

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.