

1902.  
NEW ZEALAND.

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# PUBLIC ACCOUNTS COMMITTEE :

(REPORT OF) ON PAPER B.-19c, "THE PUBLIC REVENUES ACTS AMENDMENT ACT, 1900":  
CORRESPONDENCE RELATIVE TO PAYMENT OF PENSION TO WIDOW OF LIEUT.-COLONEL  
FRANCIS, TOGETHER WITH MINUTES OF EVIDENCE.

(MR. FISHER, CHAIRMAN.)

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*Report brought up 4th September, 1902, and ordered to be printed.*

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## ORDERS OF REFERENCE.

*Extracts from the Journals of the House of Representatives.*

TUESDAY, THE 8TH DAY OF JULY, 1902.

*Ordered*, "That a Committee, consisting of ten members, be appointed to examine into and report upon such questions relating to the Public Accounts as they may think desirable, or that may be referred to them by the House or by the Government, and also into all matters relating to the finances of the colony which the Government may refer to them; five to be a quorum: the Committee to consist of Mr. J. Allen, Mr. Colvin, Mr. Fisher, Mr. Flatman, Mr. W. Fraser, Mr. Graham, Mr. Guinness, Mr. Palmer, Sir W. R. Russell, and the mover."—(Hon. Sir J. G. WARD.)

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THURSDAY, THE 28TH DAY OF AUGUST, 1902.

*Ordered*, "That Paper No. 166B (Correspondence in connection with the granting of a Pension to the Widow of the late Lieut.-Colonel Francis) be referred to the Public Accounts Committee, and that the report thereon be brought up within ten days."—(Hon. Sir J. G. WARD.)

## REPORT.

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*Paper B.-19c., "The Public Revenues Acts Amendment Act, 1900": Correspondence relative to Payment of Pension to Widow of Lieut.-Colonel Francis.*

THE Public Accounts Committee, to whom was referred the abovementioned paper, have the honour to report that they have considered the same, and have taken evidence thereon, and are of opinion that the legal position as certified to by the Legal Advisers of the Crown is correct, and that, therefore, no action is necessary.

Thursday, 4th September, 1902.

G. FISHER,  
Chairman.

## MINUTES OF EVIDENCE.

WEDNESDAY, 3RD SEPTEMBER, 1902.

JAMES KEMMIS WARBURTON, Controller and Auditor-General, examined. (No. 1.)

1. *The Chairman.*] Will you give us an epitome of the whole case, Mr. Warburton?—Yes. I may say that I have had typed several copies of the sections in “The Military Pensions Act, 1866,” with reference to the matter. [Copies produced.] Lieut.-Colonel Francis died on the 31st March, 1901 (see memorandum No. 3, paragraph 3, of the papers). Mrs. Francis, the widow, made her claim (memorandum No. 1). The Defence Department submitted the papers “with reference to invaliding diary of Colonel Francis” to us (memorandum No. 2). The diary shows that on the 19th August, 1900, Lieut.-Colonel Francis was not very well, and had been ordered rest by the medical officer. On the 20th August he was examined by a Medical Board, who advised his being sent to the Mafeking Hospital. The Medical Board appointed under the Act reported (see No. 7) that he was taken ill at Otto’s Hoop on the 19th August, 1900, and that he died on the 31st March, 1901. As between those dates more than six months had elapsed, the Audit Office judgment (see No. 10, the last two paragraphs) was that the claim of the widow did not come within the provisions of the Act for granting the pension. The Governor then determined that under section 9 of the Public Revenues Act of 1900 the pension should be charged to the Military Pensions Act. The subsequent correspondence relates to an assumption, not in accordance with fact, that the Board which reported on or about the 27th February was a Board appointed under the Act for the purposes of the Act (see Nos. 13 and 15). The Solicitor-General’s opinion, on which the order for the granting of the pension was obtained, is given in No. 5. It reads, “. . . . 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, 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.” I think those are the main facts of the case. I might add that our Act of 1866 appears to have been taken from the Royal Warrant of the 15th June, 1855; it appears in the addenda to the Royal Warrant, &c., of the 1st July, 1848, issued as addenda to the War Office regulations. I have had an extract of the clause made which may be useful. [Copies of extract handed in.]

2. *Hon. Sir J. G. Ward.*] I would like to ask you, Mr. Warburton, whether you consider that the New Zealand Act governing the payment of pensions is regulated under the decisions of the Medical Board in South Africa, or the Medical Board constituted in New Zealand under the New Zealand Act?—The only Board appointed under the Military Pensions Act of 1866 is the Board under section 4. There is no other provision for a Board.

3. Which Board do you recognise as governing the acts of the Audit Department?—The only Board authorised by the Act is the Board under section 4 of the Act.

4. Is that the New Zealand Board or the South African Board?—It must be a New Zealand Board, wherever it is.

5. *The Chairman.*] I take it, then—please tell me whether I am right or wrong—that the Board whose proceedings are recorded on page 4, memorandum No. 7, is the Board set up in accordance with the provisions of this Act, the sections of which you have copied out and laid before us?—Yes, that is the Board.

6. *Mr. J. Allen.*] I want to know what date this Board that you agree is the Board constituted under “The Military Pensions Act, 1866,” certified as being the date on which Lieut.-Colonel Francis was taken ill?—19th August, 1900.

7. Now, when did six months expire after the 19th August, 1900?—On the 19th February, 1901.

8. And when did he die?—On the 31st March, 1901.

9. Is that more than six months?—It is more than six months; the judgment of the Audit Office is that it is more than six months.

10. *Hon. Sir J. G. Ward.*] Subsection (b) of section 7 of “The Military Pensions Act, 1866,” says, “If the officer, native chief, non-commissioned officer, or private died from illness brought on by the fatigue, privation, and exposure incident to active operations in the field before an enemy within six months after his being first certified to be ill, the special pension fixed in the annexed scale may be allowed.” Do you interpret the reading of the words “after his being first certified to be ill” to mean the certificate given by the Board?—No.

11. Then, what do you interpret it to mean?—That provision is copied from the Royal Warrant of the 15th June, 1855, and in the Royal Warrant it says—and this seems to me to afford an explanation—“In case the officer died . . . . from illness brought on by the fatigue, privation, and exposure incident to active operations in the field before an enemy within six months, such six months being duly certified by the medical officer who attended him.” And at the end of that Warrant are the words, “Provided that it shall be clearly proved by medical certificate that the officer so disabled by . . . . illness died within six months of his being . . . . incapacitated from duty by illness contracted aforesaid.”

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.

39. Then, what is to govern the case of a widow?—Section 7, subsection (b), is to govern the case of a widow: “If the officer . . . died from illness brought on by the fatigue, privation, and exposure incident to active operations in the field before an enemy within six months after his being first certified to be ill.”

40. Well, then, a certificate must be issued, because you say you only recognise the New Zealand Board?—I do not think “first certified to be ill” is certified by the Board.

41. Do you or do you not, then, draw a distinction between “first certified to be ill” and “first being ill”? You would say “first being ill”?—“Being first certified to be ill.”

42. “First certified to be ill” or “first being ill”: that is what I want to know?—I think the two mean the same in this case.

43. Then, you say that “first certified to be ill” means “first being ill”?—Yes; first having been removed from duty on account of illness.

44. According to your contention, if the terms are synonymous, it is quite unnecessary to put in the word “certified” at all?—The word “certified” is commonly used when a man’s illness is certified by a medical officer.

45. But you say the real gist of this is not the certificate, it is the actual illness—“first being ill”?—I say, as I have explained in one of my memoranda, it is the date on which he is removed from duty on account of illness.

46. You say that the words really mean the date on which he is removed from duty on account of illness?—No. I say that the Act means what it says—“certified to be ill.”

47. That is what I am coming to. You say the words “certified to be ill” mean actual illness?—Yes; actual illness certified.

48. Then, according to your contention, the words “certified to be ill” could be left out, and the words “first being ill” could be put in?—I could not go so far as to alter the words of the Act.

49. Do not the words “first certified to be ill” mean when first certified?—I take the meaning to be according to that given in the Royal Warrant—“incapacitated from duty by illness contracted as aforesaid.”

50. That Royal Warrant that you refer to now is the Royal Warrant issued in 1848, and subsequently in 1855, eleven years before our Act came into existence at all?—Yes.

51. Then, is this obsolete Act going to be your guide in this case?—I cannot understand the Board under section 4 to be the Board the date of whose certificate is to be the date from which the six months is to begin.

52. You cannot understand it?—No.

53. Why?—Because, before a widow can apply, her husband must be dead. Take the present case, for example: Lieut.-Colonel Francis died five months before the period of six months began. It seems to me absurd on that account to suppose that the date when the Board’s certificate is given should be the date from which the period of six months should run.

54. What is absurd in it?—Because in this case he would have died five months before that period began.

55. In coming to your decision in this case, had the Royal Warrant from which you were quoting just now any influence with you: did you look it up at all?—I read the Act in this case.

56. But did you look at that Warrant from which you quoted to the Committee?—Not when I came to a decision.

57. Then, why do you quote from it now?—I come to the Committee now to give evidence. I do not come here to consider the merits of my judgment. I come to give evidence, and to give the Committee every information possible as far as I can.

58. You said just now that it would be absurd to issue a certificate after the man died?—No; I said that it would be absurd, I think, to make the date of giving the certificate in this case the date from which the six months should run. The Solicitor-General states, in his opinion, that in a case where death occurs—I am using his terms, as far as I can recollect them—before the meeting of the Board for the purpose of examining the claim the limit of six months does not apply. Then, of course, it appears to me that it can never apply.

59. You think it would be absurd, if a man died in South Africa and a Military Board held an inquiry, that a certificate should be issued afterwards here for the purpose of getting the foundation laid under the Act for a military pension: is it not the only course that can be followed?—I think the reasonable course would be to take the evidence of his removal from duty on account of illness.

60. Yes; but to carry out the true intention of this Act, would it not be more reasonable, as has been said, for the Board to sit in all these cases and give a certificate; even if the man is killed in South Africa, why should a certificate not be issued after his death?—I do not think it is necessary for a Board to sit in all cases. I do not think it is necessary in this case.

61. But what is absurd if the Board does sit after his death?—I do not think it is absurd that they should sit and report. It would be absurd if the date of giving the certificate were the date from which the six months mentioned in section 7, subsection (b), is to run.

62. Then, there would be no hardship inflicted on any one if the Board sat after every case where the man died, provided it was necessary to sit?—I do not quite understand your question.

63. Take Colonel Francis’s case: I suppose you admit that on its merits his widow is entitled to recognition from the country?—I do not.

64. Do you think that on the merits of the case she is not entitled to recognition?—According to my judgment, the facts that he took ill on the 19th August, that he was removed from duty on account of illness on that date, and that he died on the 31st March on the following year place his widow outside the title under section 7, subsection (b), which requires that the death should be within six months.

65. Mr. W. Fraser.] Do I understand that you are of opinion that the meaning of the words

"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.

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.

112. Was it not the decision of that Board the regularity of whose appointment is not questioned that was placed before the Governor to enable him to decide upon the difference of opinion between the Controller and Auditor-General and the Premier?—No. The Audit Office did not see the opinion of the Solicitor-General until some time after the Governor's order came to the Audit Office, and then the Governor's order—I had better read it. That was the objection—at least, that was the fault which the Audit Office found. The order reads, "Now, therefore, I, Uchter John Mark, Earl of Ranfurly, the Governor of the Colony of New Zealand, in exercise of the herein-before-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." Well, he did not die within six months of that date, because the only certificate by a Board under the Act was that given by the Board on the 16th September, 1901.

113. That was the Board that was properly appointed?—Yes; and it was the absurdity of the reason stated in the Governor's Warrant (see page 6, No. 15) that led the office to point out what had been done, with a view to having some revision made.

The following papers were handed in to the Committee by Mr. Warburton :—

"THE MILITARY PENSIONS ACT, 1866."

Section 4. It shall be lawful for the Governor from time to time to constitute and appoint a Board or Boards of medical officers, and to cancel or vary any appointment at pleasure, for the purpose of examining every officer and man who is an applicant for a pension or gratuity under this Act, and to report upon his case, which report, with a certificate of examination, must be signed by each member of the Board in every instance before any pension or gratuity is granted. Such Board or Boards shall in each case consist of not less than three duly qualified medical practitioners.

*Pensions to Widows.*

Section 7. Subject to the limitations and restrictions hereinafter provided, pensions in accordance with the annexed scale may be given to the widows of officers, Native chiefs, non-commissioned officers, and privates of the colonial Forces, in the following cases :—

- (a.) If the deceased was killed in action, or died of his wounds within six months after being wounded, in either of which cases, and in those only, the special pension fixed in the annexed scale may be allowed.
- (b.) If the officer, Native chief, non-commissioned officer, or private died from illness brought on by the fatigue, privation, and exposure incident to active operations in the field before an enemy within six months after his being first certified to be ill, the special pension fixed in the annexed scale may be allowed.

EXTRACTS from ADDENDA TO THE WAR OFFICE REGULATIONS, being Addenda to the Royal Warrant, &c., of the 1st July, 1848 (published by the authority of the Secretary at War).

War Office, 1st August, 1855.

(From the Royal Warrant of the 15th June, 1855.)

WIDOWS ELIGIBLE FOR THE PENSION-LIST.

*Special Pension (see page 227).*

1. If the officer was killed in action, or died of his wounds within six months after being wounded, in either of which cases, and in those only, the special pension fixed in the annexed scale may be allowed.

2. If the officer died from illness brought on by the fatigue, privation, and exposure incident to active operations in the field before an enemy within six months after his being first certified to be ill, the special pension fixed in the annexed scale may be allowed.

WIDOWS NOT ELIGIBLE FOR THE PENSION-LIST.

(See page 232.)

Exceptions may, however, be allowed . . . in case the officer died a violent death in the execution of some act of military duty, or from illness brought on by the fatigue, privation, and exposure incident to active operations in the field before an enemy within six months, such six months being duly certified by the medical officer who attended him.

*Approximate Cost of Paper.*—Preparation, not given; printing (1,375 copies), £4 11s. 6d.

By Authority: JOHN MACKAY, Government Printer, Wellington.—1902.

Price 6d.]