

come to look at them it is the same on both. I produce this other voucher which reads: "28th February, 1903.—To gratuity under A. O. 151, of July, 1900, as wing adjutant Seventh New Zealand Contingent, £50." The other voucher was as brigade adjutant; this is as wing adjutant.

*Mr. R. McKenzie*: Do they cover the same period?

*Rt. Hon. R. J. Seddon*: Yes. [Vouchers handed in.] You will see now that I was justified in expressing my surprise that Colonel Porter should have given both these certificates and not have stated that Lieutenant Clark was acting adjutant during the absence of Captain Johnson. At all events there is a claim as brigade adjutant and another as wing adjutant.

*Captain Clark*: They relate to different contingents.

*Rt. Hon. R. J. Seddon*: But to the same period.

*Captain Clark*: No, to two totally different periods. Both of these were submitted with certificates showing the service.

*Rt. Hon. R. J. Seddon*: The only thing I can say about that is this: that according to the records in the office Lieutenant Clark was acting-adjutant during the absence of Captain Johnson. It is shown in the papers here. I suppose you do not dispute that—the acting-adjutancy?

*Captain Clark*: It is stated in the papers.

*Rt. Hon. R. J. Seddon*: It is stated on the papers here, but I do not want to detain the Committee. There is not only that, but there is the date fixed when Captain, or Lieutenant, Johnson resumed duty, and when Lieutenant Clark abdicated. Here are the papers: "Regimental Orders by Lieutenant-Colonel T. W. Porter, commanding Seventh New Zealand Regiment.—Standerton, 5th June, 1901.—Appointments: To be assistant adjutant, Acting-Captain J. J. Clark, Second New Zealand Contingent.—G. R. JOHNSON, Captain and Adjutant." Now, there is proof that he was not a captain. He was acting-captain, for the reasons that I have mentioned. His position of captain was not confirmed. You have it there in an army order. This is another regimental order: "Elandsberg, 30th October, 1901.—Appointments: Lieutenant Clark will act as regimental adjutant during the absence of Captain Johnson." Then, there is this one: "Myerton, 4th September, 1901.—Referring to regimental orders of 18th May, the following wing appointments are now made and confirmed: Right wing, Lieutenant J. J. Clark, wing adjutant." Now, Colonel Porter has signed, in the face of his own orders, for captain, when there is his wing appointment as lieutenant-adjutant. There is also this one, under date 31st January, 1902: "Captain and Adjutant Johnson, having rejoined column, resumes duty. Lieutenant Clark resumes duty as wing adjutant.—J. J. CLARK, Lieutenant and Adjutant." [Document handed in.] I think I have now cleared up that point. As I have said, there is nothing to show from the 31st January, 1902, until the time Lieutenant Clark came back that he had been promoted to the rank of captain. I have never received any confirmation of that rank; and I think Lieutenant Clark—I wish gentlemen to understand that when I speak of him as lieutenant I do so in connection with his position in the contingent in South Africa.

*Mr. Wood*: Under the Imperial authorities?

*Rt. Hon. R. J. Seddon*: Yes. I have also noticed what has been set down in some of the vouchers since. Lieutenant Clark accepted the rank of lieutenant on reduced pay, and every case of reduced rank is sent for confirmation or otherwise, and the reduced rank carries with it reduced pay. I should be very sorry to do an injustice to a contingent officer, but I think that is the position.

1. *Mr. R. McKenzie*.] There is one phase of the case that I do not see very clearly. The Premier seems to repudiate the action of his officers in allowing Captain Clark to work in the Government office during a lengthened period without being paid, and he thinks that the Government are not responsible for his wages after he was allowed to work there under the instructions of a superior officer for three or four months, and the Government now decline to pay him. I would like the Premier to explain that position if he can, because I take it that the Government are responsible for the actions of their servants the same as any ordinary employer?—If a duly appointed servant commits an act under which damage is done the colony is responsible; but there is no power given to any officer, unless specially granted by Ministers, to employ persons to do specific work. Mr. Otterson had to get a delegation of power from me in reference to the appointment of clerks. It is constitutional that no person can be employed in the Government service without Ministerial authority. Of course we delegate that power to the General Manager of Railways, for instance, in the case of men employed from day to day. There is a delegation in those cases, but in a case of this kind there was no such delegation—the Department themselves say that the employment of Lieutenant Clark was under the authority of the Hon. Mr. Hall-Jones, which was a general authority to get particular work done and pay so much for it, and limited the time in which it was to be done.

2. *Mr. Wood*.] I understood you to say that it is only in the case of damage or anything like that occurring that you are responsible, and not for your servant putting on men?—The law of employer and servant is this: If I have employed a man and he does certain things as a workman, and in doing them some one else is hurt, then I become responsible for the act of my servant; but I am not responsible for my servant putting a man on to work. Suppose a farmer took a trip Home and when he came back found that a number of persons had been put on by whoever was left in charge—I am inclined to think the farmer would not pay them.

3. *Mr. Hardy*.] I think a Magistrate would make him do it?—He could not make him do it unless the person who appointed them showed that he had authority to do so. In the present case the Controller and Auditor-General wanted the authority. Here is the authority under which they say they acted: "9th July, 1902.—Memorandum from the Hon. the Acting-Minister of Defence.—In view of the amount of work connected with returning contingents, and the large number of men shortly returning to the colony, I would strongly recommend that an officer be