

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

CHARLES DAVIS AND 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 Charles Davis and 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 Charles Davis and 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.

C. DAVIS & F. & L. YATES.

R E P O R T.

THE Select Committee on the matters involved in the Petition of Charles Davis and Frederick and Leopold Yates, Report—

That the main ground of complaint alleged in the Petition has not been established. It appears from the letters appended hereto that the removal of the two latter Petitioners and other persons from Kawhia was undertaken at their own request and with their full concurrence; and that the Government exhibited great promptitude and care in providing the means for their removal, for which Mr. McLean received a letter of thanks from Messrs. Yates and others. Your Committee cannot help expressing great regret that under the circumstances the Petitioners Messrs. Yates (who must have had full cognizance of the merits of the case) should have so far trifled with this Honorable House as to bring the matter under its notice and to base grave complaints against the Government thereon, a proceeding your Committee consider open to the gravest censure and which they trust will not be repeated.

Your Committee have no reason to believe that Mr. Davis, one of the Petitioners, is open to the above censure, he being a resident in Auckland and having apparently no personal knowledge of the facts alleged by Messrs. Yates.

WILLIAM FOX,
Chairman.

House of Representatives,
2nd October, 1860.

MESSRS. DAVIS AND CO. AND HOPKINS, TO MR. M'LEAN.

Raglan, May 2nd, 1860.

DEAR SIR,—

In consequence of the present unsafe state of Kawhia, we humbly avail ourselves of the offer of Government for the conveyance of ourselves and property to Manukau from Kawhia. All parties not having availed themselves of leaving Kawhia in vessels previously chartered by Government are to be privileged of proceeding per vessel about to be named. We believe there is now a vessel called the "James," now lying in Kawhia, and we pray that said vessel may be chartered for the above purpose. We may further add that in the event of your granting our prayer, Mr. J. Hopkins and ourselves have agreed that 10 tons space shall be left for the shipment of our property. Awaiting your answer.

We remain, &c.,

(Signed) DAVIS & CO.
JOSIAH HOPKINS, of Kawhia.

To D. McLean, Esq., Secretary Native Department.

MR. M'LEAN, TO MESSRS. DAVIS AND CO. AND HOPKINS.

Raglan, 2nd May, 1860.

GENTLEMEN,—

In reply to your Letter of this day's date, stating that you consider your residence in Kawhia unsafe, and that you wish to avail yourselves of an opportunity to leave the place, I shall, in compliance with your request make arrangements for the charter of the "James," schooner, to take yourselves and property to Manukau, conditionally of course that any Europeans left behind either by the "Raven" or "Matilda," shall have a passage by the same opportunity to Manukau.

I have, &c.,

(Signed) D. McLEAN.

Messrs. Davis and Co., and J. Hopkins, Kawhia.

MESSRS. HOPKINS, YATES, AND OTHERS, TO MR. M'LEAN.

Raglan, May 3rd, 1860.

DEAR SIR,—

Previous to our departure for Kawhia we humbly beg leave to tender you our sincere thanks for the very patient and attentive manner in which you listened to our suggestions pending the trying situation we are now placed in; also for the great interest you have evinced for the preservation of our lives and properties.

Trusting in conclusion that we may meet under happier auspices,

We beg to subscribe ourselves, &c.,

(Signed,) J. HOPKINS, L. HUNT,
F. YATES, L. YATES.

To Donald McLean, Esq.

4 REPORT OF THE SELECT COMMITTEE ON THE
MINUTES OF EVIDENCE.

WEDNESDAY, THE 5TH DAY OF SEPTEMBER, 1860.

Committee met pursuant to notice.

Present : Mr. Domett, Mr. J. C. Richmond, Dr. Monro, Mr. Fitzgerald, and Mr. Fox.

Resolved that Mr. Fox do take the chair.

The Order of Reference of 28th August read.

The Chairman read a note from the Hon. Mr. Weld requesting that he might be excused from attendance.

Resolved that the Petitioners who were in attendance should be called before the Committee to substantiate the allegations contained therein.

Mr. F. Yates was accordingly called in and examined

1. *By the Chairman.*] Where do you reside?—At Kawhia.

2. When did you leave?—About the beginning of August last.

3. What were you doing at Kawhia?—Trading.

4. Had you an establishment there?—We had.

5. In what did your Trade consist?—Selling European goods to the Natives.

6. What was the cause of your leaving?—Mr. Brewer the Custom House Officer, who stated on the first May last that if we continued trading we should be considered as rebels against the Government, and we then went to Mr. McLean at Raglan who corroborated his statement, and stated he would stop the trading and could not tell when the Port would be blockaded.

7. Did he give any reason for treating you as rebels if you remained?—None, except that the Government would blockade the Port, and we would embarrass them by remaining.

8. Did you receive any written communication from Mr. McLean?—Yes, on the 14th May last, copy of which I put in.

9. Did you make any remonstrance to Mr. McLean?—Yes, we told him that it was ruin to us, and that we were not afraid of remaining—also that we were occupiers under a Crown Grant.

10. At the time you received this notice had there been any disturbance among the Natives at Kawhia?—None.

11. Were they in a state of rebellion?—I should say not.

12. On what grounds did Mr. McLean consider them rebels?—He had had his eye on them for some years, and there was one Tribe in the Harbour (the Ngatihikairoa) which he considered a turbulent lot.

13. Had you any reason to believe any of these Natives had gone to the scene of warfare?—They had spoken about it, but we did not believe they intended going.

14. Do you believe any had gone at that date?—I believe not.

15. Did Mr. McLean confine himself to the one Tribe or to the Natives generally?—The Natives generally, but especially the Ngatihikairoa Tribe.

16. Had the Natives declared their intention of going?—Some said they would go to Taranaki, but I would not say to fight, as many said they had no sympathy with the Taranaki War.

17. Are the Natives alluded to living close to the Harbour?—Not close, some on the other side, and some up the neighbouring rivers.

18. After the warning what did you do?—We stopped trading and my brother came to Auckland.

19. Did you lose goods and debts?—Yes. Some goods are now at Kawhia in charge of a Native, but we cannot place confidence in him.

20. Did Mr. McLean appoint any time to go?—No particular time—but he chartered two vessels to take the settlers away. A Petition representing the state of insecurity was got up and sent to the Government but we would not sign it. In answer to this, the Private Secretary to the Governor wrote and stated Mr. McLean would come and make arrangements for taking the settlers away, and when he came to Raglan he stated it would be our only opportunity of leaving, and that we must consequently use all dispatch.

21. Had you any means of taking your goods away in the vessels?—Not all.

22. Was there room in the ships for more?—No, on account of the goods of the other settlers.

23. Did you consider yourself obliged to leave and cease trading in consequence of what Mr. McLean said to you?—I did.

24. Has the Port been closed?—Yes I believe so, and the Custom House shut up.

25. What is the nearest Port to Kawhia?—Aotea—about five miles distant, separated by a narrow neck of land, which is now open, and there is no Custom House Officer there. There are Traders there with stores open, and I believe the Kawhia Natives obtain goods from there.

26. Did these circumstances detailed by you occur before or after the matter to which your other Petition refers?—After.

27. Did you make any remark to Mr. McLean about Aotea being left open?—I am not confident that I did, but I think my brother mentioned it.

28. What size vessels can enter the Harbours of Aotea and Kawhia respectively?—50 and 150 tons. Mr. McLean stated he saw no reason for shutting up the Harbour of Aotea as the Natives there were well affected.

The Witness then withdrew.

Mr. Charles Davis was then called in and examined.

1. *By the Chairman.*] What is your name?—Charles Davis.

2. What are you?—A Merchant residing in Auckland, and a partner with Messrs. Yates in their business at Kawhia.

3. Are you acquainted through your Partners of the circumstances at Kawhia connected with Mr. McLean?—Yes—I was, through one of my Partners coming into Auckland on the 19th May last, who informed me he had received two notices from Mr. McLean to leave Kawhia, the purport of which were that the Government had prohibited Trading. We went to the Native Minister—Mr. L. Yates made him acquainted with the purport of our visit, and shewed him the copy of Mr. McLean's letter. The Native Minister said the letter was in accordance with his instructions, and stated that we could not carry on business at Kawhia, it being the intention of the Government to prohibit any further Trading with the Natives by stopping all further commerce, and to prevent anything being imported or exported. I said that I had a Crown Grant for my property, and that the other Traders were squatters, and therefore I considered I was in a different position, and he replied that we must be treated all alike. I then remonstrated against removing me as it would entail a serious loss of about three or four thousand Pounds, and if the Government persisted in doing so I should claim compensation. He replied he could not avoid it as the Government had determined on that course, and that he did not think I would get compensation as the Colonial Government could not and the Imperial Government would not grant compensation, and that if all were compensated it would entail an expense of not thousands but hundreds of thousands.

The following Letters and Copies were then produced by the witness.

14th May, 1860.	Copy notice from Mr. McLean to residents at Kawhia,
23rd “	“ Letter from Petitioner Charles Davis to Native Minister
29th “	Same to same
31st “	Original Letter from Native Minister to Petitioner C. Davis
7th June,	Copy Letter from F. R. Porter to Mr. Brewer
8th “	Original Letter from W. Young to Petitioner C. Davis

4. After you received these Letters what did you do?—I saw the Native Minister again and objected on the ground that there had been no public notification of the intention of Government to blockade Kawhia, and inquired if my leaving would prejudice my claim for compensation. Mr. Richmond replied certainly not, for if I attempted to remove my goods I would prove myself a more loyal subject.

5. Did you find it necessary to close your business at Kawhia?—Yes. It was arranged that Mr. Richmond should see the Governor, and we should see him again which we did, and he then informed us he had seen the Governor who adhered to his determination to close the Port. I then asked if he did not consider that Aotea which was adjacent ought to be closed also as the Kawhia Natives could be equally well supplied there. He replied that the matter required consideration. I told him it would be unjust to remove the Kawhia settlers and allow the Aotea settlers to remain there still, and I gave him the names of some Traders who had removed there and were trading.

6. Are they trading there still?—Yes, Swan and Charlton are still there trading. The vessel Matilda has cleared out twice for Kawhia and has brought a cargo of wheat back and has gone there again. I and Mr. Yates again saw Mr. Richmond, and enquired how I should act with reference to our property there. He told us the best course would be to get a vessel to take it away, and that he would grant me permission to clear a vessel in ballast for Kawhia for that purpose, restricting the time till the 30th June, and that he would not allow any vessel to go in or out of that Port after then. Mr. Yates then said he would endeavour to get in some debts due from Natives which could only be effected by taking produce in payment, and that in order to do this we would be compelled to purchase what produce was brought us even if it exceeded our claim, and Mr. Richmond agreed to this if payment was made in cash. Mr. Yates then went down to Kawhia and got in some debts and purchased wheat which is now in the store at Kawhia, and had chartered a vessel to bring it away.

7. What was the reason it was not brought away?—The greater portion was brought away in the first vessels as stated before, and some were left. The goods left was chiefly Furniture, and Implements, and produce, which may be there now.

The Witness then withdrew.

Mr. L. Yates was then called in and examined.

1. *By the Chairman.*] Did you charter any vessel to remove your goods from Kawhia?—Yes, the Aoteroa Roa.

2. Why did you not bring them away?—The Natives refused to fulfil their charter, partly on the ground that Mr. Snackenburg told them it was not duly authorised.

3. Had you any other opportunity of removing them before the 30th June?—None. The “Jupiter” had been chartered in Auckland by Mr. Charles Davis, but owing to stress of weather was prevented going into Kawhia. In reference to a charge of selling Arms to the Natives I was served with a summons on the 28th June, returnable at Raglan on the 5th July.

4. Had you any opportunity of shipping the goods between these dates?—None.

5. Did you leave Kawhia in pursuance of notice from the Government under the impression that you had no other course open?—We did.

6. Is the Port of Aotea open?—Yes, and I believe there are Traders there.

7. Can the Kawhia Natives get their goods from there?—Yes, I know they do, I have heard so from a Trader there. There is a good open level sledge road between the two Ports.

8. When you received the notice to leave Kawhia, were the Natives in a state of rebellion?—I think not.

9. Were they fighting?—No.

10. Did you hear of any of them leaving for Taranaki?—They were talking about it, but I am not aware any did till after the gun affair.

11. Do you concur in the following statement of your loss put in by Mr. Davis?

	£	s.	d.	£	s.	d.
Purchase money of property (accruing a rental of £200 per annum lease, Ditto ditto £30 from Custom House)				1500	0	0
Book debts				981	13	8
House effects	83	14	0			
Cattle	40	0	0			
Cutter	50	0	0			
Carts, Drays, &c.,	40	0	0			
Canoes	12	0	0			
Harrows	14	0	0			
Salting-down Apparatus, Boilers, Vats, Casks, Troughs, &c.	30	0	0			
Deterioration of Stock by transit	350	0	0			
13 Guns, &c.	74	19	0			
				724	13	0
<i>Produce</i> —Wheat, 400 Bushels	160	0	0			
Pork 1 ton	50	0	0			
Timber, 25,000 feet	137	10	0			
				347	10	0
Insurance paid cash				22	17	6
Loss of business for the season				60	0	0
				Total	£4176	14 2

—I do.

12. Have any other persons been compelled to leave Kawhia against their will?—All the Traders—none of whom had signed the Petition to the Government.

13. Were any of the persons removed living on Land held under Crown Grants?—None except ourselves.

14. Had you not been removed would you have remained and traded there up to the present time?—Decidedly.

15. Do you think you and your goods would have been safe?—Yes, for they told us they would take nothing but the Guns and Ammunition.

The Witness then withdrew.

The Committee then adjourned till Thursday next the 13th September instant.

WILLIAM FOX,
Chairman.

THURSDAY, THE 13TH DAY OF SEPTEMBER 1860.

Committee met pursuant to notice.

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

Mr. Fox in the chair.

The minutes of the former meeting were read and confirmed.

The Order of Reference of the 6th September read.

The Hon. C. W. Richmond the Minister for Native Affairs attended the Committee in pursuance of notice.

The Chairman requested that he would state what he knew of the circumstances under which the removal of the settlers from Kawhia, and the closing of that Port took place.

Mr. Richmond stated as follows:—

“ I shall be unable to give the Committee any information upon the subject which they have not before them, in a more authentic shape in the documents which have been already called for by the Committee or which are at their disposal. I have no personal knowledge of the circumstances to which the Chairman’s question points. My knowledge is derived from the documents to which I have referred ; and as I have not lately looked at them my recollection of what they contain may be in some points defective.

“ The Native Secretary Mr. McLean had been sent to Raglan to enquire into the state of things at that place, and look after the safety of the settlers there. Whilst at that place information reached him that a number of the Ngatihikairoa Tribe resident in Kawhia and its neighbourhood had started, or were on the point of starting, to join William King in Taranaki, and that several stores had been plundered by the Natives of Arms. The Kawhia settlers and amongst them I believe the Messrs. Yates, shewed great and I must say reasonable alarm for their lives, as it has been the custom of the New Zealand Tribes to commence hostilities by the murder of unarmed settlers. The danger was considered imminent by the Native Secretary, who thereupon warned the settlers to leave, and provided vessels for their conveyance at the public expense. Subsequently the course taken by the Native Secretary received His Excellency’s approval and the appointment of Kawhia as a Port was repealed under the powers of the Custom’s Regulation Act.

“I see a statement in the Petition of Messrs Yates to the effect that Mr. Leopold Yates called on me and that I advised him not to take payment for the guns which Messrs. Yates allege to have been forcibly taken from their store. My recollection of the circumstance which I suppose to be referred to is this, Mr. Yates was accompanied by Mr. Charles Davis and the latter gentleman had some conversation with me on the subject of his claim for compensation for losses incurred through the closing of Kawhia. Mr. Yates then stated that the Natives had offered payment for the Guns, and asked me whether I would recommend that he should accept payment, but Mr. Davis at once interposed telling Mr. Yates that he had better not open the subject on that occasion. I saw Mr. Leopold Yates once or twice besides the occasion to which I now refer. I do not recollect conversing with him as to the Guns, but it is possible I may have done so, and possible I may have said that the acceptance by him of payment would be a suspicious circumstance.”

The Witness was then discharged from present further attendance.

The following documents received from the Colonial Secretary's Office for the information of the Committee were read.

30th April, 1860.	Native Secretary to His Excellency,
4th May.	Same to Assistant Native Secretary,
5th May.	Same to His Excellency,
	Same to same same date.
7th May.	Assistant Native Secretary to Native Secretary,
8th May.	Davis & Co. to Native Secretary,
14th May.	Native Secretary to Settlers at Kawhia,
31st May.	Native Minister to C. Davis,
6th June.	Memo. Commissioner of Customs,
19th June.	Sub-Collector at Kawhia to Commissioner of Customs,

Also from the Commissioner of Customs at Auckland, the following Returns :—

1. A Return of all vessels cleared Outwards for Kawhia from the Port of Auckland, from the 14th May to the 11th September, 1860.
2. A Return of all vessels entered Inwards at the Port of Auckland, from the Port of Kawhia, between the above dates.

The Committee then adjourned till To-morrow, the 14th instant.

WILLIAM FOX,
Chairman.

FRIDAY, THE 14TH DAY OF SEPTEMBER, 1860.

Committee met pursuant to notice.

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

Mr. Fox in the chair.

The minutes of the former meeting were read and confirmed.

The Hon. C. W. Richmond again attended the Committee and gave evidence as to the clearing of vessels between Auckland and Kawhia, and put in the following Documents for the information of the Committee, and stated that the motive for granting such clearances in ballast was to enable the settlers there to remove their goods.

5th May, 1860.	Letter, Mr. Hunt to Colonial Secretary,
1st June.	Special clearance of Schooner “Raven” to Kawhia,
6th June.	Mem. by Native Minister giving leave for the “Isabella” to go into Kawhia,
22nd June.	J. Salmon, Agent for “Matilda,” to Commissioner of Customs,
8th August.	Mem. by Native Minister upon the same,
22nd June.	Special clearance of “Raven” to Kawhia,
3rd September.	The like,
10th and	
11th September.	Collector of Customs Auckland to Commissioner of Customs,
13th September.	Mem. of Collector of Customs,

1. *Mr. J. C. Richmond.*] Did the Messrs. Yates ever apply for a second clearance to Kawhia?—No

2. *Mr. Gillies.*] In your Letter of 31st July to Charles Davis it is stated “that the Natives at Kawhia are in a state of rebellion,” what evidence had you at that time that they were so?—Nothing in the shape of strict legal evidence, although I have no doubt that the facts might easily have been put into that shape if the necessity had arisen. The facts to which I refer are that the Maori King's Flag was flown at Kawhia—that the Natives were assembled in Arms without the Queen's Warrant—that they had entered the stores and taken possession of Arms—and that a number of the Kawhia Tribe had actually started, or were prepared to start, for Taranaki to join the insurgent force there. I venture to say that there are a number of other particulars which I do not recollect at the present moment, but which would appear amply to justify the conclusion which we came to upon a notorious matter of fact. I speak upon official Reports made to the Government, and from hearsay. I have no direct knowledge of the facts.

The Sergeant-at-Arms having intimated that Mr. Speaker was about to take the Chair, the Committee adjourned.

WILLIAM FOX,
Chairman.

8 REPORT ON PETITION OF C. DAVIS & F. & L. YATES.

FRIDAY, THE 21ST DAY OF SEPTEMBER, 1860.

Committee met pursuant to notice.

Present :—Mr. J. C. Richmond, Mr. Fitzgerald, Mr. Gillies, Mr. Domett, and Mr. Fox.
Mr. Fox in the chair.

The minutes of the last meeting were read and confirmed.

Mr. McLean the Native Secretary was called in, and examined.

1. *By the Chairman.*] Will you state to the Committee under what circumstances the Messrs. Yates and other settlers were removed by Government from Kawhia?—They were removed in consequence of the excited state of the Natives at their own request, owing to the insecurity of their position ; as will be seen by the following correspondence ; which was read.

April 24th—Mr. Brewer to Mr. McLean.

“ “ Mr. Brewer and others to Mr. McLean.

“ 25th—Mr. McLean to the above.

“ 28th—Notice to Settlers by Mr. McLean.

May 2nd—Messrs. Davis & Co. and others to same.

Same date—Mr. McLean's answer thereto.

Same date—Messrs. Yates and others to Mr. McLean.

Same date—Mr. McLean's answer thereto.

2. In what capacity and under whose authority did you proceed to Kawhia?—I was specially instructed by the Government to proceed to Raglan, to enquire into and report upon, the state of the Natives there ; as many of the settlers were leaving the place ; several of the women and children had left in consequence of alarming reports of the state of the Natives in Waikato and elsewhere.

3. What reason had you for stating, or believing, that the Natives at Kawhia were in a state of rebellion?—I am not aware whether I used the term rebellion in writing to the settlers. The Natives were in a state of excitement ; and at the time, preparing to join William King at Taranaki.

4. *Mr. J. C. Richmond.*] It has been stated commonly that there was an attempt to establish a Custom House at Kawhia, and levy duties for the support of the Maori King. Is this true?—The Kawhia Natives hoisted a Kings flag at that Port and compelled the Europeans to pay yearly tribute to the King ; contributions to the extent of £70 were levied on the Kawhia settlers.

6. *The Chairman.*] Do the settlers at Kawhia hold their land under Crown Grants, or are they merely squatters or purchasers in defiance of the “ Native Land Purchase Ordinance”?—Many of them occupied land purchased some 25 years ago.

5. *Mr. J. C. Richmond.*] Have any of the Kawhia settlers applied for Crown Grants under the “ Land Claims Settlement Act”?—I believe they did. Mr. Charlton who was obliged to purchase peace by paying tribute, has applied for a settlement of his claim to the land he occupied there.

The Witness then withdrew.

The Committee then adjourned.

WILLIAM. FOX,
Chairman.

TUESDAY, THE 2ND DAY OF OCTOBER, 1860.

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

The Committee met pursuant to notice.

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.
