
SUBSTITUTE SENATE JOINT MEMORIAL 8054

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Judiciary (originally sponsored 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 02/20/04.

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 examine the unfortunate and
31 compelling circumstances of this case, determine whether it has
32 jurisdiction to hear a petition for relief from a judgment by the
33 Supreme Court of the Territory of Washington, and if so to vacate the
34 conviction of Chief Leschi and depublish the record in his case; and

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

1 Your Memorialists further pray that the injustice that occurred in
2 1858 with the trial and execution of Chief Leschi be recognized and the
3 commitment to a legal system under which a fair trial is the right of
4 everyone regardless of race or creed be reaffirmed.

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

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