

AUGUST LESCHINSKY.

MARCH 29, 1888.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHAW, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2043.]

The Committee on Claims, to whom was referred the bill (H. R. 2043) for the relief of August Leschinsky, having considered the same, respectfully submit the following report:

In 1870 the claimant, with a partner, went to Shasta County, Cal., to establish a fishery on the McLeod River. His partner, discouraged by the danger from incursions by Indians and from other causes, abandoned the enterprise. Leschinsky, by the labor of himself, his sons, and hired men, cleared land, built a house, made a garden, removed trees, stumps, snags, bowlders, etc., from the river and established a fishery, from which he supplied the markets in reach with fish, and was thus enabled to provide a comfortable living for himself and family.

In the beginning, and many times afterwards, Leschinsky attempted to file at the Shasta land office a pre-emption claim to the land upon which he settled, and from which he was subsequently ejected, but failed. The reasons why he failed are stated by Hon. Aaron Bell, the then register of the land office and since superior judge of Shasta County, as follows:

I know that you did settle upon said land, and make improvements thereon, and that you did apply to me, as register of the land office at Shasta, quite often to be allowed to file your pre-emption claim during the years 1872, 1873, 1874, 1875, and 1876, and perhaps after that date. I was compelled to refuse your application for the reason that the lands in that township were unsurveyed, but did tell you to cultivate and improve the same, and that when surveyed you could then file your claim, and that the Government would sell you the land. That I was register of the Shasta land office from 1872 to September, 1879, and that many times during said dates you came to the office and made inquiries as to your rights as a settler.

In 1872 or 1873, L. Stone, deputy United States fish commissioner, came to Leschinsky's fishery to get spawn of salmon and trout for distribution. He was assisted and supplied by the claimant until 1875, when, through the recommendation of the said Stone, Leschinsky's place and fishery was made a public reservation for a fishery, and Leschinsky was ejected by a squad of United States soldiers, and Stone put in possession. Thus Leschinsky, without fault of his, was suddenly deprived of the result of years of toil and left homeless and without remedy, save through the intervention of Congress.

Stone says, in a letter to Professor Baird:

I have always favored, and still favor, his receiving a fair indemnification for having the premises which he claims taken by the United State,

Hon. A. M. Rosborough and others state that there were points below and above the claimant's place on the McLeod River just as favorable for establishing a fishery, which no one claimed or had a right to claim, so that it seems as if Leschinsky's was taken because he had made it suitable and ready by his time, labor, and money.

Thomas B. Smith, county clerk and auditor, states that the lands in question were assessed to Leschinsky, and he paid the taxes for the years 1872, 1873, 1874, 1875, 1876, 1877, 1878; also, that the county records show that Leschinsky was naturalized March 9, 1861.

A petition of claimant's fellow-citizens prays that he be paid \$5,000, the value of his improvements, and says "that it was through great difficulty, danger, labor, and expense that said Leschinsky succeeded in getting the said fishery into good and successful operation." This petition is in simple, earnest language, and is signed by the State senator from that district, judge of the superior court, district attorney, sheriff, school superintendent, county clerk, tax collector, tax assessor, supervisors, and other county officers, and many private citizens.

Wherefore your committee are convinced of the meritorious character of this claim, and, ignoring both the highest and lowest estimate of the damage which claimant sustained, recommend that the bill be amended by striking out in line 3 the words "five thousand" and inserting the words "thirty-five hundred," and as thus amended that said bill do pass.

Attached to this report, and made part hereof, is the affidavit of Sergeant Buchner, to whose clear statement of this case attention is particularly directed.

STATE OF CALIFORNIA, *County of Shasta:*

Ernest Buchner, being first duly sworn, deposes and says that for the last thirteen years he has been a sergeant in Company H, Eighth United States Infantry, and has been in the continual service of the United States since the year 1855 up to October 18, 1884, at which time he was honorably discharged. That about August, 1879, he was sent to the McCloud River, in Shasta County, in charge of a guard to report at the United States fishery at said place, and remained at said place until about October 5, 1879; was detailed back by order in 1880 to take care of the guard at said United States fishery, at said McCloud River, and remained at said place from July, 1880, to October, 1880.

Affiant further says he is well acquainted with Mr. A. Leschinsky, who cleared the McCloud River at the point where said United States fishery was and is located, and made other improvements at said place, and said Leschinsky had established a fishery and garden, and was making a home for himself and family when he was ejected therefrom by Fish Commissioner Livingston Stone, about the year 1878. The work done by Mr. Leschinsky in clearing said McCloud River at said point was a difficult and hazardous piece of work to perform. He cleared the river of huge rocks and bowlders and snags and stumps and trees, and other obstructions thereon and therein, and had cleared and fenced some land and put it in a garden, and had built him a small house, and was preparing to build a larger house and bring his family there, when Mr. Stone had it declared a public reservation and had Mr. Leschinsky ejected therefrom. In my estimation a fair estimate of the value of the work done by Mr. Leschinsky would be at least \$5,000, and from my experience in Government work it would have cost the United States at least \$10,000 to have done the work Mr. Leschinsky did at said place up to the time he was ejected therefrom. I also say that it was entirely unnecessary to eject Mr. Leschinsky from his said possession, as the Government could have erected their fishery either above or below said Leschinsky's, which would have answered the purpose of the Government just as well.

I know, from conversation which I had with Mr. Livingston Stone during my stay at said fishery, that he (Stone) was very much prejudiced against Mr. Leschinsky. Stone told me many times that Mr. Leschinsky was too independent about the matter, and that he (Stone) might sign a recommendation that Mr. Leschinsky get \$2,000 from the Government as damages, but would not recommend any more. From printed reports of Mr. Stone and others in relation to Mr. Leschinsky's ejection from

the premises, I believe that Mr. Leschinsky is a much abused man, and has been grossly misrepresented in this matter by Stone and others, for the reason that during my stay at said fishery I always found him (Leschinsky) to be a quiet, peaceable, law-abiding citizen; and while he felt keenly the loss of his possession, and that he had been wronged and robbed of his hard toil and labor and money expended, still he never in any way or manner attempted to obstruct or interfere with me in the discharge of my duties.

I believe that Leschinsky is a much wronged man, and that he should be fully re-inbursed for his loss and damages in being ejected from his possessions, and I place a fair estimate of his damages at least to be \$6,000 or more. Even the hearts of the Government soldiers who ejected Mr. Leschinsky went forth to him in sympathy, as they could see plainly that he was being badly used and shamefully wronged of his hard work and labor of years, as well as the money he had expended in clearing the river, erecting a fishery, and getting ready to make a nice and comfortable home for himself and his large family dependent upon him for maintenance and support; but said soldiers had to obey orders and did so, and Mr. Leschinsky was driven forth from his home and prevented from making a nice, comfortable living for himself and family. I make this affidavit that justice may be done Mr. Leschinsky, and I have no interest whatever in this matter, only I find it my duty to the world, and as a good and worthy citizen, to do what I can by a truthful statement of facts to help obtain for Mr. Leschinsky what I believe to be his rights in this matter.

ERNEST BEECHNER,
Late Sergeant Company H, Eighth U. S. Infantry.

Subscribed and sworn to before me this 30th day of October, 1884.

[SEAL.]

JAMES E. ISAACS,
Notary Public.

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