

“first certified to be ill” is that a medical certificate should have been given that the man had been taken ill? They refer to a medical certificate on his being taken ill?—Yes; that he should be certified by a medical officer to be ill.

66. Not to a certificate under the Board?—No, not under the Board.

67. You see the distinction I am drawing?—Yes.

68. A medical certificate, and not a certificate of the Board?—It is not necessarily a certificate of the Board.

69. That is your interpretation?—Yes.

70. Are you aware of what information was supplied to this Medical Board in New Zealand in this case when they granted the certificate? Have you any information on the subject?—No.

71. Do you know whether any certificates at all were submitted to the Board?—No.

72. *Mr. J. Allen.*] Does the whole question, as far as this trouble is concerned, turn on the interpretation of the words in the Act “first certified to be ill”?—Yes; it turns upon the meaning of “first certified to be ill.”

73. Your opinion in this case is that the date of “first certified to be ill” was the 19th August, 1900?—For the purposes of audit we were quite satisfied to take the evidence submitted to us that Lieut.-Colonel Francis was first removed from duty on the 19th August on account of illness.

74. That would be more than six months before the time of his death?—More than six months before the time of his death.

75. And it would be contrary to law to grant the pension under those conditions?—In the judgment of the Audit Office it would be.

76. With regard to the Board; supposing this officer had died in South Africa, how could a satisfactory certificate be got from a Board constituted in New Zealand? Could he get a certificate at the time he was certified to be first taken ill?—I must presume that, in a case like that, if a Board appointed under the New Zealand Act were to report upon a case they would require the evidence of what took place in South Africa.

77. To come to any conclusion must not the Board in this case have done the same?—I do not think their conclusion would have been justified without some evidence of that kind.

78. Practically, then, the whole question therefore turns upon when Lieut.-Colonel Francis first became ill in South Africa?—When he first became ill in South Africa—on the 19th August, 1900, when he himself reports, “I was not very well to-day, and have been ordered rest by the medical officer.”

79. Supposing the interpretation which is sought to be put on this clause—that the certificate of the Board is the date “first certified to be ill” required by the Act—is correct, would it not be possible for a man to live for ten years after his illness and get a certificate from the Board which would entitle him to a pension?—The application could not be delayed for more than twelve months under the Act.

80. Then, I will say twelve months. If that interpretation is correct, could he not, twelve months afterwards, get a certificate from the Board and be entitled to a pension?—I think so.

81. And if it were not for the limitation of twelve months in the Act he could do as I state, could he not?—It seems to me to be so. The Solicitor-General advises that when death takes place before the meeting of the Board to examine the application for a pension the limit of six months does not apply. These are his words: “The Act does not say how or to whom the claim is to be made, but in my opinion it must be examined and reported on by the Board, and if the husband is dead at the time of the examination the limit of six months will not apply.”

82. That is the opinion of the Solicitor-General?—Yes.

83. Is that your opinion?—No, it is not.

84. So that there may be no misunderstanding I will put my question again: Supposing that the interpretation of “first certified to be ill” is the date of the certificate, and not the date of first illness, if it were not on account of this twelve-months limitation in another clause altogether, could not an application be made for a pension ten years afterwards; and if the Board certified ten years afterwards that the officer was ill at such-and-such a date, could not the widow get a pension?—That would seem to be so. It is in accordance with the Solicitor-General’s opinion.

85. Were there two Boards constituted, do you know, to examine into this case?—There was another Board, but it was not a Board appointed under section 4, nor appointed for the purposes mentioned in section 4. It was what you might call a departmental arrangement.

86. With what object?—Its purpose, I think, is described on page 7, appendix B to letter No. 19.

87. Is that a Board constituted under the Act?—No.

88. Is that the Board which the Solicitor-General refers to in his memorandum No. 13, on page 6?—That is the Board which he refers to.

89. Then, the Solicitor-General refers to a Board that was not properly constituted under the Act?—The last paragraph on page 5 says, “On examining the full file (which was not before me when my previous opinion was given) I find that Colonel Francis was first examined by a Medical Board under the Act on or about the 27th February, 1901.”

90. Which one was he referring to?—He was referring then to the Board mentioned on page 7, No. 19, B.

91. That was not a Board properly constituted under the Act?—No.

92. When did the other Board meet?—On the 16th September, 1901.

93. And when did this Board meet?—On the 21st February, 1901.

94. You have no shadow of a doubt that this Board was not properly constituted under the Act?—I have no doubt, and I think the Solicitor-General himself admits it.