

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.