

27th February, 1901. The report itself is not on the file, but it is referred to in a memorandum of that date from Major Owen to the Minister, stating that the Medical Board had reported that Colonel Francis would be fit to resume Volunteer duty within two months. Assuming the report to be in the usual form, it would follow that he was "first certified to be ill" within the meaning of the subsection a little more than one month before he died.

For these reasons I am of opinion that the pension may be granted.

Although it has no bearing on the legal position, it may perhaps be convenient to compare Colonel Francis's case under our Act with what it would be under the Imperial rules. Under the latter the death must occur within twelve months after having first been removed from duty; under the former, within six months after being first certified to be ill. He was first removed from duty in August, 1900, and first certified to be ill in February, 1901, and he died in March, 1901. Thus, under the Imperial rules seven months out of the twelve, and under our Act one month out of the six, had elapsed at the date of his death.

Crown Law Office, 20th March, 1902.

FRED. FITCHETT, Solicitor-General.

No. 14.

The Right Hon. the Colonial Treasurer.

Do you wish this further correspondence referred to the Audit Office, or shall a warrant be prepared and submitted to H.E.?

JAMES B. HEYWOOD.

25th March, 1902.

Prepare Warrant for submission to His Excellency.

R. J. S.

27/3/02.

No. 15.

Wellington, 5th April, 1902.

His Excellency the Governor is respectfully advised to sign the attached determination, under section 9 of "The Public Revenues Acts Amendment Act, 1900," of the question of payment of pension to the widow of Lieut.-Colonel F. W. Francis, deceased.

C. H. MILLS.

Signed R.

9/4/1902.

RANFURLY, Governor.

Whereas by section nine of "The Public Revenues Acts Amendment Act, 1900," it is provided that in case any difference of opinion arises between the Audit Office and the Treasury as to the vote, appropriation, fund, account, or other authority to which any expenditure ought to be charged, the question shall, if in the opinion of the Audit Office it involves a question of law, be determined by the Governor, having before him the opinion of the Attorney-General thereon: And whereas such difference of opinion as aforesaid has arisen as to whether the widow of Lieutenant-Colonel Frederick Wyatt Francis, deceased, may legally be granted a pension under "The Military Pensions Act, 1866," the Audit Office contending that the deceased did not die within the period of six months specified in subsection (b) of section 7 of the said Act, inasmuch as on the true construction of the subsection the period of six months is to be computed from the date on which the deceased first became ill, or was first removed from duty on account of the illness:

Now, therefore, I, Uchter John Mark, Earl of Ranfurly, the Governor of the Colony of New Zealand, in exercise of the hereinbefore-recited powers, and having before me the opinion of the Solicitor-General, do hereby determine the said question by deciding that the period of six months referred to is to be computed from the date upon which the Medical Board under the said Act first certifies the officer to be ill, and that inasmuch as he died within six months of that date the pension may be granted to Mrs. Francis, and the expenditure in respect thereof should be charged to the appropriations under the said Act.

Given under the hand of His Excellency the Governor, at the Government House at Wellington, this ninth day of April, one thousand nine hundred and two.

C. H. MILLS.

No. 16.

THE Audit Office.—To note.

JAS. B. HEYWOOD.

22nd April, /02.

No. 17.

The Hon. the Colonial Treasurer.

THE Governor having determined, under section 9 of "The Public Revenues Acts Amendment Act, 1900," that a pension to Mrs. Francis, the widow of the late Lieut.-Colonel F. W. Francis, may be granted to her under "The Military Pensions Act, 1866," and that the expenditure in respect thereof should be charged to the appropriation under that Act, the Audit Office will now pass such expenditure so charged; and the Controller and Auditor-General will, in ordinary course, lay before Parliament, in accordance with the Public Revenues Act, the correspondence on the subject.

J. K. WARBURTON, C. and A.-General.

26th April, 1902.