

12. With regard to the latter portion of clause 12 of the Royal Warrant which you have just quoted, can you point out to me where in the correspondence is the certificate showing that he was incapacitated from duty by "illness contracted as aforesaid"?—The Medical Board constituted under the Act report that he was taken ill at Otto's Hoop on the 19th August, 1900.

13. Do they there say that he was incapacitated from duty?—Lieut.-Colonel Francis himself reports that he was removed from duty that day.

14. I am asking where the certificate is. You heard me read the clause from the Warrant. Can you point out to me in the correspondence where the certificate is which says that he was incapacitated from duty by illness?—No, I cannot, further than No. 7, which is certainly the report of the Medical Board that he was taken ill at Otto's Hoop on the 19th August, 1900.

15. Do you know whether, as a matter of fact, Lieut.-Colonel Francis performed his duty as an officer in the field after that date?—As far as the records that I have seen show, he did not.

16. Over the signature of Mr. Gavin, Assistant Controller and Auditor, in statement No. 3, are these words: "The Audit Office is of opinion that the late Lieut.-Colonel Francis's diary affords sufficient proof that he must have been 'first certified to be ill' at a date antecedent to the 1st October, 1900." From what Mr. Gavin states there—that from Lieut.-Colonel Francis's diary the Audit Office is of opinion, &c.—it might be implied that there has been no medical certificate, such as that referred to in the Royal Warrant, stating that he was incapacitated from duty by illness, available to the Audit Department at all?—In that case the question would arise whether there was satisfactory evidence to pass the pension at all.

17. The whole point in your judgment, as Controller and Auditor-General, is that the medical certificate issued by the Board on the 16th September, 1901, is not in accordance with the Act, which says, "Within six months after his being first certified to be ill"? You are of opinion that that is not the certificate?—I am of opinion that the date of that certificate—the 16th September—is not the date of his being first certified to be ill. The Audit Office very much doubts whether the certificate of the Board is the certificate required by the Act. If, as the Solicitor-General says, the claim of the widow must be examined and certified by the Board, and, as he also says, the limit of six months can never apply when death takes place before the application, there can be no application by a widow to which the limit would apply.

18. Of course, you saw the opinion of the Law Officer upon the point?—Yes.

19. This matter is similar to others upon which you are of the opinion that the judgment of the Audit Office is entirely what should guide you, and not the opinion of the Law Officers of the Crown?—The judgment of the Audit Office guides us. The question now is whether the law will be altered as in a similar case the Land for Settlements Act was altered, because we must require, in accordance with our judgment, that for every future voucher that comes in for this pension a Governor's order as necessary for its payment.

20. *Mr. Palmer.*] What is the date of the authority that you quoted—the Royal Warrant?—15th June, 1855.

21. Look at the date when the Royal Warrant was issued?—15th June, 1855.

22. I think you will find it is 1848. Are these regulations those that were issued under the Royal Warrant of 1848?—You are giving the date on the title-page.

23. What does it say?—The title-page to this book—Addenda to the Royal Warrant, &c., of the 1st July, 1848, published in 1855.

24. The Royal Warrant of 1848 was eighteen years prior to our Act of 1866 coming into force?—The Warrant I quoted from is dated 1855.

25. The Royal Warrant of 1848 is eighteen years prior to our Act coming into force, is it not?—1848 would be.

26. And the one you quoted from—1855, you say—is eleven years before our Act came into existence at all?—Eleven years, yes.

27. That would be before there was any war in New Zealand at all?—I cannot say as to that.

28. Can you show any connection between the Royal Warrant of 1855, eleven years before our Act was passed, and our present Act?—No, except the same words in the Warrant.

29. You read the Military Pensions Act in this matter, I suppose?—Yes.

30. Can you tell me, then, what the Board there is established for, if it is not to grant certificates?—Section 4 provides that it is established for "the purpose of examining every officer and man who is an applicant for a pension or gratuity under this Act."

31. And for giving certificates?—Yes.

32. Then, it is for the purpose of examining and giving certificates, as in Colonel Francis's case?—No; "every officer and man who is an applicant for a pension or gratuity under this Act."

33. It must examine and give certificates?—"Examine every officer and man who is an applicant for a pension or gratuity under this Act."

34. The Board must examine every one?—No. I say, in terms of the Act, "every officer and man who is an applicant," &c. I cannot go beyond the terms of the Act.

35. The Board's duty is to examine any one, whether officer or man, who is applying for a pension under the Act?—Yes, that is so.

36. Then, is it not under that Act that you have got to look to the certificate of the Board?—In the case of an officer or a man applying for a pension or gratuity under the Act, I should.

37. It is to them only?—Yes, in a case like that.

38. Then, do you draw a distinction between the widow of an officer or a man being the applicant and an officer or man himself?—I do not think "every officer and man," in this section, "who is an applicant for a pension or gratuity under this Act" includes a widow who is an applicant for a pension on account of the death of her husband.