainly. It is on the Court, but up to a certain extent the onus of proof may be transferred. It may be necessary for the other side to prove.

Captain Knyvett: With regard to "the act," you have ruled that it is "an act"?

The President: Yes.

Captain Knyvett: I want you to go back to page 275 of "The Manual of Military Law." It distinctly states in subsection (2) that expressions, however offensive, used in asking for a judicial inquiry are privileged, and I would like to draw the Court's attention to the fact that I have had no answer to my request. The expressions used, however offensive, in asking for an inquiry are privileged, and cannot be made the subject of criminal charges. I asked for an official inquiry, and this is the Court's ruling of that letter.

The President: It is a preliminary to it, but you are not exonerated from Regulation 180 by that. In giving evidence any expressions used then are privileged.

Captain Knyvett: I want to refer you to Regulation 178—every member of the Defence Force has the right to appeal through the proper channel. The Court rules that I cannot.

The President: I do not want for a moment to harass you, but I think we are wasting a lot of time on nothing.

Captain Knyvett: I respectfully submit that I am entitled to bring everything I can in support of my defence.

The President: You claim that they were privileged?

Captain Knyvett: Yes. I respectfully ask again if I may have the assistance of a friend?

The President: No; the Act says that you shall not receive assistance.

Captain Knyvett: But it does not say anything about a friend. I may have a friend.

Captain Sandtmann: But your friend is a barrister and solicitor.

Captain Knyvett: I admit nothing.

Captain Sandtmann: But we know it.

Captain Knyvett: I submit that it is for the Court to assist, not harass me.

The President: He may assist you in turning up anything, but he must not prompt you.

Captain Knyvett: I would like, sir, to have every objection noted by the Court. I would like to draw your attention to the fact that my objections are not being noted.

The Court was again cleared, and upon resumption the President announced that the Court had decided to disallow Captain Knyvett's claim to have the assistance of Lieutenant Pullen as a friend, also to disallow that the statements complained of in the letter were privileged.

Captain Knyvett announced that he would proceed with his defence. "I had supposed," he said, "that I had a grievance against a superior officer. An inquiry was held here on the 10th instant, and as a result of that inquiry, Colonel Wolfe, Officer Commanding the District, officially notified me that I was completely exonerated, and had got official leave to proceed with my company to Wellington. As a sequel to that I drafted the letter in question, which, I submit, is couched in the most respectful language, to the Minister of Defence, stating my grievance and asking for an inquiry. I refer you to Regulation 176, and I respectfully submit that the Court must give a finding as to whether the charges on that are right or wrong."

The President: Well, the Court will report, and give an opinion.

Captain Knyvett: I would like the opinion to be given in open Court.

The President: No; the opinion will be given in closed Court.

Captain Knyvett: I would like that noted. If you find I had a right to send the letter—

The President: We admit you had a right to send the letter, and you are not charged with breaking the regulations in sending that. The charge is that in that letter you made certain statements. I can give you no ruling on questions of fact like that. There is no dispute as to your right to send the letter, and there is no dispute in the way that you sent it.

Captain Knyvett: I would like that noted. The Court considers that I had a right to send a letter complaining about a superior officer?

The President: Where you are aggrieved. In order to obtain redress you have a right to make a complaint of any injustice you receive from a superior officer. There is no objection taken to the fact that you had a perfect right to send in the letter. If you are injured by a superior officer you have a perfect right to complain about his treatment.

Captain Knyvett: I must give my reasons, I take it?

The President: Yes. The charge is that in that letter you made certain charges about your superior officer.

Captain Knyvett: Is this the inquiry I asked for?

The President: This has nothing to do with that. It is an inquiry into the charges made against you.

Captain Knyvett (holding authority): This shows that either myself, or any other officer, has a right at all times to appeal against an injustice from a superior officer, and that such officer only commits a breach of the regulations if he omits to send his complaint through the proper channel. The Court has ruled that I have not committed a breach of the regulations in sending it through the proper channel.

The President: We have ruled on that.

Captain Knyvett: Before sending the letter on, the Officer Commanding the District made an examination, and asked if such and such a statement was true.

The President: That may come in in exoneration.

Captain Knyvett: He inquired whether there was any substantial evidence to warrant him in forwarding it.

The President: I do not see how that affects the question.

Captain Knyvett: After the letter had been forwarded I was arrested and charged with insubordination. I would like the Court to note that the charges are distinctly altered at the present time. They are totally distinct. Further, it is usual before placing an officer under arrest to hold a preliminary inquiry as to whether such arrest should be made, and I would like to point out that this was not done in my case. It is laid down most distinctly in the New Zealand Defence Regulations. I want to point that out to show that in my own personal case the usual regulations were not complied with, and I have evidence to show why that was done. The fact that I had been arrested was notified in the public Press before the preliminary inquiry into the other matter had been held.

The President: Both the Defence Act and the Volunteer Regulations state that an officer may be ordered under arrest.

Captain Knyvett: Yes, but after a preliminary inquiry. Surely I was not considered to be such an awful and dangerous man as all that.

The President: A superior officer may use his own discretion in that respect.

Captain Knyvett: I would like to point out that it was not the Officer Commanding the District who placed me under arrest.

Captain Bosworth: May I ask who placed Captain Knyvett under arrest?

Captain Knyvett: The President will know. I want to know.

The President: No; I know nothing about it.

Captain Knyvett: I hold it to be a very vital thing.

The President: Well, I will look that up, and will let you know later on.

Captain Knyvett: I was informed by the Officer Commanding the District that he was authorised to place me under arrest. By whose instructions was I placed under arrest, seeing that the Officer Commanding the District did not order me, but received instructions to place me under arrest? I would like to point out that in the papers scattered all over the country it is stated that the Officer Commanding the District placed me under arrest, but when I asked him he stated that it was not so.

Captain Knyvett asked that the evidence taken at the previous inquiry be produced.

The President: That is not evidence which can come before this Court. That is not sworn; this is.

Captain Knyvett: It is the tale of the whole inquiry. It was as a result of my letter dealing with that matter that I am now under arrest.

The President: Here, again, we come to the difference between our Court and a full Court of Inquiry. If you look up page 79 of "The Manual of Military Law," paragraph 98, or page 522, on rule of procedure, you will see that it is set forth that the proceedings at a Court of inquiry are not to be used as evidence in a higher Court.

Captain Knyvett: What is this inquiry?

The President: It is an inquiry to collect evidence to see if there is a case to go before a higher Court. This is a higher Court.

Captain Knyvett: This, then, is a higher Court?

The President: Yes. The first inquiry is held merely to allow the superior officer to decide whether there is sufficient evidence to warrant the holding of a Court of Inquiry.

Captain Knyvett: And I submit that was distinctly a preliminary Court of inquiry on this case. Though I was completely exonerated there, I have still been kept under arrest. It is a matter of grave concern to me. It has already cost me hundreds of pounds in my business, and has affected me in many ways. I think it is a very grave matter.

The Court was again cleared while the point was decided. Upon resumption, the President said: The Court has considered your objection, and it has been disallowed.

Captain Knyvett: Does the Court consider that the previous charges are totally different from the present charges? I think the Court must consider that they are totally distinct.

The President: You raise that objection?

Captain Knyvett: Yes, sir. I consider it is a very important one.

The Court was again cleared while the matter was deliberated upon. On resumption, the President said: The Court has considered your claim, and has decided that it must be disallowed. The charges are not vitally different.

Captain Knyvett: On that question, is the Court prepared to hear any argument?

The President: No.

Captain Knyvett: It disallows it without hearing any argument of any kind?

The President: You gave certain argument before.

Captain Knyvett: Will the Court give reasons?

The President: I am not prepared to give any further reasons.

Captain Knyvett: I would like to point out that I prepared my evidence on the other charges, which I could easily have disposed of, as the Court well knows—otherwise they would not have been withdrawn. After waiting three weeks without knowing what was going to be done, to my intense surprise on Saturday morning I received notice that the Court of Inquiry would sit this morning, and that these new charges had been preferred.

The President: The President of the Court has given it as his opinion that the charges are within those charges.

Captain Knyvett: Well, I claim that the change in the charges is most unusual and improper. The Defence Act of 1908 provides that all persons required as witnesses must be summoned by the President or any member of the Court. Well, I wish to point out how utterly impossible it was for me to notify you in order to have them in attendance here to-day. I want certain witnesses from other parts of the Dominion. I am placed in this way: that I am not allowed by the regulations to personally summon my own witnesses. I can only do it through you. Now, at the first trial on the first charges made against me, I did not require any witnesses at all. I posted to you on Saturday, sir, a list of the witnesses I wanted from the south.

The President: Well, I never got it.

Captain Knyvett: It was an absolute impossibility for you to have done so. There was no mail on the Saturday, and you left Wellington before the letter could have arrived there. I wish it noted that the Court is not being held under the Act of 1908.

The President: I did not say so.

Captain Knyvett: Would you mind telling me then under what Act the Court is being held?

The President: I did not say this was a court-martial. It is a New Zealand Court of Inquiry. I explained to you that you are not amenable to the Army Act.

Captain Knyvett: And yet these charges are laid under the Army Act?

The President: I explained that at the beginning. The Board considered the position, and considered that for a New Zealand Court of Inquiry the rules more of a court-martial than of a preliminary inquiry should apply.

Captain Knyvett: What power of punishment has this Court, then?

The President: The Court has the power of punishment behind it.

The luncheon adjournment from 1 to 2 p.m. was then taken.

On resuming at 2 p.m., the President said: The first thing the Court wishes to know is, what witnesses do you wish to call first?

Captain Knyvett: The witnesses from Auckland will be the first, because we will not be able to get the witnesses from the South yet.

The President: How many can we get hold of this afternoon?

Captain Knyvett: They are all living in Auckland. I call upon all witnesses to produce all documents which have any bearing on the case.

The President: Have you anything further to say on the question we have been discussing—that is, that the charges are not correct, and that you have nothing to answer in them?

Captain Knyvett: I object to the charges which the Court have upheld. I object to them inasmuch as that they have been altered. Now I object to the charges themselves. I would like to refer you to page 299, "Manual of Military Law," where it says that the mere use of these words does not warrant the Court in assuming that it is an offence. I will read it:— [Not supplied.]

Captain Knyvett (continuing): Are you of that opinion, sir?

The President: Yes.

Captain Knyvett: Again, let me refer to the Manual of Military Law. It says in paragraphs 2 and 3, referring to good order and military discipline:— [Not supplied.]

Captain Knyvett (continuing): According to that, to constitute an offence, the words must have been used "meaningfully and with guilty intent." I would like to draw your attention to that. I plead "Not guilty" to the whole of the charges, and I understand I have a right to speak before witnesses are called as to the charges.

The President: You may give your reasons for objecting to the charges.

Captain Knyvett: I wish to refer to the letter itself, which the Minister, or some one else, has made public property. How it came to be published I do not know. (After reading the first portion of the letter): I wish to point out that the whole text of the letter totally alters the construction put on the extracts.

The President: That is a question of exoneration.

Captain Knyvett: You said before that the meaning of the extracts was not materially altered by taking them away from their context. I most deliberately say they are altered.

Captain Knyvett continued to read the letter. After reading the first two paragraphs he asked: Those are statements of fact, are they not?

The President: Yes.

Captain Knyvett (quoting, "I may here state that it is probably the first time," &c.): Those are all statements of fact down to there, are they not?

The President: Yes; they are all statements of fact.

After reading the next paragraph *Captain Knyvett* asked: Those are reasons, are they not?

The President: Yes.

Referring to the next paragraph having reference to a "scandal leaking out to the public," and to the *Dominion* newspaper, *Captain Knyvett* asked why the words "most scurrilous and untruthful article" should not be made the basis of a charge?

The President: They are not your military superiors.

Captain Knyvett: This paragraph might be made a charge?

The President: If you consider that you have committed a crime there you have nothing to complain of so far as this inquiry is concerned.

Captain Knyvett: I do not consider I committed any crime. You say that any paragraph taken out may be made the basis of a charge. I would like the Court's ruling on that.

The President: Well, the Court has decided.

Captain Knyvett: Down to "Plimmer" that is a statement of fact, is it not?

The President: Yes.

Captain Knyvett: "I am prepared to submit affidavits," &c.: those are statements of fact, are they not?

The President: They are either statements of fact, or of your belief.

Captain Knyvett (quoting the paragraph with reference to dampening the enthusiasm, &c.): I want to know if that is not a general complaint couched in proper language?

The President: I will not discuss that now. That is a question the Court will have to form an opinion on.

Captain Knyvett (after reading the next paragraph): All that I asked the Minister for there was an inquiry, saying, "Well knowing that I can obtain from you justice." I think it is a very moderate request to ask the Minister for—*for justice*.

The President: Yes, that is what you asked for.

Captain Knyvett read the next paragraph, stating, "I have documents in my possession, which, if published, would have created a grave scandal in Volunteering throughout the Dominion."

The President: The charge is one of insubordination. In this paragraph you are responsible for the complaint made.

Captain Knyvett: For having them in my possession?

The President: You make grave charges against your superior officer.

Captain Knyvett: I say nothing about my superior officer there, sir.

The President: Yes.

Captain Knyvett read the concluding portion of the letter. He then said: I would like to ask, sir, whether you consider that a respectful letter?

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

forms the whole basis of the charges which the Court was sent to find out, and it would be quite wrong for them to rule as to that at the present time.

Captain Knyvett: It says the Court must rule first.

The President: If the Court does rule they rule that you are guilty.

Captain Knyvett: But the Court must decide before I call my evidence.

The President: The Court has considered your objection, and they decide that they cannot rule on that. The question as to whether you said those words meaningly or with guilty intent forms the whole subject of the inquiry.

Captain Knyvett: If the Court rules that I have not said them meaningly or with guilty intent, then that ends it.

The President: You are responsible for what you state. In any complaint charges you make in the letter must be relevant to freeing yourself, and not to inculcating any one else. You have written the letter, and certain extracts have been made. They are the subject of the charge.

Captain Knyvett: Yes; I hold these extracts are the only matters which it is relevant for the Court to consider.

The President: The Court is here to consider as to whether your action is justifiable or not. You are not justified in making charges except they are relevant to your claim.

Captain Knyvett: It says the Court must decide before I can be charged, or I can call any evidence.

The President: The whole position comes to this: Were the statements made in your letter relevant to your claim for redress made not maliciously, but honestly, believing them to be true and necessary to obtain redress?

Captain Knyvett: Do I understand the Court to rule that I did not honestly believe them to be true and necessary to obtain redress?

The President: That is the point on which the Court will not rule.

Captain Knyvett: I understand then that, notwithstanding the decisive direction here, the Court will not give its decision?

The President: On that the Court will not give a decision.

Captain Knyvett quoted the following case to show that his communication to the Minister was privileged:— [Not supplied.]

Captain Knyvett (continuing): I hold that at the time I made the charge, and sent it to the Minister he was an officer of State, and I made it in accordance with my official duty—conduct, certainly, which, if true, it was my duty to bring to his notice. If you care to read that, sir, you may do so. I would like your ruling on the decision.

The President read the case which Captain Knyvett handed to him.

Captain Knyvett: You will find here, "Privileged communication from one officer to another." I claim even further, that if it was false, a lie from start to finish, it was absolutely privileged. I have a leading English case here of a junior officer against a much superior officer to the one in question. It is the case of Lieut.-Colonel Dawkins *versus* Lord Paulet, Adjutant-General, 1869, Law reports, 5 Queen's Bench, page 94. It says [Not supplied.]

Captain Knyvett (continuing): The finding was that it was absolutely privileged. No matter what he said, although it was said directly, about a much superior officer than I am charged with reflecting on, and a great deal more strongly, yet it held to be absolutely privileged. I want the Court to state whether statements from one officer of State to another are privileged. I say they are. I would respectfully ask the Court how it can say otherwise?

The President read the case which Captain Knyvett handed to him.

The President: Yes; but this is not quite applicable to the present case. The defendant was a superior officer, and as such—

Captain Knyvett: I would like to point out that under this English decision all letters written by one officer of State to another officer of State are absolutely privileged. I would like to know how a Military Court can overrule the decision of a Civil Court?

The President: No. A Civil Court always overrules a Military Court except in such cases where a Military Court only applies.

Captain Knyvett: It is privileged, if not false, according to your own ruling. I am defending four distinct charges. As I was not rearrested it really makes two more charges. I want to know how the Court is to decide whether they are false or not if the Court will not allow me to bring witnesses as to their truth? I most respectfully ask for a ruling on the question of privilege. It is a most vital question, and I would most respectfully like to warn the Court that the leading English case cannot be overlooked without being inquired into, sir. Still bearing on the question of privilege I would like to point out that Hodges, the greatest authority on the law of libel, quotes the same case. He says:— [Not supplied.]

The President: This is not the Court you asked for.

Captain Knyvett: Quite so, but it arises out of it.

The President: We are here to take evidence, and to submit a report on these charges.

Captain Knyvett: I submit that before the Court can hear the charges at all it must be satisfied that they are *bona fide* charges.

The President: The Court is here to assist you to get to the bottom as much as possible. All we want is to get to the bottom of it.

Captain Knyvett: If that is so, I want a decision as to the question of privilege.

The President: This case comes down to this: it says that reports which it is necessary to furnish are privileged.

Captain Knyvett: It does not say that.

The President: Well, you wish the Court to rule on this?

Captain Knyvett: Yes.

The President: Well, clear the Court.

The Court was cleared, and upon resumption, the President said: The Court considered your objection, and they rule that the case of *Dawkins v. Paulet* does not apply to this.

Captain Knyvett: The letter—

The President: Is not privileged.

Captain Knyvett: Do you rule that I am not an officer of State?

The President: The Court rules that your letter was not privileged.

Captain Knyvett: Do they rule that I am not an officer of State?

The President: We are not going to rule any further.

Captain Knyvett: The Court then has overruled the highest legal authority on the matter. The Court has already admitted that I am an officer of State, and in spite of that the Court rules that the communication was not privileged.

The President: Yes.

Captain Knyvett: Then, I desire to notify the Court that I intend to take the matter to a higher authority. Have I understood you aright?

The President: The charges are that you exceeded your rights.

Captain Knyvett: I submit, if that is so, which I do not admit, it is the burden of the Court to prove it, and then, and not till then, am I bound to prove my innocence.

The President: The Court considers now that we have come to the position of paragraph 12—the trial goes on, and the burden of proof must be shifted.

Captain Knyvett: Does the Court consider that I committed an offence?

The President: The charge is that you wrote a letter to the Minister of Defence, making charges against a superior officer. You admit writing the letter. In certain circumstances charges made in a letter are privileged. You must connect each of these charges to show us that they were relevant to your desire to seek redress. They must be relevant to your claim, and you must believe them to be true.

Captain Knyvett: I respectfully submit that even if they are absolutely false they are still privileged.

The President: The charges are made under the New Zealand Defence Regulations.

Captain Knyvett: Under the Army Regulations.

The President: Our Act prescribes that the Imperial Act is to be taken as a guide where not specified to the contrary. Here it is specified. It is what you said in that communication for which you must be responsible.

Captain Knyvett: I have never denied responsibility, but I claim privilege. We have now come to the question of proof. Regulation — says,— [Not supplied.]

Captain Knyvett (continuing): It is distinctly laid down that he who alleges must prove. I ask the Court to prove whether it was “litigious, frivolous, or malicious.”

The President: You have admitted writing certain charges.

Captain Knyvett: I have admitted the letter and the paragraphs from the letter. I have done that to assist the Court, but at the same time it is set down that he who alleges must prove. You must prove that the extracts are “litigious, frivolous, or malicious.” It says here distinctly that you must prove that.

The President: Well, the assumption is—

Captain Knyvett: There must be no assumption, sir.

The President: It practically amounts to this: that you have made certain charges.

Captain Knyvett: I do not admit making any charges. I want the Court to say whether I am guilty or innocent.

The President: The Court cannot say that until the finish. The question at issue mainly is whether the statements you made were relevant to your claim for redress. You might seek redress for two reasons—(1) because of reports which may be made about you to a superior authority, or (2) because of the feeling of the country that you have—

Captain Knyvett: On that no evidence can be brought in by the Court. “The Manual of Military Law,” section 12, says the Court must prove, and I would like to ask your decision whether you intend to or not?

The President: We considered that before.

Captain Knyvett: You did not consider that before, whether you intended to prove or not.

The President: It is a question as to whether they were privileged. In this connection it says, under Regulation — “If they are relevant to your complaint, as you sincerely believed.”

Captain Knyvett: I am not saying anything about privilege, because you have already ruled that they were not privileged.

The President (after consulting the other members of the Court): We have decided that it is necessary to go on with the case.

Captain Knyvett: Well, I am just waiting to answer the first charge.

The President: One minute before we go on.

Captain Knyvett, after getting the Court's permission, proceeded to deal with the first charge, that he had 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: “Preventing any possibility of a scandal leaking out to the public of the want of tact and interference of the Chief of the General Staff.” *Captain Knyvett* said: The first charge appears to me to be absurd. It starts with a meaningless phrase. It does not say who is preventing. I would like to ask the Court if any one can make anything out of that phrase without the context. I—

The President: You claim that that charge is—

Captain Knyvett: Absurd. It starts with a meaningless phrase. I say nothing can be made out of it, and I say the Court cannot. The only way it can be read is in connection with the rest of the letter, but you have already ruled that the rest of the letter is privileged.

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?

The President: The Court has considered it.

Captain Knyvett: Do you consider that that is sufficient reason for a responsible officer like myself being placed under arrest?

The President: The Court considered the whole question as one.

Captain Knyvett: And they consider that it was sufficient to justify my arrest? I consider it absurd, and wish it noted, as I will bring it up later on.

The Court did not reply.

Captain Knyvett: I would like the Court to come to a decision on these charges. Perhaps the Court would like to reconsider them before it sits to-morrow.

The President: Well, the Court will consider the question, and will notify you what you have to meet.

The Court was at once cleared, the President intimating that it would deliver its decision as soon as it was arrived at. Upon resumption, the President said, The Court has considered your objection to charge 4. They will uphold your objection, and will refer the charge to the convening officer, who may amend or throw it out altogether.

The Court then adjourned until 2 p.m. next day.

SECOND DAY, WEDNESDAY, 22ND DECEMBER.

The Court resumed sitting at 2 p.m. on Wednesday, 22nd December, Lieutenant Pullen, as upon the first day, taking his seat beside Captain Knyvett, while Lieutenant Greenhough resumed his seat at the end of the table as Captain Knyvett's stenographer.

The President: The Court adjourned last night on the question of charge 4. It has since conferred with the Convening Officer, who has decided that it should not be further proceeded with.

Captain Knyvett: I would like to ask if the Court rules I cannot have my friend near me?

The President: We told you at the commencement that you may have a friend to look up references when you want them, but not a personal friend as provided for under the Army Act.

Captain Knyvett: A personal friend—

The President: He is not allowed as a personal friend. You asked as a favour at the commencement whether you might have some one to look up references, and the Court acceded to your request, but he is not in any way to prompt you.

Captain Knyvett: I understood that that was what the favour of the Court extended to.

The President: He is in no sense a friend according to the Act. The writing of the letter and the signature having been admitted, no witnesses for the prosecution will be called, and the Court wishes to know whether you will give evidence on your own behalf; but the Court wishes to impress upon you that the evidence you call must be about the charges preferred against you. No evidence will be accepted or allowed which does not deal directly with those charges. The Court has not been convened, nor is it competent, to try your charges.

Captain Knyvett: I have never asked it.

The President: We want to impress upon you that any evidence you call must be relevant to exonerating yourself. Do you wish to give evidence on your own behalf?

Captain Knyvett: Before the Court proceeds I would like to have the evidence read which was given yesterday.

The President: No evidence was taken.

Captain Knyvett: I want the objections read out.

The President: Various points were raised. On the first charge the Court ruled that it disclosed an offence, and overruled your objection.

Captain Knyvett: The Court did not give a decision as to what charge.

The President: They overruled your objection to the first charge.

The objections as noted were then read.

The President: That having been done, I again ask you if you desire to give evidence on your own behalf?

Captain Knyvett: Yes, I do.

The President: And do you wish to call any other witnesses?

Captain Knyvett: Yes. I have already sent my list of witnesses into Court.

The President: Who are they? I have not received the list.

Captain Knyvett: The first witness is Colonel Robin.

The President: The Court will not call Colonel Robin.

Captain Knyvett: You ask me for the truth, or otherwise, relevant to the case, and I submit that he is absolutely required.

The President: If you can show the Court that Colonel Robin can inform the Court whether you believed these charges to be true, or that they are relevant to your claim for redress, then the Court will call him.

Captain Knyvett: Yes, I am prepared to show that if the Court will allow me. Without referring to the truth or otherwise of the article that Colonel Robin gave to the Opposition newspaper, on Monday morning, an article, an interview with Colonel Robin, came out in the paper with Colonel Robin, Chief of the General Staff. It is given on the Sunday night, sir. In that he says he heard with complete astonishment of the arrival of the Auckland Gunners in Wellington, that he had no previous knowledge. That appeared the first morning after we were actually in Wellington. It is an interview with Colonel Robin, under his name.

The President: I do not see how that affects the question. What the paper reports does not establish the fact that Colonel Robin said so.

Captain Knyvett: It is only backing it up. If I may be allowed to show the Court, and you then rule it out of order, I will accept that.

The President: The Court will only allow you to call evidence to exonerate yourself, and not with a desire to bring any one else into trouble.

Captain Knyvett: I want to show how the want of tact and interference on the part of the Chief of the General Staff brought this about.

The President: We do not want you to show it.

Captain Knyvett: What do you want me to show?

The President: You make charges against your superior officer: the position is that you make these charges in a letter to a superior authority. You may write asking for redress, but any statement you make in that letter you are responsible for, and unless they are distinctly made *bona fide* to obtain redress of the grievances you had, they are not privileged.

Captain Knyvett: The Court did not say whether Colonel Robin can give evidence. I am only asking.

The President: I only say with reference to your claim, and I will not hear long rigmaroles about interviews. You wrote a letter asking for the redress of grievances. Exception is taken to statements made by you. In all these accusations——

Captain Knyvett: They are not accusations, sir.

The President: I will not have any more of this quibbling. We are——

Captain Knyvett: Do I understand that the Court does not want the truth?

The President: We are not going to try the other case. We are trying yours. You admit the letter. Exception has been taken to the charges in your letter, which any military man knows may or may not be made. Having admitted the letter you have got to show that you were justified in making these statements, in so far as that you honestly believed them to be true when you wrote them, and that they were written only with the intention of getting redress and nothing beyond that.

Captain Knyvett: The question before the Court is the witnesses I propose to bring. The first witness I want to call is Colonel Robin.

The President: We are prepared to call witnesses whom you can show can give relevant evidence. You must show the Court that they can give relevant evidence.

Captain Knyvett: That is what I wish to show, but you will not hear me. One article distinctly contradictory to the other, and the statements made are absolutely untrue. I consider that is "want of tact."

The President: But we are not trying want of tact.

Captain Knyvett: You are trying me for saying it.

The President: You can put that in evidence—that you had reason to believe that this charge was right, and that it was relevant to your claim to exonerate yourself. That is as good evidence as Colonel Robin's would be.

Captain Knyvett: I only wish to ask him questions which are totally relevant.

The President: Can you show the Court how Colonel Robin can inform them whether you believed those charges to be true, or whether you believed that those charges that you make are relevant to your claim for redress?

Captain Knyvett: Yes, sir, by the different articles under his own name, and by official documents written in connection with those articles. I have served the notice, which will show that.

At this stage Lieutenant Pullen handed Captain Knyvett a note.

The President: Hand me that.

Captain Knyvett handed the note over.

The President: Clear the Court.

The Court was cleared, and after a minute or two's deliberation, the Court was opened again.

The President (to Lieutenant Pullen): What is your name?

Lieutenant Pullen: Pullen.

The President: Are you a lieutenant?

Lieutenant Pullen: Yes.

The President: We distinctly pointed out at the commencement when you were allowed to sit at the table that you were only allowed there on the understanding that you were not the prisoner's friend, and that you were not to make suggestions. Now, you have handed him a suggestion which the Court holds is contempt of Court. The Court has decided to exclude you from the room.

Lieutenant Pullen: Have I not the right of the general public to sit at the back?

The President: You are excluded from the room.

Lieutenant Pullen: If I take my uniform off and appear in mufti, may I sit at the back?

The President: You are excluded from the room.

Lieutenant Pullen: Then I have not the right of an ordinary British subject.

The President: Leave the room.

Lieutenant Pullen then left the room, and the President gave instruction to the orderly not to admit him again. While the President was thus engaged with the orderly Lieutenant Greenhough spoke to Captain Knyvett.

The President (to Lieutenant Greenhough): The next thing will be that you are ordered to leave the room. I hope this will be the last of this.

Lieutenant Greenhough was then ordered away from his table, and took his seat by the reporters.

The President: Are these the witnesses you forwarded, then?

Captain Knyvett: Do I understand that the Court has given its decision about this other officer I have mentioned as a witness?

The President: The Court cannot call witnesses from such a distance.

Captain Knyvett: You must, sir. The Act says I can bring them for 200 miles, and if the Court wishes for justice and truth I respectfully submit I can call him.

The President: Well, what evidence can he give?

Captain Knyvett: He can give evidence, sir. The whole text of the evidence in the first place is to exonerate myself from that. I can show that everything was done to discourage me personally, and not only myself, but other people.

The President: But you cannot do that. May I warn you now that any further desire on your part to try and prove your charges in this case will tend to make the Court think that the charges preferred against you are true.

Captain Knyvett: I am not desiring, sir. The Court evidently does not want this officer called.

The President: The Court has not convened, nor is it competent to hear the charges you made.

Captain Knyvett: You ask me what officers I want, and when I give you a name you will not allow me to call that officer.

The President: All you have to do is to prove that your charges were *bona fide*, not as accusations against your superior officer, but to exonerate yourself.

Captain Knyvett: I claim that I did so, and in most modest language.

The President: You have to show how these charges exculpate you.

Captain Knyvett: Can I ask the ruling of the Court how far and what you will allow me to say?

The President: You say that this is a list of your witnesses?

Captain Knyvett: Only of the Auckland witnesses. The other list I posted to your address at Wellington.

The President: But I have not got that. You might give me the complete list.

Captain Knyvett: The witnesses I want called are Colonel Robin, Colonel Smythe, Colonel Bauchop, the Chief Staff Officer, Captain Chesney, Captain Nicholson (Te Kuiti), Lieut.-Colonel Wolfe, Lieut.-Colonel Holgate, Major Hazard, Captains Kay, Dawson, Richardson, Shera, and Archibald, Lieutenant Greenhough, Surgeon-Captain Murray, Staff Sergeant-major Cheator, Staff Sergeant-major Bell, Staff Sergeant-major Atwell, Colour-Sergeant Mackerras (of Newton Rifles), and Staff Sergeant-major Carter.

Captain Knyvett: Yes, but I question whether the Court will call them.

The President: The Court will consider, unless you can show otherwise.

Captain Knyvett: I want the Court to say what witnesses it wants called. It will make a great difference to my case.

The President: The Court cannot enforce their attendance here.

Captain Knyvett: Why cannot they? They are all staff officers, and all in the Government employ, and can be called within two hundred miles.

The President: The Court has only the powers of a Magistrate's Court. The Court has not the power to enforce their attendance here, in the case of Government officers especially, but we will do the best we can for you as regards getting them. In any case they cannot be here before Christmas.

Captain Knyvett: If the Court will permit me I will proceed with my own defence before witnesses are called. If the Court will turn to the letter they will see that it only talks about other officers preventing any possibility of a scandal, &c.

The President: It is not for the Court to consider whether it discloses an offence or not.

Captain Knyvett: This sentence only refers to the Petone Naval officers preventing any possibility of a scandal leaking out. The public, I submit, sir, cannot be hurt by a scandal leaking out.

The President: Will you read the whole thing? The Court will not go on with these quibbles.

Captain Knyvett: I respectfully submit that I am not quibbling. I am evidently making points, which the Court does not wish to hear.

The President: You are responsible for what you wrote, and, having admitted writing the letter, you have to prove that these accusations were made *bona fide* in your attempt to get redress. You have admitted the letter, in which you convey charges against your superior officer. It is for you to prove that these expressions in your letter were privileged, and unless they were made *bona fide* in your attempt to get redress they were not privileged.

Captain Knyvett: I contend that I am right in taking the charges in their specified order. I am trying to read the wording out, and to show that it is a meaningless phrase.

The President: The Court will not discuss that at all.

Captain Knyvett: Then, I respectfully refuse to call any evidence if the Court will not discuss it.

The President: You refuse?

Captain Knyvett: Yes.

The President: You have admitted the letter.

Captain Knyvett: I am defending charges, four distinct charges.

The President: If you refuse to call evidence there will be nothing left for the Court but to close the proceedings and give their report.

Captain Knyvett: It seems to me the Court desires that.

The President: The Court does not desire that, but it will not be kept quibbling.

Captain Knyvett: I am here to defend in a reasonable way. It is the Court that is quibbling. You will not let me go through with my case.

The President: The ruling you ask for is, in effect, the verdict. If the Court rules that you wrote this maliciously there is no more to be said; that is the end of it. You are asking the Court for a ruling which is the verdict. The position is that you have admitted the letter, and in that letter you make certain charges against your superior officer, which fact is a military crime unless you can prove privilege. Now, the Court will explain to you that these accusations may be privileged, but only to this extent, that they are relevant to your claim to exonerate yourself, and that you *bona fide* believed them. It does not matter whether they are true or not, only whether you made them falsely or maliciously.

Captain Knyvett: Even if they were false and malicious they were privileged. I accept the Court's ruling, and I respectfully ask to be allowed to proceed with my own defence. I will take it on oath, if I may, sir.

Captain Knyvett was then sworn.

Captain Knyvett: Before giving evidence I want to protest against the finding of the Court, and have it noted.

The President: What finding?

Captain Knyvett: The finding that you would not have any argument.

The President: That has been ruled on before.

Captain Knyvett: As to the first charge that I committed an act to the prejudice of good order and military discipline by stating in my letter "preventing any possibility of a scandal leaking out to the public of the want of tact and interference of the Chief of General Staff," I submit that there is nothing in the first part of it. As to "want of tact," that, I respectfully submit, vitally concerns me. I knew Colonel Robin's statements to be absolutely untrue. I would like to know, sir, if the evidence is being taken down.

The President: Well, we cannot take the evidence down as fast as this. You say that you honestly believed that charge to be true when you made it?

Captain Knyvett: Which one?

The President: The first one with reference to want of tact and interference.

Captain Knyvett: Yes. I am just as satisfied about that now as when I made the charge. As to the first part of the charge, I submit that I have nothing to do with it. I consider that it was the want of tact and interference on the part of Colonel Robin that spoilt the whole trip. I was officially exonerated as to my conduct in going to Wellington. In addition to that, sir, I respectfully state that I wrote my letter in all good faith and truth, not so much as a grievance against a superior but rather to get an explanation as to what I believed myself.

The President: In what way do you consider "the want of tact and interference" affected your trip?

Captain Knyvett: I arrived with my corps on Saturday night in Wellington, after having been granted official leave, the evidence as to which has already been received and accepted by the Court.

The President: As shown in your statement marked [See Enclosure No. 2 to No. 26.]

Captain Knyvett: Yes, and accepted by the Court. After arriving there, and having official leave, to find at 4.30 on Monday morning, in an issue of the *Dominion* newspaper, an interview given by the Chief of General Staff, which I personally knew to be entirely at variance with the facts—to find there such statements that we had not got permission to leave, that the situation was laughable in the extreme but for the fact that the men had been induced to make an expensive trip, although that trip had not really been started—it could not start really until the Monday morning—was certainly enough to cast a dampener on the enthusiasm of any men, sir. I think that bears out my assertion as to want of tact, sir, and I could have said absolutely untrue, sir, but I did not. I consider that is quite sufficient to exculpate me in saying "want of tact," but that is only one of many. I think I have brought out quite sufficient to satisfy the Court as to that.

The President: Do you want to say something further?

Captain Knyvett: Yes. The wording of the article was distinctly that no permission to travel had been issued to the company. The article says distinctly that Colonel Robin knew nothing about it in any way. I consider by writing that article, knowing that it was not true, stating that the trip had failed before it started, that it was an expensive trip to the men, and it was an expensive trip both to the men and myself, I consider that there is sufficient in that argument alone for stating want of tact on the part of the Chief of General Staff.

The President: You consider this article seriously affected your trip?

Captain Knyvett: It spoilt it. I would like to point out that immediately after that article reached camp the men struck camp themselves. As to interference, sir, I claim that the same article was reasonable ground for my claiming that there had been interference.

The President: You consider that you were interfered with by the Chief of General Staff?

Captain Knyvett: I consider that I was interfered with by the article, under Colonel Robin's name, appearing in the Press.

The President: By this article?

Captain Knyvett: By the whole five articles in the *Dominion*, *New Zealand Times*, and *Evening Post*.

Captain Knyvett read the following article, which appeared in the *Dominion* on the Monday morning:— [Not supplied.]

Captain Knyvett then produced the *New Zealand Times* of the following morning, and read the following extract:— [Not supplied.]

Captain Knyvett: In the interview given to the *Dominion* representative on the Sunday night, he states he had no official advice of our intended visit, yet in this interview, given on the Monday afternoon, he says that he replied to the application for permission to travel on the Saturday morning. These statements are directly contradictory, one of the other. This is where the interference comes in. He says, "It appears that the captain of the Auckland Artillery did not even report himself on arrival to the Officer Commanding the District, a duty devolving on responsible

officers when conducting troops from one place to another." As a matter of fact, I was in Colonel Robin's office on the Sunday morning. On the Monday I reported myself to his Staff Officer; Captain Trask, who rang Colonel Robin up. Yet, that night, Colonel Robin says I had not even thought it worth while to report. Is that not interference, sir? I consider that that article alone is complete justification for my statement. I would like to read out what the *Post* says in another article. It is headed "A Surprise Party. An Amusing Incident." It was not very amusing to me, I can assure you, sir. This interview was given on the Monday afternoon. It reads:—
[Not supplied.]

Captain Knyvett: Now, I consider that that shows I had complete and grave grounds for my charges.

The President: As long as you can show that the charge you made is relevant you did not commit an offence, and the articles in the papers form reasonable ground. I dare say you were feeling very hurt at the time, and if the articles were a little on the wide side, then you may be excused. You have only to show reasonable ground that you believed your grievance to be true, and that you believed they were connected with the failure of your trip.

Captain Knyvett: Well, I want to ask if the Court considers that?

The President: The Court will not give a verdict. They can only call evidence, and report to the Convening Officer.

Captain Knyvett: I took it that this Court said it would have the power of punishment.

The President: No, I only said it would have the power behind. It is a Court of Inquiry under the Defence Act, 1908.

Captain Knyvett: I want you to consider that question. Do you think I have shown sufficient or not? If not, I will have to call witnesses. I would like to ask you if you think it necessary?

The Court deliberated in private, and upon opening the Court again, the *President* said: The Court has considered the matter, and you may call further witnesses if you wish to.

Captain Knyvett: The Court does not consider it necessary for me to call any witnesses on this?

The President: Yes. The Court considered that you had a double duty to perform to connect your statement with a *bona fide* desire to obtain redress. You have shown that you considered that you were injured by this action, and that you acted with a *bona fide* desire to obtain redress. They were not malicious statements. They may have been wild statements.

Captain Knyvett: The Court says, then, I have given sufficient evidence to show that my statements were not made with any malicious spirit?

The President: Yes. They—

Captain Knyvett: That disposes of that charge, then?

The President: Of course, the Convening Officer may direct that we must take more evidence; but in the meantime we need not unless we wish.

Captain Knyvett proceeded to deal with the second charge.

The President: You believe the statement you made there to be true?

Captain Knyvett: Yes, sir.

The President: You believe the statement forming the second charge?

Captain Knyvett: Yes.

The President: How do you consider this affected your Wellington trip?

Captain Knyvett: Well, sir, it is really an impression.

The President: Your whole complaint is the non-success of your Wellington trip?

Captain Knyvett: No, sir. This is another grievance. I consider that these articles were belittling. I consider this belittling: "The situation would be laughable in the extreme were it not for the fact," &c. That is belittling, sir.

The President: You considered that these articles were his?

Captain Knyvett: Certainly I do, sir. They are under the name of Colonel Robin, C.B.

The President: How do you consider that this affected your grievance?

Captain Knyvett: With regard to charge 2, I consider that the bottom of the article stating that the trip had failed before it started not only killed the trip, but belittled myself. These remarks are the basis of my complaint. I want to know whether it is necessary for me to call any evidence.

The President: The whole question is more of a personal question.

Captain Knyvett: It made me look a fool. It could do nothing else but belittle me personally as the Officer Commanding the company. It belittled the object and the authority for the object under which we went down. The articles also certainly, and most distinctly, discouraged the men, and they certainly damped enthusiasm, sir. I would like the Court to give its ruling, the same as it did in regard to the previous charge. I have a soul of mine own, and do not desire to wash dirty linen by having officers giving evidence against one another. I would ask you to give your ruling. You will find it more necessary to rule on this than in regard to the previous charge which you have already ruled on.

The President: In this case the statement you make is that the Chief of General Staff has gone out of his way to belittle and discourage the whole Volunteer movement, I take it, through your company?

Captain Knyvett: Yes, and I can call other Volunteers, if you like.

The President: You have reasonable ground?

Captain Knyvett: Yes.

The President: When you say the whole Volunteer movement you mean as affected by your company?

Captain Knyvett: But for my own personal influence the two companies, after the treatment meted, would have disbanded altogether. That was dampening enthusiasm, I contend. I con-

sider I have there sufficient ground to say that the Chief of General Staff dampened our enthusiasm by giving these articles about my company and myself personally. I respectfully ask for your ruling, sir.

The President: You think the belittling of yourself and company dampened the enthusiasm throughout the whole Dominion?

Captain Knyvett: Yes; you make it a personal matter, but as to the experience of other officers I can bring plenty of evidence on that point. I want to ask whether I have shown sufficient grounds to warrant me in making out that statement?

The President: All we want is from you personally. We are aware that at the time you must have felt very strongly. It is for you to connect your charge with your grievance, and nothing else.

Captain Knyvett: I want the ruling of the Court as to whether it is necessary to call more officers!

The President: You think that the discouragement of your company dampened the enthusiasm of the whole Volunteer movement throughout New Zealand?

Captain Knyvett: If you say assisted, sir. There are other things that brought that paragraph in.

The President: Well, you believe that the belittling of yourself and company would discourage and dampen the enthusiasm of the whole Volunteer movement?

Captain Knyvett: I say, most decidedly so. It would assist in dampening enthusiasm in the whole Volunteer movement.

The President: Will you give evidence on the third charge?

Captain Knyvett: No, sir; I want this other charge decided on. I have some——

The President: We want to know on the third charge before we can tell on the second.

Captain Knyvett: I shall have to call evidence on that, sir.

The Court deliberated in private on the second charge. On resuming, the *President* said, You may call further evidence on the second charge. The Court does not consider it necessary.

Captain Knyvett then proceeded to deal with the third charge laid in respect of the following sentence of his letter: "Since these articles appeared I have been approached by many officers throughout the whole of the North Island, who have had similar experience of the unwarranted interference and unexampled officialism of Colonel Robin."

Captain Knyvett: I shall have to call evidence as to that. I should like to ask, while I am giving evidence on this myself, if you want me to give evidence about "unexampled officialism." It is a complimentary phrase.

The President: No, we are not going to discuss that. It is equally a breach of regulations to compliment or criticize.

Captain Knyvett: Can I call evidence to show that I had reasonable grounds for stating that? I want to know whether the Court is favourable or unfavourable.

The President: All the evidence you can call is as to whether they made such statements to you. You are charged with a breach of discipline by making these statements. It is equally a breach of regulations to criticize or to praise.

Captain Knyvett: I think I would not have been arrested for praising a superior officer, would I? I would like to state that the witnesses whose names are down there will be able to give evidence as to the unwarranted interference and unexampled officialism of Colonel Robin.

The President: They made such statements to you?

Captain Knyvett: Yes, and that justified me in making that statement.

The President: You state that "since these articles appeared you have been approached by officers throughout the whole of the North Island," &c. Are you prepared to give names?

Captain Knyvett: The witnesses are there; I have given you the names.

The President: You state that you have been approached.

Captain Knyvett: Yes.

The President: Now, this is a question, not of personal opinion, but of fact.

Captain Knyvett: You have already ruled that you are not here to hear statements of fact, one way or the other.

The President: Here you make a statement for yourself. You state in this letter that since these articles appeared you 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. Is that true, or is it not?

Captain Knyvett: It is quite true, sir, absolutely true. I understood that the question of the truth or otherwise could not be brought into it.

The President: The truth or untruth of the charges you make in your letter does not matter; the Court is not here to inquire into them. It is here to inquire whether they were made *bona fide*.

Captain Knyvett: The question, I submit, is whether I had sufficient grounds for believing them to be true, not whether they were true, I would like to point out.

The President: You state that since these articles appeared you have been approached by many officers throughout the whole of the North Island, who have had similar experiences? Is that true?

Captain Knyvett: Voluntarily, I say it is true, although, I submit, you have no right to ask me. It is true.

The President (to Captain Sandtmann, who had written the question): Read the question again.

Captain Sandtmann read the question.

Captain Knyvett: Yes, although I protest against the question.

The President: Are you prepared to give the names?

Captain Knyvett: I refuse. Many of the officers concerned are in Government billets, and if I give their names they might suffer.

The President: Are you prepared to give the names of any officers?

Captain Knyvett: I refuse to give the names of the officers, but I am prepared to call evidence.

The President: Are you prepared to give the name of any officer who so approached you?

Captain Knyvett: No, sir, I will not answer that question. I submit that it is not a fair question. No; I will not give them. I will bring them out in evidence.

The President: The question is, Are you prepared to give the names of the officers who so approached you?

Captain Knyvett: Certainly not. I think it is most unfair to ask me. I refuse to answer the question, but desire to call evidence in support of what I say.

The President: Your evidence can only be who were the officers who so approached you.

Captain Knyvett: If I gave you the names, each officer might be regarded as having a personal spite against Colonel Robin, which would be manifestly unfair. I have given you the list of witnesses: you may take it that those are the witnesses.

The President: You refuse to answer this question? The Court will be cleared to decide whether you can answer it.

The Court was cleared accordingly, and, upon resumption, the *President* said: The Court considers that you are bound to answer the last question. The question is, Are you prepared to give the names of the officers who so approached you?

Captain Knyvett: I have given my answer. I refuse to——

The President: I am asking you "Yes" or "No." Are you or are you not prepared to give the names of the officers who so approached you?

Captain Knyvett: I have already answered it, and I want my answer noted as it was given.

The President: Are you prepared to give the names of the officers who so approached you?

Captain Knyvett: No, but I desire to call evidence.

The President: I do not want an answer any more than "Yes" or "No." I want to know whether you are prepared to give the names of the officers who so approached you, on oath. I am not asking you now to give these names. I am asking you, Are you prepared to give these names?

Captain Knyvett: I gave the answer.

The President: Are you prepared to give the names of the officers who so approached you?

Captain Knyvett: I have already given an answer to your question, and the Court has decided that I must. I cannot give an answer a second time, sir.

The President: The Court is not asking you for the names. The question is, Are you prepared to give the names of the officers who so approached you? The answer must be "Yes" or "No."

Captain Knyvett: Yes, sir, I am; but not of all, sir.

The President: Are you prepared to call evidence to show that officers have approached you "who have had similar experiences of the unwarranted interference and unexampled officialism of Colonel Robin."

Captain Knyvett: Yes, sir, I am, and now.

Captain Sandtmann: You are going too fast. I am not taking shorthand.

Captain Knyvett: And I beg to suggest that you are not writing longhand either.

The President: Now, I ask you for the names of the officers who so approached you, officers having these experiences.

Captain Knyvett: As the question is put it is practically a repetition of the first question.

The President: I ask you for the names of the officers.

Captain Knyvett: Some or all?

The President: It may not be necessary to give all of them.

Captain Knyvett: I will give you the first of them, and you can ask for others as you want them. The first officer is Captain Dawson.

The President: The Court will consider.

The President (after the Court had deliberated): Another?

Captain Knyvett: The first is Captain Dawson, Officer Commanding the College Rifles and Signalling Staff Officer for the Auckland District. The second is Captain Shera, Officer Commanding the Auckland company of the New Zealand Engineers. Now, sir, I will give the name of Colour-Sergeant Mackerras, just to see if the Court considers these officers are sufficient. Colour-Sergeant Mackerras, of the Newton Rifles.

The President: Any more names? The Court must give you an opportunity of giving more names.

Captain Knyvett: Does the Court wish to trip me, sir?

The President: No, the Court does not wish to trip you. We do not wish to hark back. Two witnesses are necessary to establish the fact. Now, the Court has ruled that you must give them, and you must give them; but the Court has not asked you to give all the names. You are satisfied with the three names?

Captain Knyvett: Yes.

The President: Those are all the names you wish to give at present?

Captain Knyvett: Yes, at present.

The President: Those are all the names you wish to give.

Captain Knyvett: Yes, at present. May I ask the Court what it intends to do if I do not give any more names?

The President: The Court may recall you after you have given evidence.

Captain Knyvett: I do not wish the Court to have the opportunity of blocking me from calling further witnesses.

The President: The Court wishes to give you every opportunity of calling further witnesses. Those are all the names you wish to give?

Captain Knyvett: Yes, at present.

The President: read over the questions and answers as they had been taken down.

The President: Well, the Court has no more questions to ask you. Do you wish to give any further evidence on this point?

Captain Knyvett: No, sir. I have got tired of giving evidence on points.

The President: Do you wish to call the officers?

Captain Knyvett: Yes. I will call Captain Dawson first.

Captain THOMAS HENRY DAWSON, Captain of the College Rifles and Signalling Staff Officer for the Auckland District, was called in, and sworn.

The President: The charge against the accused—

Captain Knyvett: The witness is mine, and it is for me to ask him.

The President: What is the question you wish to ask?

Captain Knyvett: I want to ask Captain Dawson what service he has had.

The President: That practically goes without saying; it is in the Army List.

Captain Knyvett: Yes, but I want it brought out in evidence.

The President (to Captain Dawson): Are you an officer of considerable service?

Captain Dawson: Two years active service, and fifteen years other service—really two years and three months active service, two years of which were as subaltern in the 1st Border Regiment.

Captain Knyvett: I would like to ask if he is Staff Officer in this district without pay.

The President (to Captain Dawson): Are you a Staff Officer in this district without pay?

Captain Dawson: Yes.

Captain Knyvett: I would like to ask if, after the Easter manoeuvres, Captain Dawson sent a signalling sergeant-major to instruct—

The President: You cannot ask that.

Captain Knyvett: I want to show how Colonel Robin interfered with something which was done for the good of the corps.

The President: The Court will not allow that question. The question is: Have you been approached by Captain Dawson as to experience of unwarranted interference?

Captain Knyvett: I ask you to ask Captain Dawson if, after I arrived back from Wellington, he approached me, and said he had experienced the same unwarranted interference by the Chief of General Staff, and gave to me what his experiences were. I take it that you will not allow me to bring out what the experiences were?

The President: No.

The question was put to the witness.

Captain Dawson: Yes, sir. I may say that we were all very upset over what occurred at Wellington, and I, among others, saw Captain Knyvett. He told me what had happened in Wellington, and I told him that I had a grievance against the Chief of General Staff, complaints of interference, or what I considered to be interference.

Captain Knyvett: I would like to call Captain Shera, sir.

Captain Shera was called in.

Captain Knyvett: I would like to get the incident, sir, if the Court will permit me?

The President: No, I will not allow that.

Captain LOUIS MURRAY SHERA, Officer Commanding No. 3 Company, New Zealand Engineers, was then sworn.

Captain Knyvett: I would like to ask Captain Shera what previous service he has held.

The question was put.

Captain Shera: Twelve years in the College Rifles, and about twelve months in No. 3 Company, to which I was transferred from the College Rifles. Active service from February to August, 1902.

Captain Knyvett: I would like to ask if Captain Shera was mentioned in despatches

The question was put.

Captain Shera: No, sir.

Captain Knyvett: I would like to ask if, since my return from Wellington, he approached me, and told me that he had a similar experience of unwarranted interference by the Chief of General Staff.

The question was put.

Captain Shera: Yes, sir.

Colour-Sergeant Mackerras was then called in and sworn.

Captain Knyvett: I would like the whole of his services put in, sir.

The President (to Colour-Sergeant Mackerras): What is your service?

Colour-Sergeant Mackerras: I have fifteen years' broken, and ten years' consecutive service, sir. In the Dunedin Highland Rifles 1888, then as a private in the Clutha Mounted Rifles, then as a sergeant in the Feilding Mounted Rifles, and then as a colour-sergeant in the Newton Rifles.

Captain Knyvett: Before I put the question I would like the Court to decide. The evidence would bear out the question exactly. I want the Court to ask Colour-Sergeant Mackerras if he approached me since my return from Wellington, and gave me an instance of unwarranted interference by Colonel Robin.

The President: The answer must be Yes or No.

The question was put.

Colour-Sergeant Mackerras: Yes.

The President: The Court will adjourn until 9.30 to-morrow morning.

Captain Knyvett: I wish to ask—perhaps it may save the Court's time—if the Court will, during the adjournment, give a decision as to whether these responsible commissioned officers and non-commissioned officer have give sufficient evidence to exculpate me?

The President: That is quite sufficient to establish the truth of your statement that you have been approached.

Captain Knyvett: That is the last charge, then, sir. There is no necessity, then, to call any further witnesses?

The President: It is quite sufficient to establish the truth of your statement. It is connected with your grievance. Your witnesses support your statement.

Captain Knyvett: That would exonerate me, would it not, sir?

The President: The Court can only report on it. The Court cannot give a decision as to whether they consider you have brought sufficient evidence to establish the truth of your statement.

Captain Knyvett: The Court has already done that.

The President: The Court is perfectly satisfied with your statement.

The Court adjourned until 10 a.m. the following day.

THIRD DAY, 23RD DECEMBER.

The Court resumed sitting at 10 a.m. on Thursday, 23rd December.

The President (to Captain Knyvett): The evidence you have produced on the third charge is to the effect that you have been approached by officers, but the only officers you have called are from the Auckland District. Now, your charge is wider than that, and I want to point out to you, on the evidence as it stands, that it might be looked upon as an exaggeration. You say that you "have been approached by many officers throughout the whole of the North Island." You see what I mean. Now, we want to give you every opportunity to substantiate your statement.

Captain Knyvett: But the Court has already refused to call them.

The President: No; we said that we were not prepared to call any whose evidence would not be relevant. Now, do you wish to call any more evidence to prove that many officers throughout the whole of the North Island approached you?

Captain Knyvett: You ruled last night that the evidence I called was sufficient.

The President: The Court wishes to give you every opportunity in case the Convening Officer considers it necessary. Do you wish to call the evidence of officers from other parts?

Captain Knyvett: I want to know if the Court is at all times to consult the Convening Officer?

The President: The Court has to inform the Convening Officer, but if the Convening Officer is not satisfied the Court may call for more evidence.

Captain Knyvett: If the Court is already satisfied with the evidence, I respectfully submit that the Convening Officer cannot, and should not, further be consulted.

The President: You have undoubtedly called evidence showing that you were approached by officers.

Captain Knyvett: I gave the reason why I was not prepared to call further evidence. The three I called are just as good as from other parts of the Dominion. The reason why I do not call officers from other parts is because some of them are Staff Officers in Government billets, and they might thereby become prejudiced in their positions. They would become marked men.

The President: Well, do you wish a note made of that?

Captain Knyvett: Yes, sir, I do. But I will produce them at a properly constituted Court, which will afford them proper protection. Although the Court has ruled that the evidence I called last night was sufficient to establish my statement, I am now asked to call further evidence, which the Court said I could not call.

The President: We said we could not compel the witnesses to come here. I have only the legal power of a Magistrate's Court. I do not know what power the Court has to compel.

Captain Knyvett: I handed the Court a list of the witnesses to be subpoenaed.

The President: Now you say that you do not wish to call officers from elsewhere on account of their public positions.

Captain Knyvett: Yes; but I will produce them at a properly constituted Court.

The President: You refuse to give their names?

Captain Knyvett: Yes, their names, and to produce them until they are protected for the evidence they would give. I want it noted that up till now no witnesses have been subpoenaed. I want it noted that, although I sent in a list on Saturday, and although I handed in a list on Tuesday, that none of them have been subpoenaed up to the present. I want that specifically noted.

The President: Now, on the presumption that the action of the Chief of Staff did spoil your trip to Wellington, do you consider that you were justified in using the terms you did in your letter?

Captain Knyvett: The Court has already asked me, and I answered. I answered "Most certainly." The Court has already ruled that it was sufficient to justify me.

The President: It is a question whether you were justified in using these terms in regard to your superior officer if his action had spoil your trip.

Captain Knyvett: The Court has already given the opinion that I was justified in using the language.

The President: The Court has not given the opinion that you were justified in using such language. All the Court has said is that you had reasonable grounds for belief.

Captain Knyvett: Well, I consider I was justified by the conduct of the Chief of General Staff. I used the mildest terms possible.

The President: Do you consider you were justified in using such terms about your superior officer?

Captain Knyvett: I considered it my duty to do it, as well as justification. I would like to point out that even if I had been successful in my application—and I knew I must be when the truth came out—I could not have secured any personal aggrandisement, and that it would prevent me against getting promotion, although I have had nearly twenty years' service. I realised that I would be a marked man while the officer I complained about was still in the service. I can assure you, sir, I have no desire to quit the service. I have spent the best years of my life in it, my holidays, spare time and money, and it must have been a pretty strong sense of duty that made me sacrifice all that for what I considered was for the good of the whole service, sir. It could not have been with malicious intent, sir. I could not gain anything.

The President: Do you wish it added that it could not have been with malicious intent?

Captain Knyvett: It will take hours if Captain Sandtmann is to take it down, sir.

The President: Do you wish it added that it could not have been done with malicious intent?

Captain Knyvett: I wish to point that out. Yet that is what I am charged with having done. I would respectfully ask the Court if the Court has not ruled, as far as it can go, that sufficient evidence has been brought before the Court to justify me in what I did?

The President: You wish to enter a protest that your witnesses were not subpoenaed? The Court ruled that you might produce relevant evidence, and they ruled what evidence they would not allow. You have had to produce evidence exculpating your letter from being litigious, frivolous, or malicious. Now, certain witnesses were in the room and we called them.

Captain Knyvett: Did the Court call them? I called them.

The President: But the Court would have called them.

Captain Knyvett: I gave the Court notice from the start. They have not been subpoenaed up to the present moment.

The President: They were not subpoenaed because they were in the room, and were called. Who brought them there it is not for the Court to consider. After hearing evidence the Court said on the first two charges you might, if you liked, call further evidence; but they did not consider it necessary, as you had called evidence in support of the points, to connect your grievance with your letter. You were satisfied. On the third charge practically the same thing was done. The Court, on considering the matter this morning, considered that the evidence you produced might allow your statement to be considered an exaggeration. You produced evidence in support of the fact that you had been approached by officers in the Auckland District. Your statement was considerably wider, and the Court asked you if you wished to call further evidence, but you said you did not wish to call officers whose public careers might be damaged. That will be noted, and I take it if the Convening Officer wants that further cleared up the Court will sit again.

Captain Knyvett: And keep me under arrest the whole time?

The President: The Court reports, and the Convening Officer comes to a conclusion. The Court only sits to clear up the evidence, and submit it to the consideration of the Convening Officer or his legal adviser. The Court has no power to judge your innocence or guilt. On the third charge they consider you have produced enough evidence to show that you were approached, but that on the statement, as you have left it, it might be considered an exaggeration.

Captain Knyvett: This is a departure after the Court had ruled on it. Perhaps the Court has had advice on it.

The President: No, the Court has had no advice.

Captain Knyvett: I repeat I refuse to call those witnesses until they are properly protected. It would make a vast difference as to who was being tried. With regard to the witnesses, the Court has already stated that the witnesses I called were in the room. They have not been in the room from start to finish. I would like the witnesses called as to whether it is true or false.

The President: That has nothing to do with it at all.

Captain Knyvett: I respectfully suggest that the witnesses should have been subpoenaed. I most respectfully suggest that it should be put down. Evidently one member of the Court does not wish to put down any point I want noted.

Captain Sandtmann: Look here! I entirely object to that, sir.

What Captain Sandtmann had taken down was then read out.

Captain Knyvett: I want to know the name of the officer who ordered my arrest, in order that I may appeal to him or to some higher authority for release.

The President: No; you were put under arrest by your Commanding Officer.

Captain Knyvett: The Court promised to let me know who gave the order, but they have not done so yet.

The President: I am afraid the Court cannot do it.

Captain Knyvett: After promising me that they would.

The President: You were placed under arrest by the Officer Commanding the District.

Captain Knyvett: Under instructions, sir. I will call the Officer Commanding the District to combat that.

The President: It makes no difference to the fact that you are arrested. Whether he was instructed or not does not matter.

Captain Knyvett: It might be my own captain or colonel. The man who gave the instructions is the man. It is only a fair thing for me to know. Every soldier is entitled to know.

The President: The Court cannot produce Government correspondence.

Captain Knyvett: Although I submit that it can. I gave notice to the Court for that correspondence to be produced. I know now that it has been sent to Wellington.

The President: Well, the Court cannot tell you who issued the instructions. You want to know who issued the instructions?

Captain Knyvett: Yes.

After a pause *Captain Knyvett* went on to say: I have to apologize to you for an omission I made. I said I had not received a reply to my letter, but I did get a reply this morning, sir. I want to call the Court's attention to one or two facts now that all the evidence the Court requires has been received. I want to call the Court's attention to page 521, "Manual of Military Law," paragraph F, where it says:— [Not supplied.]

Captain Knyvett (continued): It says after the Board has given its decision it is the duty of the Court of Inquiry to get such witnesses. This Court has not allowed me to do that, sir. It has also laid down that I could not have a friend. The Army Act allows a friend.

The President: We decided not to allow a friend.

Captain Knyvett: But this says—

The President: The Court will not reconsider that complaint. I am perfectly certain that both you and Lieutenant Pullen knew exactly what a prisoner's friend was.

Captain Knyvett: I am not disputing the Court's ruling, sir. I am only pointing out that I have been overruled all the time. I submit I am entitled to show how absurd it is. The Court ruled that it was neither a Court of Inquiry nor a court-martial as laid down by the New Zealand Act.

The President: The Court is constituted a Court of Inquiry under the New Zealand Defence Act.

Captain Knyvett: It was said if that was so it would have to be a closed Court. It was stated that it was constituted under a different paragraph, and that was why it was opened. The Court said that it had a conference before it opened. I submit that is most irregular. The Court only sits for the purpose of taking evidence. The Court, I most respectfully submit, said that it could not consider whether there was a case. At the conclusion of the first day the Court threw out the fourth charge. With that exception the Court has in every case ruled against me. It ruled against the Manual of Military Law, the King's Regulations, and decisions of the Queen's Bench. In fact, the Court has ruled against everything that is most reasonable. In addition to that, I would like to point out that a great deal of relevant evidence has not been taken down. The questions you have put to me have not been taken down.

The President: All questions put by me have been taken down.

Captain Knyvett: I submit only part, not the whole—partial questions and partial answers. It is on the evidence handed in by the Court that the Minister decides my case. How can he decide if the evidence is not taken down?

The President: It has been taken down. The discussion on the points raised by you has not been taken down.

Captain Knyvett: I submit that the whole of the evidence has not been taken down by the Court. I have had the whole proceedings taken down by a competent shorthand reporter. That is all I have to say.

The President: Well, the Court will be closed, and will forward the evidence to the Convening Officer for him to deal with and decide.

Captain Knyvett: I would like to point out that my company goes into camp to-morrow night, and I would ask the Court to telegraph the evidence. I ask that the matter be expedited, so that when my company goes into camp I can resume command.

The President: The Court will forward the papers without delay, Captain Knyvett.

Captain Knyvett: If the Court does not care to go to the expense I will do it at my expense.

The President: I am afraid the Convening Officer would not accept the wire. The Court will forward the papers without any delay, and there is no reason why the Convening Officer should not wire his decision.

Captain Knyvett: There has been too much delay already. I sent this letter on the 10th November, and the Officer Commanding agreed to send it on with every despatch.

The President: If the Court were competent to come to a decision, and that decision were favourable to you, they might tell you at once. The Court is not competent to come to a decision.

Captain Knyvett: Will the Court tell me whether they will wire or not?

The President: The Court cannot give a decision whether the Convening Officer will wire to you. The Court did not decide that you had justifiable ground for saying this, but you have produced evidence to warrant you in the belief. As regards wiring, we cannot do that. We must forward the papers at once, and the Court is not in a position to say that the Convening Officer will wire to you direct. We cannot direct him.

Captain Knyvett: I want to know if, during this case, the Court has not already wired to the Convening Officer, and received his instructions?

The President: Yes, on one point. That was with reference to charge 4. We told you that he considered charge 4. We upheld your objection, and we wired to the Convening Officer, and he directed that it should be struck out.

Captain Knyvett: I submit that it is most irregular. The Convening Officer may be the man who placed me under arrest, and I submit that it is totally wrong that he should direct the Court of Inquiry as well.

The President: The Court will forward the papers without delay, and will state that you request, as the proceedings have been lengthy, for a decision as soon as possible.

Captain Knyvett: I ask the Court again to do one graceful act—to telegraph the evidence. It can be done at my expense.

The President: The Court cannot wire the evidence.

Captain Knyvett: It is not much to ask, and I want it done at my expense. You refuse, sir?

The President: Yes. We will send on the papers. The Court will now be closed, and will report to the Convening Officer.

The Court was then closed.

APPENDIX No. 8.

[Extract from the *New Zealand Herald*, of 17th February, 1910.]

THE KNYVETT CASE.—THE FEELING IN AUCKLAND.—MINISTERS IMPRESSED.—REPLY TO A DEPUTATION.

As an outcome of the public indignation meeting held in connection with the Knyvett case at His Majesty's Theatre on Monday evening, a deputation waited upon the Hon. G. Fowlds (Minister of Education) and the Hon. Dr. Findlay (Attorney-General and Minister of Justice) yesterday afternoon, and, in pursuance of the resolutions carried at the meeting, urged justice for Captain Knyvett, and the appointment of a Royal Commission to inquire into the administration of the Defence Department. The deputation, which was introduced by Mr. C. H. Poole, M.P., comprised the following gentlemen: Messrs. C. J. Parr (chairman of the indignation meetings), F. Mander, A. E. Glover, F. W. Lang, and H. J. Greenslade, M.P.s, J. S. Dickson (chairman of the Knyvett Defence Committee), R. A. Armstrong (secretary), C. P. Murdoch, G. L. Peacocke, and Captain F. E. N. Gaudin (Active Unattached List).

The members of the deputation impressed upon the Ministers that in their opinion, and in the opinion of the Auckland public, Captain Knyvett had been most harshly treated, and that to disabuse the public mind of this the Government must give Captain Knyvett a fresh trial by a fair and impartial tribunal. Mr. Peacocke went as far as describing the sentence as a brutal one, and Mr. Mander said that after reading the pamphlet containing a verbatim report of the case he would have written a much stronger letter had he been in Captain Knyvett's place and received the same provocation. The deputation also informed the Ministers that the matter would not be allowed to rest where it is, that if satisfaction is not obtained now it must go before a higher tribunal, and that to restore confidence in the administration of the Defence Department a Royal Commission of Inquiry was absolutely necessary.

Captain Gaudin said that, although he might be committing a breach of the regulations, he would like to point out that the letter in question was forwarded by Colonel Wolfe to Colonel Tuson, with a covering note that if Colonel Tuson considered it improper it should be returned to him. Colonel Tuson, however, forwarded it on, showing that he then evidently did not consider the letter was out of order.

Not Master of the Details.

The Hon. George Fowlds, in replying, said he was afraid the two subjects which had been put forward had not been sufficiently kept apart in the public mind, as they were quite distinct and separate. As to the treatment meted out to Captain Knyvett, it had been proved to be unsatisfactory to the members of the deputation, and to quite a number of the people of Auckland. As a Minister employed in the discharge of numerous duties, he had not had the time or the opportunity of mastering all the details of the Knyvett case. He, however, had read the letter which was the foundation of the charge, and must express his surprise that any one who read that letter could contend that there was no evidence of insubordination in it. He could not imagine for one moment the efficient carrying-out of the Defence Department and the maintenance of discipline if a letter of that kind was allowed to be written, and no notice taken of it. With reference to the severity of the sentence, it was quite competent that that might be open to question; but a good deal of this hinged on the legal aspect, and he would allow his colleague, who was more versed in such matters, to deal with it. He neither admitted nor denied any of the statements made by the deputation, as he was not fully conversant with the details.

Mr. Parr: But ought you not to know them, sir? You sat in Cabinet on this matter.

Mr. Fowlds: I am prepared to answer to Parliament and to my constituents for what I have done. It was, he went on to say, quite impossible for a Minister to fully master all the details of matters that arose in Departments controlled by other Ministers. As to the question of the severity of the punishment, he would like to point out that that was recommended by Colonel Tuson, a high military officer, who had had Imperial training, so that if a mistake had been made it had been made by the officer in question. Cabinet merely indorsed Colonel Tuson's decision. The responsibility for the final decision rested—

A Member of the Deputation: With the people.

Mr. Fowlds: Yes, with the people; but the responsibility for the final decision rests with those who for the time being are intrusted with the administration of the Defence Department.

The Minister promised, in conclusion, to convey the representations made to the Minister of Defence.

The Legal Aspect.

Dr. Findlay said that what had been put forward required consideration. Both his colleague and himself had been impressed with the feeling exhibited in Auckland. There had been an impressive mass meeting, and they would be dull indeed if they were not aware that the people of Auckland, or at least a large portion of them, were dissatisfied with the present position of the Knyvett case. To his mind a very great deal of misconception had arisen in regard to the legal aspect of the matter. In New Zealand the rules of martial law did not apply, except on active service or in camp. In this connection and with these exceptions the New Zealand Defence Act carefully excluded the operations of the Army Act. What was done was done within the four corners of the New Zealand Act and the regulations under it. If he was right, and the Solicitor-General shared with him in his opinion, the charges laid came within sections 54 and 107 of the

New Zealand Defence Act, 1908. The charge made against Captain Knyvett was that he had been guilty of insubordination in bringing charges against his superior officer. It was true that this charge was not in the terms of the charges investigated by the Court of Inquiry, but any one who read Captain Knyvett's evidence as taken down by the shorthand reporter would see that Captain Knyvett recognised that he was charged with insubordination. The charges of insubordination were heard, not tried.

Captain Gaudin: Those two charges were dropped, were they not?

Dr. Findlay: I think it would be better to allow me to proceed. Under the Act, proceeded Dr. Findlay, the Court's duty was to send on the evidence. They did so, and that evidence was considered by Colonel Tuson, to whom every one should accord the acknowledgment that he was an honest English soldier. [Mr. Parr: We do not deny that.] Colonel Tuson made a recommendation, and such recommendation coming from a careful, impartial, and experienced officer was adopted. A deputation then waited on the Prime Minister, and placed certain evidence before him. This evidence was sent on to Colonel Tuson. The only question Colonel Tuson wanted to know was whether the proceedings in law were invalid, and the matter was referred to him (Dr. Findlay) and the Solicitor-General. They arrived unquestionably at the decision that there was nothing to warrant the proceedings of the Court of Inquiry being quashed. That was their opinion, and if it was wrong he was sorry for it. The Prime Minister accordingly acted on that view. He asked the deputation if they could find anything in the Defence Act which provided for a retrial. He could not. The Government had acted on the view he took. He was responsible, and he was prepared to accept the responsibility.

Mr. Parr: Does that conclude the matter, then?

Dr. Findlay: I do not say that. If ample and sufficient ground was shown some remedy might be found. It seemed to be the impression that the Government had acted in a way which one speaker thought fit to term brutal. This, read in conjunction with the resolution, showed that it was thought that the Government had acted in a malignant manner to a very worthy officer. He had the greatest admiration for Captain Knyvett, and he felt regret in coming to the decision he did, but one of the first essentials in military matters was a loyal and even rigid submission to the rules that controlled it. Instead of acting in the manner it did it would have been much easier for the Government to have granted what the deputation asked. The Government had not adopted this course, as it had a duty to perform and did it. In conclusion, Dr. Findlay stated that he intended to impress upon the Cabinet the feeling in Auckland, as he had gathered it in the last day or two, and to explain the reasons for the resolutions which the deputation had handed in.

The deputation then withdrew.

APPENDIX No. 9.

[Extract from the *Auckland Star*, of 17th February, 1910.]

THE KNYVETT CASE.—DEPUTATION TO MINISTERS.—THE POSITION EXPLAINED.—HON. G. FOWLDS AND DR. FINDLAY IN REPLY.

A deputation, consisting of Messrs. C. H. Poole, F. W. Lang, F. Mander, A. E. Glover, and H. J. Greenslade, M.P.s, C. J. Parr, G. Peacocke, J. S. Dickson, J. H. McKenzie, G. J. Garland, F. E. N. Gaudin, J. Murdoch, and R. Armstrong, waited on the Hon. G. Fowlds and the Hon. Dr. Findlay at the Ministerial Rooms, Customs Buildings, yesterday afternoon, to lay before the Ministers the subject-matter of the resolutions passed at the mass indignation meeting in His Majesty's Theatre on Monday night.

Mr. C. H. Poole briefly introduced the deputation.

The first speaker was *Mr. C. J. Parr*, who presented the resolutions in question. The meeting held on Monday night, he said, contained men of all shades of political feeling—strong Government supporters, Oppositionists, and Socialists. There was an almost unanimous feeling in Auckland City and Province that Captain Knyvett had not received fair treatment, and the facts called for something more than his reinstatement. There was need for a most searching inquiry into the whole administration of the Defence Department. He did not propose to go into details, as he presumed both Ministers were conversant with the facts of the case. Even assuming that there had been a breach of the regulations, the punishment meted out was out of all proportion to the offence.

Mr. G. Peacocke said that he believed he was justified in saying that a full inquiry was needed to ease the public mind, for there was a feeling of want of confidence in the general efficiency and good management of the Defence Department. If those entertaining these opinions were suffering delusions, the sooner they knew it the better. The people had to be assured that there was no rottenness in the Defence Department. Referring to the punishment meted out to Captain Knyvett, *Mr. Peacocke* said it was so severe as to almost amount to brutality.

Mr. F. Mander said he was thoroughly convinced of the need of an inquiry, and felt absolutely convinced that a great injustice had been done to Captain Knyvett. In the letter written by Captain Knyvett to the Chief of Staff there was perhaps one phrase that would have been better omitted. Otherwise he considered it a very mild communication.

Mr. A. E. Glover said he hoped that much good would result from the decision of Cabinet when the true state of affairs was made known. The matter would not stop at its present stage. The people were indignant, and would only be satisfied with a Royal Commission.

Mr. F. W. Lang, in supporting the other speakers, said he was afraid nothing would do more to dampen the ardour of the people in connection with the working of the new Defence Act than the unfortunate treatment of Captain Knyvett. It was necessary, in his opinion, that the Department should court the very fullest inquiry, and see whether the charges made could be sustained.

A Brother Officer's Complaint.

Captain F. E. N. Gaudin said he presumed he was placing himself in possibly a peculiar position, since he was a commissioned officer on the unattached list, and it might be considered that he was committing a breach of the regulations in attending that deputation. He wanted to explain, however, in case the Minister did not know, that when Colonel Wolfe forwarded Captain Knyvett's letter to headquarters it was addressed to Colonel Tuson. A second communication was forwarded at the same time to Colonel Tuson, containing a copy of the original letter, and a request that if Colonel Tuson thought there was anything improper in the wording of the letter, the original should not be opened, but returned. Colonel Tuson sent the letter on to Colonel Robin, and Colonel Tuson a few days after issued orders for Captain Knyvett's arrest. He (Mr. Gaudin) thought Cabinet should be informed of this fact, and he trusted that it would assist in justice being done to his brother officer, Captain Knyvett.

Mr. C. H. Poole remarked that he would like to assure Ministers that no matter what was said in the South about the frenzy of the Aucklanders, the position was nevertheless a most acute one. A telegram had been sent to Sir Joseph Ward by Auckland members, asking for an inquiry into the Defence Department's administration. The reply was received that no inquiry was wanted. Was it imagined that Auckland members had signed their names to that telegram for nothing?

Hon. G. Fowlds in reply.

The Hon. G. Fowlds was the first Minister to reply. He said that two distinct subjects had been dealt with by members of the deputation. He was afraid that those two subjects had not been kept sufficiently apart in the public mind. The first dealt with the Knyvett case, and the second with the efficiency of the Defence Department. They were separate and distinct subjects. The first had evidently not been settled to the satisfaction of many of the people in Auckland.

Mr. Greenslade: It is most unjust.

Continuing, Mr. Fowlds said he had not had time to master all the details. Captain Knyvett's letter, however, he had read. He had to admit that he was surprised that any one who read the letter could contend that there was no evidence of insubordination. If letters of the kind were allowed to be sent with impunity to the Chief of Staff discipline would never be sustained. He would admit that the severity of the sentence imposed was open to question. The punishment was recommended by the Adjutant-General, who was an Imperial officer.

Mr. Gaudin: It was he to whom the letter was originally forwarded.

Hon. Mr. Fowlds: I cannot say anything about that. Of the details of the matter I am not fully conversant.

Mr. Parr: But should you not have known? You sat in Cabinet on this matter.

Hon. Mr. Fowlds: Yes, and for my actions I am willing to answer to members in the House and to electors in my constituency. It is an absolute impossibility for every Minister to fully master the details of every other Minister's Department. Some of the statements that have been made I do not believe to be correct. It is not possible to preserve discipline by holding indignation meetings.

Mr. Parr: Nor by imposing unjust sentences.

The Minister of Education further referred to the action of Colonel Tuson, who had recommended the punishment, and said Cabinet had acted on his recommendation.

The request that an inquiry into the administration of the Defence Department should be held he would place before the Minister of Defence, and it would no doubt later receive the consideration of Cabinet.

Hon. Dr. Findlay on the Legal Aspect.

The Hon. Dr. Findlay said that no one present would expect either himself or his colleague to give any pronouncement on the present stage of the Knyvett case. What merits lay in the case had been impressed upon them in the last few days. They had had an impressive mass meeting, and an impressive Press, and they would be dull indeed if they did not perceive that there was dissatisfaction. He desired to make a very short statement of the case as it stood at present. What was the law in the matter. There was a great deal of misapprehension as regarded martial law. In New Zealand there was no such thing as martial law, and it only applied to war-time and when forces were concentrated. The Defence Act excluded the application of martial law, and they had to therefore deal with the matter only as it came within the four corners of the Act. He knew that those present did not want the question to turn on narrow questions of law, nor did he want to indulge in technicalities. The Court of Inquiry sat under sections 54 and 107 of the Act. Insubordination and bringing charges against his superior officer were the indictments Mr. Knyvett had to answer. Those who had read the evidence knew what an able defence the officer concerned had made. Mr. Knyvett knew what the charges were that he had to meet.

Mr. Gaudin: Were those charges not dropped?

Hon. Dr. Findlay: I think that you would do better to let me proceed. Continuing, the Minister said he would ask those present to believe that Colonel Tuson was an honourable English soldier. Colonel Tuson may have erred, but he (Dr. Findlay) asked them to believe that he was an honourable man, and that his recommendation had been honestly made.

Mr. Parr: We do not deny that.

Continuing, the *Hon. Dr. Findlay* said that when a matter was referred for judgment to a man of lifelong experience it was only natural that his decision should carry some influence. Colonel Tuson reported to Cabinet that the letter was so insubordinate as to warrant dismissal. Cabinet upheld that recommendation, and he was one who shared the responsibility of that decision.

Mr. Glover: Was Colonel Tuson not influenced by his superior officer?

Hon. Dr. Findlay: I do not believe anything of the sort, and I ask you to do him the justice of admitting the honesty of his intention. Referring to the request of the deputation which went to Wellington to ask for a new trial, the *Hon. Dr. Findlay* said that Colonel Tuson had asked him whether the proceedings were in any way invalid, and whether they could commence *de novo*. The Crown law officers were also asked for a report on the question, and the reply was that there had been nothing invalid about the proceedings. What ground, therefore, was there for a new trial? Could the Government do anything else? The proceedings and the dismissal were valid in law, and there was nothing else that could be done under the Act.

Mr. Parr: And do you say that the Government can go no further?

Hon. Dr. Findlay: I do not. I am making the legal position clear—that the Prime Minister acted upon responsible advice, tendered by his legal officers. I accept that responsibility. It has been said that the Government's action in the matter was brutal——

Mr. Peacocke: I said the sentence was brutal.

Hon. Dr. Findlay: Similar remarks have been made, and one of the resolutions handed me speaks of the sentence as grossly unjust. That implies that we acted in a malignant way. Continuing, the Minister said it would have been infinitely more easy for the Government to have said that it would give another trial or inquiry. But they have taken the less pleasant course, which was what they believed the just course. No one was more sorry than he that Mr. Knyvett had so far forgotten the highest traditions of discipline. The legal aspect of the case he had pointed out to them. Their further representations he would be pleased to bring before the Minister of Defence.

Approximate Cost of Paper.—Preparation, not given; printing (1,900 copies), £34. 15s.

By Authority : JOHN MACKAY, Government Printer, Wellington.—1910.

Price 1s. 3d.]

