

R E P O R T

OF THE

S E L E C T C O M M I T T E E

ON THE

P E T I T I O N

OF

FREDERICK AND LEOPOLD YATES.

Report brought up 2nd October, 1860, and ordered to be printed, with Minutes of Evidence.

ORDERS OF REFERENCE.

Extract from the Journals of the House of Representatives.

TUESDAY, THE 28TH DAY OF AUGUST, 1860.

Ordered, That the matter involved in the Petition of Frederick and Leopold Yates, presented to the House by Mr. Fox, be referred to a Select Committee, consisting of Dr. Monro, Mr. Domett, Mr. Fitzgerald, Mr. J. C. Richmond, Mr. Gillies, the Hon. F. A. Weld, and Mr. Fox. To report this day fortnight.

THURSDAY, THE 6TH DAY OF SEPTEMBER, 1860.

Ordered, That the Committee on the Petition of Frederick and Leopold Yates, have power given it to call for persons, papers, and records.

True extract.

F. E. CAMPBELL,
Clerk of House of Representatives.

REPORT OF THE SELECT COMMITTEE ON THE PETITION OF
FREDERICK & LEOPOLD YATES.

F—No. 2.

R E P O R T .

ON considering the second Petition referred to your Committee, "That wherein Messrs. F. and L. Yates complain of hardship in connection with their trial and conviction at Raglan in July last, under the "Arms Importation Ordinance," it was evident that your Committee could not wisely attempt to act as a Court of Appeal on the substance of the case. A careful examination of the depositions taken by Mr. Harsant, the Resident Magistrate at Raglan, satisfied them that the evidence warranted that Magistrate's decision, and that there is no *prima facie* case of hardship therein exhibited.

But your Committee further undertook to enquire into the complaints of the Petitioners respecting the circumstances of the Trial, and they arrived at the following conclusions :—

First, The time allowed between the issue of the summons to the Petitioners and the date therein fixed for the Trial, was not sufficient, in a scantily peopled district remote from any town, to enable the Petitioners to obtain the legal advice which in so serious a case they might fairly desire. It does not appear, however, that the Petitioners asked to have the Trial deferred, nor is there any reason to suppose, if they had asked for a postponement in order to obtain advice, that their application would have been refused.

Secondly, With respect to the complaint that the evidence of a half-caste girl, (which the Petitioners allege to be most important) was not taken, your Committee do not find that the Petitioners themselves summoned the witness in question ; nor that they made more than a passing remark on her absence at the time of the trial.

Thirdly, It appears, however, that the intention of the Petitioners to appeal against the Magistrate's decision, was plainly shewn either directly or indirectly at the trial ; and that the Petitioner, F. Yates, enquired of the Magistrate, and of the gentleman who conducted the prosecution, as to the form of appeal ; but that neither the Magistrate nor the Prosecutor was acquainted with the proper course of proceeding.

Fourthly, Your Committee consider the amount of costs granted, to have been exorbitant. They find two-thirds of that amount to consist of the professional charges of the gentleman employed to conduct the case for the Crown ; and that in summary proceedings it is not usual to allow the costs of professional advisers.

Your Committee therefore recommend, that the Government before levying the penalty against the Petitioners should make a special investigation of the case, so as to supplement and test the evidence on the Trial where the Petitioners have complained that it is imperfect or incorrect.

And that the Petitioners should be relieved from the payment of any costs which are not usually allowed on summary convictions.

WILLIAM FOX,
Chairman.

House of Representatives,
2nd October, 1860.

MEMORANDUM BY THE ATTORNEY-GENERAL.

Attorney-General's Office,
21st August, 1860.

Original depositions are always kept as Records of the Resident Magistrate's Court in which they are taken, and no copies furnished to this Office.

I have however been enabled to furnish these copies from papers sent to this Office by Mr. Armitage for the information of the Attorney General, by whom he was employed to conduct the Prosecution, but I am unable to certify to their correctness.

FRED. WHITAKER.

COPY OF THE DEPOSITIONS TAKEN AT RAGLAN IN THE CASE OF THE QUEEN V. YATES
AND OTHERS.

Resident Magistrate's Court, Raglan,
July 5th, 1860.

Queen v. Yates and others.

COPY DEPOSITIONS.

Richard Philps, Carpenter, sworn:—I saw the summons served on Defendants, Frederick Yates and Leopold Yates. The one produced is a true copy of the one served.

David McNish, sworn as Interpreter to the Court.

Hami Haere Iti, Native of Kawhia, Waihaiakeke, sworn:—On the 21st April I went to Mr. Yates' store to purchase goods; I saw guns in the store. I asked Mr. Leopold the price of a gun, he answered, formerly £15 now £14. I concluded Mr. Leopold wished to sell. I asked him the price of a rifle, he answered £18. I asked the price of all, they were of various prices, the single barrels £4. This is my writing. This contains a correct account of the price of 14 guns fixed by Leopold Yates on the 21st of April.

	£		£
He Raiwhera	18	Kotahi Tupara.....	9
He Tupara Paku	16	2 Hakimana.....	9
He Tupara Paku	14	4 Tupara	16
4 Tupara	40		

I said I wished to buy the guns of you. I also asked the price of each gun 14 in number contained in the paper. Mr. Leopold replied that he would not sell in consequence of the Governor's prohibition. I went to Takatahi (Yates') on the 24th April at dinner time (noon) accompanied by Putoetoe and Matena, we entered the store. I said to Matena I will enquire of Leopold if he will sell any guns, if he refuses there is an end of the matter. Matena agreed to that. I spoke to Leopold requesting a gun. Leopold said, how can it be done, to which I replied, sell it clandestinely; Leopold replied I object to a clandestine sale, use force, when you have taken away the guns you can pay me. Witness said, I object to force because it would incense the Governor against Kawhia. Leopold replied it would rather please them (the Yates') as the blame would thereby be thrown upon the Natives. I replied I assent to that. This conversation occurred outside. I then went inside and told my companions what passed. That Mr. Leopold had suggested to me to use force and to pay afterwards, I went in the evening to Hone te One. Putoetoe went aboard his vessel. There were 20 Maories in Hone te One's house. I informed the whole assembly what conversation had taken place with Leopold Yates. Hone te One asked what the white people had said; I replied they suggested force; Hone te One replied I agree to that, there was no dissenting voice in the assembly. Werete one of the 20 went to fetch others and returned next morning with them, making in all 40 Maories assembled at Hone te One's. I was one of them. Some went to Yates'; I did not go to Yates' (then), I went to Yates some time after dinner; when I got there, they (Natives) had already taken the guns; the door was open and the store full of people. They seemed peaceable; they went unarmed. I saw some percussion caps; I took 12 boxes, also 10 gun nipples. Mr. Frederick Yates told Matui to take an account of these caps and nipples. I asked Mr. Frederick Yates the price of a box of caps, he replied 2s. 6d.; I tendered him half-a-crown; Yates said not at present, wait till guns, caps, and nipples are paid for. I asked the price of gun nipples, Yates replied 5s. each. I retained one box of caps myself, the rest were distributed. The rest of the goods in the store were untouched. In Muru Maori they go with gun, tomahawks, Taiaha and without garments, they also make wry faces and lay their hands on what they can without ceremony. We behaved in the most peaceable manner, offered no violence.

No Cross-examination required by Defendant. By Resident Magistrate—I am a Christian. I am positive about dates.

Re-examined on Oath. I know Hone te One and Matena. I saw them last Sunday and Monday, they were sick, very ill; they were too ill to come, they wished to come; they were leaders in the matter of the guns.

(Signed) NA HAMI HAERE ITI.

Court adjourned till 9 a. m. To-morrow.

(Countersigned) W. H.

Resident Magistrate's Court, Raglan,
Friday, 6th July, 1860.

George Vause sworn as Interpreter.

2nd Witness. Putoetoe, Kawhia Native, Christian, sworn, Master of Hoteroa (Vessel):—I went with Hame and Matena to Yates' store in April, the 24th day of April. I went into the store. Hame said to Matena shall I enquire the price of the guns? Hame went and asked Leopold Yates the price of the guns. I could hear what passed, Leopold Yates said he would not sell them. Yates then said he was to plunder them. Hame then said that would be wrong. Yates then said, what they (the Yates) would like, was to be plundered (muru), the wrong would then be put on the Natives. Hami then said, there will be a great deal of trouble caused in Kawhia. Leopold then said that was what he was agreeable to. Hame said we are agreed to that. The following morning I went with the parties that took the guns. Hone te One, Leopold Yates, and Matui went into a private room, leaving Frederick and the other Natives in the store. Mr. Brewer was also present in the private room. Frederick Yates came to ask us to go into the store. Frederick Yates wanted the Natives to be all in the store. Frederick said, the party from the private room went back to the store. I know what happened in the store. Hanaru said to Mr. Brewer, give me Yates' guns. Brewer said he would get his halfcaste to interpret. Brewer and the halfcaste came back. Hanaru then said again give me the guns (through the Interpreter.) Brewer said, no. The Maories then took the guns. We knew where the guns were—they were not hidden; if they (Yates) had hid them, they would not have been seen. They took them from the upper loft and brought them below. Eight guns were in the loft, four old ones below, two in cases, one of them in case was a rifle—fourteen in all. I took the two case guns; we took them away still remaining on the premises; after the guns were taken away

Hami came ; he saw some percussion caps in the store, Hami asked Fred. the price of one box of caps, Yates said, 2s. 6d. ; Hami tendered him the 2s. 6d., F. Yates did not take it ; Yates said wait till the Natives pay for the guns, I then went outside, the rest stopped in the store to make out an account of the guns. Matui made out the account and F. Yates ; I saw them writing it. The reason the party went was, that they heard that it was agreed by Yates and Hami that they (Natives) should go and take the guns ; we expected to pay for them—to get them on credit. We went peaceably and quietly, and remained quiet. The Yates did not offer objection to the taking of the guns. If the Yates had said anything against the taking of the guns, we would have left them. Explaining the term “*murū*,” witness said, we strip to frighten the parties we are going to plunder, with *taiahas* in our hands, war-clubs, tomahawks, &c., we did not conduct ourselves in that manner. On the morning when we arrived, the store door was open ; the Yates could have seen us before we arrived.

(Signed) PUTOETOE.

The Defendant declined to put any question to the witness.

3rd Witness. Matui, Kawhia native, Christian, sworn :—Schoolmaster under Mr. Schnackenburg. I was present when the guns were taken away, I went to take Mr. Brewer's boat ; the boat got adrift, that was the reason of my being there. I went into one of the Yates' private rooms—Leopold Yates was in the room. I said to him, have you heard the Natives have come to plunder the guns ? he said, yes, three Natives have spoken to me. I then said, what are their names ? he said, I will not tell you. Hone te One and Potoetoe then entered the room ; that was all said in that room. Fred Yates then came in and asked us to go into the store ; he said I want you all to go into the store, because there are many Natives there going to plunder the guns. We went to the store ; when there, Hanaru stood up and said, Brewer, listen to what I have to say. I have come to get a gun for myself from you. Brewer asked L. Yates what Hanaru was saying. Yates replied, he was asking for a gun from him (Brewer). Brewer said he would go and get his interpreter ; Brewer returned with the interpreter. Hanaru again stood up and asked Brewer for a gun. Brewer said he had none. Hanaru said he meant Yates' guns ; the reason he asked Brewer was because he (Hanaru) knew Brewer to be a Government Officer in Kawhia. Brewer said he was one, but Hanaru should not have the gun. Brewer would not give his consent to let him have a gun. Hanaru said again, give me a gun ; if you have one, give it me. Brewer said, I have a gun ; Hanaru said, give it to me. Brewer said, you can cut off my head, and then you can take the gun—this was relating to Brewer's own gun. That was all Brewer said. Leopold Yates then spoke to the men, wait till Mr. McLean comes, and then take the guns. Hanaru asked, when will McLean come ? L. Yates said, perhaps tomorrow ; that was all the talk in the house, then they took the guns. I did not take a gun, nor any part in taking them. The Natives took the guns outside. I went outside with them. When I got outside I told the Natives to take back the guns ; they would not agree to this ; the reason why they would not return the guns was, that F. and L. Yates had agreed to have them plundered. F. Yates told me not to say any more, but to come and have some food. The Natives still remained outside. After dinner a native named Hemeru came into the room and asked F. and L. Yates where the percussion caps were ; L. Yates said, where they usually were. F. Yates, Hanaru, and self, then went ; the store door was shut and locked ; Fredk. Yates opened it. We all then got into the store (the others outside as well), Hami went and took the caps, 12 boxes, and 10 nipples. I heard what was said about these caps and nipples. Fred. Yates said the price of them per box was 2s. 6d. ; I saw Hami tender Yates 2s. 6d. F. Yates said you must take it back again ; when you pay for the guns which have been taken away, then let it all be paid for at once. That was all I heard ; this was on the 26th April. I know the day for certain, because I wrote a letter on that day to Hone Wetere. I did not see any force or threats used on that day. I heard no objections made by the Yates to the taking away of the guns. A “*murū*” is when we go naked and armed with grimaces to frighten the people we are about to plunder. The Natives there, were neither armed, naked, nor made grimaces. It is customary when we go to *murū* to take anything and everything we can lay our hands on, and leave nothing in the house. I have had nothing whatever to do with the guns. I have heard the guns were taken to Taranaki.

(Signed) NA MATUI.

The Defendant declined to put any question to the witness.

4th Witness. Hone Wirihana, Kawhia Native, Christian, sworn,—I went with the party on the 25th April ; our object was to *murū* guns. The reason I went was that I had heard the Europeans, F. and L. Yates had agreed the guns should be taken. When we got there the store door was opened by Mr. Yates. I heard no objection made by the Yates to our proceedings that day. We went quietly and remained quiet ; we made use of no threats. I saw Hami tender 2s. 6d. to Fred. Yates for a box of caps. F. Yates told Hami to wait till they (Natives) paid for the guns, and to pay for all together. The guns are still in our possession ; four of these guns are gone to Taranaki—the names of parties who took them to Taranaki are Pene, Mori, Werita, Hemeru ; I know these Natives have taken them. I would not have personally persevered in taking the guns, if the Yates had made any objection.

(Signed) NA HONE WIRIHANA.

The Defendant declined to put any question to the witness.

5th Witness. Henry Newson Brewer, Sub-Collector of Customs, late of Kawhia, now residing at Raglan, sworn:—I received two copies of a Government Proclamation contained in a "New Zealand Gazette" of the date of 26th March, 1860. I showed them to Messrs. Yates on the day I received them; the Messrs. Yates took and read them: this occurred on a Sunday evening within about a week of the date of the Gazette. I cannot say the exact day, but within a fortnight from the date of the Gazette. On the 25th April last I was going along the beach; L. Yates came and met me, and told me that the Natives, he understood, were coming to rob them of the guns. He said he wished me to be present in order that I might see what they did; I consented to be present. I went for a short time into their parlor. Shortly after one of the Yates' said the Natives were in the store, and he wished me to go into the store. Yates said it would be better for me to get my servant a half-caste, to interpret for me, in case anything should be said hereafter that they interpreted wrongly to me. I went and fetched the servant named Mary Aubrey. Hone Te One and Matui were in the parlour when I was there. A Native then got up and asked me if I would allow Yates to let them have the guns; this was in the store where the Natives were assembled, perhaps 30. I answered, I would not allow them. I told them that if they took them they would make the Governor very angry with them, and that they were only making a rod for their own bottoms. I wished them to let the guns be, till Mr. McLean came. I told them I expected Mr. McLean every hour. The Natives said they would not wait; they did not care for Mr. McLean or the Governor. I did not at that time give any advice to resist the taking of the guns. They (Natives) then went up stairs and brought down 7 or 8 guns; they then went into the counting-house and took others, making 14 altogether. The Natives divided the guns among them and went outside; the store was then locked up. I returned to Yates' to dinner. Hone Te One and Matui were dining there. After dinner, one of the Yates said the Natives had come back and wanted caps. I advised Yates as long as the place was fast, to keep it locked, and if the Natives insisted upon getting the caps, to let them break it open. L. Yates said, we will not unlock the store this time; if they have them, they shall break the store open. About ten minutes after, I went in the verandah and found the store door open, and the store full of Natives; the door had not the appearance of having been broken open. I don't know who opened it. I said to L. Yates, I thought I told you to keep the store door locked, and to let the Natives break it open. He said, I am not going to take the advice of one man. We know more of the Native character than you do, and if you be so foolhardy, and run the risk of your life through not giving up your gun we are not going to do so. The Natives took a quantity of boxes of caps and some shot. I did not see Hami tender money; he might have done so. I cannot speak Maori. The Natives were all peaceable; I witnessed not the slightest violence—no angry actions; the Natives were dressed as usual. I had a gun then when I was at Kawhia. Two Natives, previous to my going to Yates' that day, came and demanded my gun. I would not give it up, and told them they should not have my gun without they took me with it; the two Natives could talk a little English; they said, presently we will have it; this occurred on the morning of the 25th April, previous to my going to Yates'. The gun remained in my possession all that day. On the following day the application was renewed. I made the same reply, and asked them to go with me to Matena, who was outside Yates' premises with a number of other Natives. We went to Matena; I said, Matena, these two men are come for my gun: I wish you to tell them, one and all, I will not give it up, and if they take my gun they will have to take me with it. They never asked me again, and I still retain it. On the 10th May, whilst we were getting ready to leave Kawhia, a number of Natives met together at Takatahi, and had a "runanga." I was present most of the time. Matena got up and spoke, and by what I could make out, he said, if the Natives said any more, he would tell all he knew about the gun affair. Shortly afterwards, I said to Matena what is that about the guns that you would tell all? He looked hard at the Yates, and did not speak for a few minutes. He then laid hold of my coat, and asked me to go to my house with him. He spoke to Bishop, a European, and asked him to go with us as an Interpreter. When there, I said, "Now Matena if there be any underhand work about these guns tell me what it is?" He then said they (Natives) did not steal the guns; that Yates agreed with him, previous to the taking of the guns, to sell them to the Natives; the price of the guns, powder, shot and caps, was £133. Shortly after I saw W. Kumete, and told him what Matena said. He stated that until that day at the meeting he thought it had been a theft, but what he had heard drop on that day had opened his eyes. He left me to speak to Natives on the subject. He came to my house in the evening with Takerei, Hone Paringaringa, and other chiefs. They wanted to talk and tell me about the guns; they said they had seen Matena and he had told them about the guns. They came next morning with Matena, Hone te One, and many others, and wished me to write to Mr. McLean, in order that the blame might be taken off them and put upon the proper shoulders. They said, if I would write to Mr. McLean, and that if Mr. McLean wished to see them, they would go to Raglan to Mr. McLean, but they would not go to Auckland—their object being to clear themselves. The "James" departed from Kawhia after the proclamation, and before the guns were taken away. If Yates were disposed they could have sent the guns away by her. I received instructions from Mr. McLean to get the names of Europeans anxious to leave. After the guns were taken away, I received instructions from Mr. McLean to go round to the European settlers and tell them they must leave immediately; and he ordered me to charter two vessels on behalf of Government to convey the Europeans either to Raglan or Manukau. The Europeans have left Kawhia.

Cross-examined by Defendant.—You did once or twice urge upon the Natives not to seize the guns until Mr. McLean arrived. I cannot say which. I cannot state to the Court what they replied to these observations. I don't know the name of the Native who first commenced taking the

guns. The Natives who have come here to give evidence form only a part of the body who seized the guns. I saw nothing peculiar about the Natives before they took the guns. I did not see Matena on that day; he was down the next day. It was reported next day that the Natives had been and taken Mr. Hopkins' guns. You or your brother said it was useless to resist as we are too few to compete with the Natives. One of the brothers did come into the parlour, and stated that the natives were in the store, and come after the guns; at that time I asked no questions. I did hear of rumours of intended robbery or murder by the Kawhia Natives, after the guns had been taken, in payment of a chief killed at Taranaki. I did expect Mr. McLean over at that time; I told the Natives I expected him over. I don't know who are gone to Taranaki, or what Natives. I never saw any money tendered to you by the Natives for these guns. Matena did ask for my gun. Matena did say that if my children had not been ill he would have taken my gun. I believe that Messrs. Yates and Hopkins were not friendly at the time. I did not consider the "James" a safe vessel.

Re-examined by Mr. Armitage :—I know nothing myself about the alleged plunder of Hopkins. When I acquiesced in non-resistance in the taking of the guns, I was under the impression that it was a robbery. No rumours of murders and robberies have been realized. When the Natives told me it was not a robbery, but a sale; I then cautioned them not to pay until they heard from Mr. McLean. Matena asked me for my gun the day of the seizure. Natives and cargo went by the "James" when she left Kawhia previous to the robbery of the guns.

(Signed) H. N. BREWER.

6th Witness. Hone Paringaringa, native of Kawhia, Christian, sworn :—When I returned from Ngaruawhia, I received information about this gun affair. I, together with W. Kumete, went to Takatahi; I saw the Yates there. W. Kumete asked Leopold, "Have they taken the guns?" Leopold said, "Yes." Leopold then asked me, are we right or wrong? W. Kumete said, "you are wrong, because you did not shut the store door." Yates said, "who was going to shut the door when there were forty Natives; that one Native would come and ask for tobacco, and the others would follow. I was present when information was given to Brewer respecting this gun robbery. There were present myself, Takerei, Aiki. W. Kumete, and Takerei's son. We went to inform Brewer that Hami had been to Yates to purchase a gun, but Yates refused, stating he had had a Government Letter directing him not to sell guns; that Yates said they were to *mur* the guns, and after the robbery to pay for them. The reason they told Brewer of the robbery of the guns was, that the wrong should be taken off them and put on the Yates. A meeting was held at Takatahi, and it was then and there agreed to inform Brewer about the guns, which they did. All at the meeting (all the principal chiefs) agreed that Brewer should be informed of it.

(Signed) NA HONE PARINGARINGA.

The Defendant declined to put any question to the witness.

MINUTES OF EVIDENCE.

THURSDAY, THE 27TH DAY OF SEPTEMBER, 1860.

The Committee met pursuant to notice.

Present :—Mr. Gillies, Mr. J. C. Richmond, Dr. Monro, and Mr. Fitzgerald.

In the absence of Mr. Fox, Mr. Fitzgerald took the Chair.

The minutes of the last meeting were read and confirmed.

Mr. F. Yates was called in and examined.

1. *Mr. Gillies.*] When was the summons served on you?—On the 23th June last.
2. Did you appear?—I did.
- (The Witness put in the copy Summons.)
3. You state in your Petition that you protested in writing against the case being heard. Have you a copy of that protest?—I have not.
4. Can you obtain a copy?—I cannot.
5. To whom did you give this protest?—To the Magistrate, Dr. Harsant.
6. Did you give it him before the proceedings commenced or after?—Before.
7. In this protest did you ask distinctly for the case being postponed for legal assistance?—I can't speak positively as to this being mentioned in the protest, but I can speak positively as to protesting against so serious a case being tried any where except in the Supreme Court.
8. Did you either verbally or in the protest ask the Resident Magistrate before going on with the case to postpone the hearing as you were unprovided with legal assistance?—No, I think I did not, for after the protest was refused I was told the case must be proceeded with, and summarily disposed of.
9. In the course of the proceedings were you afforded the opportunity of cross-examining the Witnesses?—Yes I was asked if I wished to put any questions.
10. Did you offer any evidence?—No, I simply raised an objection against the examination of the Witnesses.
11. Were you asked if you called any Witnesses?—Yes, I was.

12. Did you produce any?—No, I said I appeared not to defend the case, but only to shew that I held the Court in no contempt.

13. You stated your intention of appealing did you put the question to the Magistrate whether any form was necessary in appealing?—Yes I did, and the Magistrate appealed to Mr. Armitage who stated he was not aware of any form of notice being necessary.

14. Were you aware of any notice being necessary?—I was not.

15. Did you apply for copies of the Depositions?—Yes, after the case was over. The Magistrate stated he should not give them till he had put himself in communication with the Attorney-General. I afterwards saw him at the Hotel and again applied for copies, but was refused.

16. Was Mr. Leopold Yates personally summoned?—He was.

17. *Mr. J. C. Richmond.*] You say that the evidence of the Half-caste Girl was not taken—did you call attention to this?—I did.

18. Were you sworn yourself?—I was not.

19. Have you since received copies of the depositions?—No, I have not.

20. Have you applied for them?—Not since I have been in Town, but I believe Mr. Merriman has.

21. *Dr. Monro.*] Do you know the provisions of the "Summary Proceedings Ordinance"?—No, I do not.

22. *Mr. Fitzgerald.*] You state in your Petition that you consider the Magistrate had no right to hear the case in the absence of your Brother. Why do you consider this?—Because my Brother was not present.

23. Why was he not?—Because he had come to Auckland for legal assistance.

24. *Mr. J. C. Richmond.*] Did you urge this before the Magistrate as a reason for deferring the case?—No, I did not; my Brother not being called.

The Witness then withdrew.

Mr. Armitage, Solicitor of Waikato, in attendance was called in and examined.

1. *By the Chairman.*] Did you act on behalf of the Government on this Prosecution?—I did.

2. Are you aware whether Frederick Yates made any application to have the case deferred?—No application was made.

3. Did he apply to the Magistrate to know if any form of appeal was necessary?—He enquired whether he had an appeal, I told him yes, and referred to "Chitty on Summary Convictions," which I shewed him.

4. Were you aware that the "Summary Proceedings Ordinance" requires a notice of appeal to be lodged within three days?—I was not.

5. Did you give them any information as to what steps were necessary to appeal?—I simply read the rule from Chitty.

6. *Dr. Monro.*] Had the Magistrate the Ordinances of New Zealand?—He had.

7. What rule is it in Chitty you referred to?—Without the book I could not state the precise rule, but I shewed him he had a right of appeal.

8. Did F. Yates apply for copies of the depositions to the Magistrate?—Yes, and the Magistrate declined giving them.

9. Did any thing transpire in the Court to put the Defendant in a position to know what steps were necessary to appeal?—Certainly not.

10. Did you mention any thing to him about removing it by Certiorari into the Supreme Court?—I don't remember having done so, but probably I did.

11. *Mr. Gillies.*] Were the proceedings in the Court guided by "Jervis' Act"?—Yes, entirely so.

12. Did he make any complaint about not being allowed legal advice?—I did not hear him make any; he said he should not examine the Witnesses, but in the case of the Witness Brewer he did so.

13. Was there any possibility of their obtaining legal assistance between the time of serving the summons and the hearing of the case?—I should think not, but if Yates had asked for an adjournment of the case for that purpose I should have consented to it, on payment of the costs of the day, but this not being asked for, I felt it my duty to go on with the case.

14. Under what authority did the Magistrate award £90 costs?—He has a discretionary power under "Jervis' Act."

15. How is that sum made up?—It appears on the Magistrate's book. Principally by my fees which amounted to about 66 guineas.

16. Who were you employed by?—The Attorney-General.

17. Has the fine and costs been paid?—I believe not. The Government has satisfied my claim. The Witness then withdrew.

The Committee then adjourned till Saturday, the 29th instant.

T. H. FITZGERALD,
Acting Chairman.

MONDAY, THE 1ST DAY OF OCTOBER, 1860.

Committee met pursuant to notice.

Present:—Mr. J. C. Richmond, Mr. T. B. Gillies, and Mr. Fitzgerald.

In the absence of Mr. Fox, Mr. Fitzgerald took the Chair.

The minutes of the former meeting were read and confirmed.

Mr. C. Davis in attendance was called in, and stated that the first intimation he had of the letters written by the other Petitioners was when Mr. Merriman shewed him copies thereof obtained from the Chairman of the Committee, after his previous examination before the Committee on the 5th September last.

Mr. F. Yates called in and re-examined.

1. *Mr. J. C. Richmond.*] Did you make any request that the evidence of the Half-caste Girl should be taken?—Perhaps I did not, but I found fault with its not being taken.

2. *Mr. Gillies.*] Why did you cross-examine Mr. Brewer and none of the other Witnesses?—Because I objected to the Natives evidence as I considered it worthless.

The Witness then withdrew.

Mr. L. Yates called in and re-examined.

1. *Mr. Fitzgerald*] Were you served personally with a summons?—Yes on the 28th June last

2. Did you attend?—I did not.

3. Did you authorise any one to do so for you?—Yes, my Brother. For I thought as the summons was made out collectively his attendance would be sufficient, he wrote a protest signed by himself, which I considered would have the effect of postponing the case or removing it into the Supreme Court at Auckland.

4. *Mr. Gillies.*] Do you state positively that the protest asked for a postponement of the case?—No, I do not.

5. *Mr. Fitzgerald.*] What was the protest?—I can only remember one Clause. That we did not wish so serious a case disposed of in a petty Court, but removed to Auckland.

6. *Mr. J. C. Richmond.*] What day did you arrive in Auckland?—On the 6th July.

The Witness then withdrew.

T. H. FITZGERALD,
Acting Chairman.

TUESDAY, THE 2ND DAY OF OCTOBER, 1860.

Committee met pursuant to notice.

Present:—Mr. Gillies, Mr. J. C. Richmond, Mr. Fitzgerald, and Mr. Fox.

Mr. Fox in the Chair.

The Chairman read a Draft Report.

Resolved—That the Report as read be adopted, and ordered to be presented to the House.

The Committee then adjourned *sine die*.

WILLIAM. FOX,
Chairman.

