
SENATE JOINT MEMORIAL 8054

State of Washington 58th Legislature 2004 Regular Session

By Senators Rasmussen, Winsley, Jacobsen, Kline, Finkbeiner, McCaslin, Regala, Spanel, Roach, Fraser, Benton, B. Sheldon, McAuliffe, Franklin, Prentice, Haugen, Hargrove, Brown, Thibaudeau, T. Sheldon and Oke

Read first time 02/11/2004. Referred to Committee on Judiciary.

1 TO THE HONORABLE CHIEF JUSTICE OF THE SUPREME COURT OF THE STATE OF
2 WASHINGTON, GERRY ALEXANDER, AND TO THE HONORABLE ASSOCIATE JUSTICES OF
3 THE SUPREME COURT OF THE STATE OF WASHINGTON, BOBBE BRIDGE, TOM
4 CHAMBERS, MARY FAIRHURST, FAITH IRELAND, CHARLES JOHNSON, BARBARA
5 MADSEN, SUSAN OWENS, AND RICHARD SANDERS, AND TO THE WASHINGTON STATE
6 SCHOOL DIRECTOR'S ASSOCIATION:

7 We, your Memorialists, the Senate and House of Representatives of
8 the State of Washington, in legislative session assembled, respectfully
9 represent and petition as follows:

10 WHEREAS, Chief Leschi was a Nisqually Indian leader at the time the
11 Treaty of Medicine Creek was signed in December 1854; and

12 WHEREAS, By the terms of the Treaty, the Nisqually Indians were
13 assigned to a reservation on lands far removed from the Nisqually River
14 and its fisheries which had sustained them for centuries; and

15 WHEREAS, Chief Leschi met with territorial leaders seeking a
16 reservation with a sufficient land base for the Nisqually people, but
17 was refused; and

18 WHEREAS, War broke out between Indians and territorial forces, and
19 in the course of war, A. Benton Moses, a soldier in the Washington

1 Territorial Militia, was killed during the Battle of Connell Prairie;
2 and

3 WHEREAS, Chief Leschi was charged with murder in the death of Moses
4 and was tried before a territorial court. The trial resulted in a hung
5 jury after the jurors were instructed that killing of a combatant in
6 the time of war was not murder; and

7 WHEREAS, Chief Leschi was tried a second time and was convicted of
8 murder and sentenced to death by hanging after the court refused to
9 give the jury instruction regarding the death of combatants. The judge
10 also refused to admit into evidence a map of the battleground showing
11 that Chief Leschi could not have been in a position to fire at A.
12 Benton Moses; and

13 WHEREAS, The U.S. Army refused to execute Chief Leschi, who was
14 regarded as a prisoner of war, and he was hanged only after the
15 Territorial Legislature ordered the Supreme Court to schedule his
16 execution which took place on February 19, 1858; and

17 WHEREAS, The Supreme Court of the State of Washington has inherent
18 authority to provide justice, no matter how old the case, and has
19 exercised that authority by granting Takuji Yamashita posthumous
20 admission to the Washington State Bar Association; and

21 WHEREAS, Like Takuji Yamashita, Chief Leschi was the victim of
22 discrimination--in his case, the ultimate discrimination of being
23 executed because he was non-Caucasian; and

24 WHEREAS, Chief Leschi left a legacy in Washington State history as
25 a courageous leader whose sacrifice for his people is worthy of honor
26 and respect; and

27 WHEREAS, There was at that time and continues to be a public outcry
28 over the wrongful conviction and execution of Chief Leschi;

29 NOW, THEREFORE, Your Memorialists respectfully pray that the
30 Supreme Court of the State of Washington use its inherent power of
31 providing justice to vacate the conviction of Chief Leschi and
32 depublish the record in his case; and

33 Your Memorialists further pray that the Washington State School
34 Director's Association urge school districts throughout the state to
35 purchase and use Washington History textbooks that accurately and
36 fairly portray the life, trial, and execution of Chief Leschi; and

37 Your Memorialists further pray that the injustice that occurred in

1 1858 with the trial and execution of Chief Leschi be recognized and the
2 commitment to a legal system under which a fair trial is the right of
3 everyone regardless of race or creed be reaffirmed.

4 BE IT RESOLVED, That copies of this Memorial be immediately
5 transmitted to the Honorable Chief Justice of the Supreme Court of the
6 state of Washington, Gerry Alexander; and to the Honorable Associate
7 Justices of the Supreme Court of the state of Washington, Bobbe Bridge,
8 Tom Chambers, Mary Fairhurst, Faith Ireland, Charles Johnson, Barbara
9 Madsen, Susan Owens, and Richard Sanders; and to the Washington School
10 Director's Association; and to the Nisqually Indian Tribe.

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