

95. It was not a legal Board under the Act?—It was not, so far as I understand.

96. Wherein was the illegality?—I have explained that.

97. Will you please look at No. 11, signed "R. J. Seddon": what are the first few words there?—"Has the Board that I ordered on 17/7/01 to be set up in this matter reported on the case of Mrs. Francis?"

No. 6.

98. Which Board does that refer to?—You will see on page 4 a minute by Mr. Seddon, d 17th "After appointment Board, Christchurch, let the Board inquire and report." That is date July, 1901. That, I presume, is the order.

99. That, then, is the Board?—That he directed to be appointed—to be set up.

100. That is a proper Medical Board under the Act, is it?—There was no such Board set up until this Board which reported on the 16th September.

101. What was the date of the appointment of the Board? Have you seen this *Gazette* notice [*Gazette* handed to witness]?—The *Gazette* notice is dated the 2nd August 1901, and reads as follows:—"Defence Office, Wellington, 2nd August, 1901.—His Excellency the Governor has been pleased to direct that Pension Boards, consisting of the following medical officers, be constituted and appointed under clause 4 of "The Military Pensions Act, 1866": Canterbury—Arthur Castriot De Renzi, Esq., M.R.C.S.E., L.S.A.L., &c., Surgeon-Captain New Zealand Militia; Thomas Wyld Pairman, Esq., L.R.C.P.E., L.R.C.S.E., &c., Surgeon-Captain New Zealand Volunteer Medical Staff; John Henry Deamer, Esq., B.M., M.S., &c."

102. Is that a proper *Gazette* notice for appointment by the Governor?—I could not on the moment answer that question satisfactorily.

*Mr. J. Allen*: Could either Mr. Warburton or Mr. Heywood tell us whether Mrs. Francis has a pension from the Imperial Government?

*Mr. Warburton*: I do not know.

*Mr. J. Allen*: Could Mr. Heywood tell us?

*Mr. Heywood* (Secretary to the Treasury): I believe she has an Imperial pension. In fact, I am sure she has.

*Mr. J. Allen*: Do you know the amount?

*Mr. Heywood*: No.

103. *Hon. Sir J. G. Ward.*] Mr. Allen asked you, Mr. Warburton, whether, if it were not for the fact that another section of the Military Pensions Act of 1866 limits the time for a pension to be settled into twelve months, a Board could investigate a case ten years afterwards. I want to ask you if I understand from your reply that all the sections of the Act governing military pensions would not be considered in connection with a matter of this sort?—I was not giving my own opinion that an application could be made ten years after but for that limitation to twelve months. I was answering certain questions as to the logical conclusion to be drawn from the opinion of the Solicitor-General—from the opinion that the date of the certificate "certified to be ill" (that is to say, the date from which the six months under subsection (b) of section 7 runs) is the date of the certificate by the Board appointed under section 4 to examine applications.

104. Can you point out to me, or direct my attention to, any portion of the correspondence that would imply that the Solicitor-General held the opinion that an application could be considered up to ten years afterwards?—His opinion is given on page 3, in No. 5—*i.e.*, "If the husband is dead at the time of the examination the limit of six months will not apply, and it will be a sufficient compliance with subsection (b) if the Board certifies that he died of an illness brought on by the fatigue, privation, and exposure incident to active operations in the field, without any reference to the six months at all."

105. Immediately following that the Solicitor-General says, "It will be observed that I have not confined myself to the particular case submitted, but have dealt with the construction of the Act generally." By another clause of the Act—that referred to by Mr. Allen—the time is limited to twelve months in any case?—Yes.

106. Are you not of opinion that the subsequent paragraph of the Solicitor-General's opinion should be read in conjunction with the one that you have just quoted?—Yes; but the question, I think, was asked whether, if the limit of twelve months were not in the Act, the application could, according to the Solicitor-General's opinion, be made ten years after death.

107. That is the point. Mr. Allen said "if the twelve-months limit were not in the Act" in asking his question?—Yes. I could not understand any limit if that limit were not in the Act. That is an abstract question.

108. But the limit is in the Act, as a matter of fact, and would govern the question?—I think the limit of twelve months is in the Act.

109. With regard to the constitution of the Board, is it not a fact that, in accordance with the memorandum of the Solicitor-General, No. 23, on pages 8 and 9, the case, as submitted to the Governor for his decision and upon which he acted, was the one that had been dealt with by the legally constituted Board, which met upon the 16th September, 1901?—That was the Board which the Solicitor-General afterwards found to be, strictly speaking, not appointed in terms of the Act. He assumed that it was properly appointed without seeing the notice of appointment, but he afterwards found that it was not.

110. *Mr. Guinness.*] Then, the Solicitor-General goes on to say, "But it plainly appears"?—"But it plainly appears, from my original minute of the 10th July, 1901, that, in my opinion, the six-months limit does not apply where the death occurs before the date of the report. In the case of Colonel Francis a Board duly appointed by the Governor under the Act reported on the 16th September, 1901, some months after the death, and the report is referred to in the Assistant Controller's minute."

111. *Hon. Sir J. G. Ward.*] The regularity of the appointment of that Board is not questioned?—It is not questioned.