

1856.

House of Representatives.

PETITION OF LAZARUS BERLOWITZ.

Presented to the House of Representatives April 25, and ordered to be printed April 28, 1856.

TO THE HONORABLE THE HOUSE OF REPRESENTATIVES OF THE COLONY OF NEW ZEALAND.

The humble Petition of LAZARUS BERLOWITZ, late of Melbourne, at present sojourning at Wellington, and for some time past having at intervals resided at Nelson, New Zealand, Watchmaker and Jeweller, a native of Poland, but naturalized in the Colony of Victoria, respectfully sheweth—

Your Petitioner can refer to highly respectable individuals as to your Petitioner's being a man of good character.

That he set sail from England in the month of October, 1851, and in February following arrived at Melbourne, where he had a shop, and carried on business till October, 1854.

That until lately he had considerable difficulty, as well to understand the English language, as also to make himself understood by persons speaking only that language.

That on the 18th of December, 1854, he took his passage from Melbourne to Wellington, for which he paid £14, per the brig "Onkaparinga," Captain Mackenzie, and afterwards Captain Bertheau, a native of Denmark, being the master.

That he then was quite ignorant of the necessity for a passenger on shipboard being required to do anything further than pay for the transit of himself and his property: that it was altogether unknown to him that it was necessary to get the captain of the vessel to enter his property on board in the ship's papers; nor did he ever before hear of a manifest, or the captain's report. He was then perfectly ignorant that any duties were payable on importing and landing goods in New Zealand; and never before heard that goods not reported, or not entered by the captain in his manifest or report, were liable to be forfeited. Of all these things he was ignorant.

That, excepting his being desirous to make an inexpensive passage, and not to pay both for the transit of his goods as a passenger, as well as at the same time pay for his passage by the same ship, his goods were not by any means shipped with any regard to secrecy. There was not any attempt to conceal. He meditated no fraud of any kind, and knew no cause for concealment.

That, on or about the 30th of December, he took his boxes on board the ship, being one 4 feet by 3 feet broad, the other being small, and on both of which were his name and address at "Wellington," legibly written. The passengers were many of them present, and saw; both captains were also present, and desired to put them in the hold, which was promised and done.

That Captain Bertheau having previously been to New Zealand, and being, as afterwards appeared, aware that masters of vessels are (as your Petitioner is now informed) required, under pain of forfeiture of goods, to make report to the Customs, "so far as any such particulars can be known to him," (and your Petitioner here refers to the Customs Ordinance,) it was his duty to have explained these things to a foreigner, and more especially to have done his duty by reporting them, "so far as was known to him," ere his arrival at his destined port: that this was not your Petitioner's duty:

and all he could do, when he was informed, was to desire the captain to take the necessary steps in this respect.

That, excepting your Petitioner's wearing apparel in his actual use, together with his watch, which was and still is in use on your Petitioner's person, all his property on board was thus secured in the hold for importation, to be only landed at Wellington, and without any concealment or attempt to conceal.

That, on or about the 1st of January, 1855, your Petitioner thus left Melbourne, on board the "Onkaparinga," for Wellington.

That your Petitioner was not aware, for some time after having set sail, of the vessel being to call in at Nelson.

That, a few days after leaving Melbourne, some of the passengers, especially Mr. and Mrs. Moody, by some means ascertained the necessity of all goods on board being duly reported by the captain in his manifest, on penalty of forfeiture of them; which, creating some consternation amongst them, caused the passengers, one day after dinner hour, all (including your Petitioner, Mr. and Mrs. Moody, and others,) to speak to the captain on the subject, whom they desired to do what was necessary, by mentioning the goods in the manifest, and which he promised all of them to do. And your Petitioner is most strenuous in the truth, that he, amongst the rest, desired the captain to put his goods in the manifest, and that the captain promised to make it all right, from the fact that the captain also at the same time cautioned your Petitioner on the necessity of all goods being entered, Montague Carn, and also Hares Fanslow, and others, being present, and hearing the same. That Mr. Moody having also repeatedly reminded and cautioned your Petitioner as to the necessity of having the goods in the captain's manifest, he was the more zealous in asking and begging of the captain to do what was needful in that respect, and which the captain said he would do; in proof whereof your Petitioner is prepared to produce evidence.

That it was perfectly well known by all the people on board, by the captain, by his mate, by Mr. Georgeson, Mr. Roberts, Mrs. Combes, Mr. Fanslow, Mr. and Mrs. Moody, Mr. Carter, Mr. Waterhouse, Mr. Thompson, Montague Carns, Richard Williams, Mr. Robinson, Mr. Marshall, and other passengers, that your Petitioner was a watchmaker and jeweller, and that he had watches and jewellery on board, in boxes marked for "Wellington;" that, in particular, your Petitioner is sure the captain knew of it, for that he frequently during the voyage joked your Petitioner about his watches, and used to say he'd charge him for victuals on board the vessel, and thereby get his watches; that "he'd come in for his jewellery;" and indeed one of the passengers was wishful to buy something of them; but it is perfectly true, as they proved, that your Petitioner said that, except his watch (which he still has in use), he had no article but those which were packed for "Wellington," in the hold of the vessel, and that they were not for sale; nor would he sell anything to any one, not even his watch.

That on Friday, the 19th of February, 1855, the vessel, having several passengers to land at Nelson, cast anchor there, and an officer was placed in charge of the vessel at about 11 in the morning, being the first time your Petitioner ever was in New Zealand.

That your Petitioner was quite unaware when, or at what time, previous to the vessel reaching Wellington, the captain intended, as he said, to "make it all right;" and was ignorant, on being about to sail from Nelson, that the captain had neglected entering in his report the goods of your Petitioner, as also (as the captain admits) the goods of some other passengers; nor had he the slightest idea or intention of landing, nor did he ever attempt to land, any of his property at Nelson, or in any way to defraud the Customs revenue, but, on the contrary, placed every reliance on the captain's promise in regard to his report, to "make it all right."

That your Petitioner hath heard the captain say that he reported his ship and goods, that he entered in and cleared out on the same day at Nelson, at about 8 or 9 o'clock in the evening.

That about 12 o'clock in the same night, the Nelson Custom-house officers, with a writing clerk in the police office and a police officer, came alongside the vessel, then being still in charge of the tidewater, when they proceeded to the hold, under a Justice's warrant against your Petitioner, as he was afterwards informed and understood, for having stolen property on board, and they found two boxes of your Petitioner, locked and secured, with his name and address at "Wellington" lettered thereon. The lateness of the hour, the bustle and confusion, and noise of the scene, and his imperfectly understanding the language, or what it was all about, greatly alarmed your Petitioner, who was in a sick bed at the time: your Petitioner saith he (in truth) thought that, being on sea water, he had set sail and fallen into the hands of pirates, and that they alleged his having stolen property merely as a pretext for stealing his property from him; and, therefore, on being asked for the keys, and not having the captain or a friend to explain the circumstance, he endeavoured to divert the men's

attention from what he thought was likely to be a sea robbery, and said he had only his papers, which were with his luggage in the hold; but on being informed about the matter he at once, without hesitation, gave up his keys to Mr. Blackmore and Mr. Johnston, whom your Petitioner was afterwards informed were Custom-house officers, and thereupon they, after opening the boxes, and much admiring and fitting on some of the jewellery, took under their charge all his jewellery, papers, and goods. Your Petitioner, seeing his invoices, receipts, passports, testimonials, letters, and other private papers in his bag, taken away by them, asked Mr. Blackmore to let him have them, but Mr. Blackmore rudely answered "he be d——d," and "he'd give him seven years." He then implored of him to take him ashore in their boat, that he might not lose his goods, but see what was to be done about them, as the vessel was then about heaving anchor for Wellington; but your Petitioner, to say the best of it, was treated unkindly, and with incivility and contempt, and he could not get ashore. That several of the men were drunk, one of whom had to be put into the boat by the aid of ropes; and when the captain came on board he went into the cabin, and told Mr. Blackmore to "take the goods, as he is only a fool," Peter Doreen, and Richard Williams and others, being also present too.

That your Petitioner, and also nearly all the other passengers, many of whom could have been witnesses on your Petitioner's behalf in this matter, were thus necessarily carried away to Wellington on board the vessel.

That your Petitioner then necessarily returned from Wellington by the same vessel, being the first to Nelson, where he arrived on the 17th same February, but was not able to land until next Monday morning, when he immediately gave notice to the collector that he claimed the goods; and the next day he was summoned (on the captain's information, your Petitioner is informed) to the police office, to answer alleged charges made by the Customs against your Petitioner, for that these goods were not entered by the captain in his report, and were forfeited, as your Petitioner understood, for the benefit of Mr. Blackmore, to the extent of one moiety thereof.

That on the 26th of same February the charge, on information so grounded and supported by the captain's evidence, was heard before Mr. J. Poynter and Mr. G. White, acting as Petty Session Justices on the occasion; Mr. T. Travers, solicitor, appearing for the Customs, and Messrs. H. Adams and J. Stamper, as solicitors for your Petitioner: that eleven of the passengers, together with the mate, were summoned as witnesses, and several of them received £1 thereon on your petitioner's behalf; but the passengers sailed from Nelson the day prior to the hearing, without giving their testimony, and the captain refused to allow his mate to attend as evidence on your Petitioner's behalf. That divers groundless and perfectly false insinuations, by way of colouring, in aid of the case for the Customs, were unduly made, to your Petitioner's prejudice, that his character and those goods were suspicious—the latter as being suspected to be stolen property; and notwithstanding your Petitioner insisted he came by them honestly, from respectable merchants, as his invoices and receipts showed (to which he again begs leave to refer), when produced by the Customs, and he courted every enquiry; and notwithstanding the evidence of his having desired the captain to enter your Petitioner's goods in his manifest, and that the captain had promised to "make it all right," and notwithstanding your Petitioner and his goods had not arrived at Wellington, the port of their intended importation and landing, where only the duties were payable and to be paid, and the other circumstances hereinbefore detailed, and although your Petitioner was advised, and it was submitted to the Justices, that the alleged offence was not in accordance but in opposition to the spirit of the Ordinance, yet the Justices, in their judgment from the bench, after speaking extra-judicially upon the certain information they had received about, and their suspicion of, these goods being stolen property, thus condemned your Petitioner's goods as forfeited, for the default, too, of a person over whom your Petitioner had no control, for not having been reported by the captain, who promised and who was desired so to do—and without any intention of landing the goods before their arrival at Wellington, without any knowledge that the captain had not done his duty or performed his promise by reporting the goods, and without any fraud, or attempted fraud, whatever on your Petitioner's part.

That thereupon your Petitioner's passports and naturalization only were handed to him, and at the same time the Justices intimated that the goods should not, nor were they to be sold till further information from Melbourne, as to their being stolen property, nor should they be sold till the result of any memorial should first be heard from the Colonial Government at Auckland on the subject.

That the said Mr. J. Poynter (your Petitioner is informed) has since, in answer to the extreme hardship of your Petitioner's case, repeatedly called attention to the pretended fact that he had evidence that some part of your Petitioner's goods were stolen, as an excuse for his judgment for having forfeited the goods under the circumstances.

That although divers memorials on your Petitioner's behalf, stating these facts and courting every enquiry, were made to Government, under signatures of several hundreds of the respectable inhabitants of Nelson and neighbourhood, of which your Petitioner repeatedly informed Mr. Blackmore, and although your Petitioner informed him, even up to the time of the sale of the goods, that he was daily in expectation of an answer, but that none had been received to the memorials; and although

he was requested to wait, yet he declined to wait, and on the 20th of July advertised the sale, and on the 30th of same July sold chief part of the goods, other part thereof not being thereat disposed of.

That the jewellery goods were of excellent quality, many being of the very best sort—partly of English manufacture from Falmouth, and partly Russian from Dantzic; some of the rings manufactured at Melbourne from colonial gold; that the sale (at which other jewellery of an inferior quality was intermixed) took place after a short notice of only 10 days (see advertisement), and was conducted altogether at Nelson, nearly all the lots being sold at a reckless rate, and oftentimes to Mr. Blackmore's party, amidst several of the attendants' cries of "Shame, shame!" some of the brooches being sold to Mr. George Coats, of Nelson, watchmaker, for 12s. 6d. which cost your Petitioner £3 15s., and which Mr. Coats afterwards sold for £4 4s.; gold watches being sold for £8 which cost your Petitioner £14 14s., and which Mr. Coats afterwards sold for that sum; gold thimbles which cost your Petitioner £1 10s. were sold for sixteen pence; rings which cost your Petitioner £5 5s. were sold for 7s. 6d.; a gold chain and seal, with other similar lots, were sold to Mr. Coats for 12s. 6d. each lot, for which your Petitioner paid £5 10s. in England, was by him re-purchased from Mr. Coats for, and he paid him £5 11s. (which receipt for re-sale can be produced); and that your Petitioner's wearing apparel, his hat, cap, stockings, &c., were also sold.

That although two of your Petitioner's nuggets of gold were also sold, yet he had four amongst his goods so seized, other two being also seized, worth together £120, and what became of them, as also divers of your Petitioner's gold watches, and also a handsome waistcoat, which were amongst the goods seized, and not amongst those sold (your Petitioner having attended the sale), and what became of his invoices, receipts, and testimonials, your Petitioner knows not, and cannot ascertain.

That on the 1st of August last the Colonial Secretary answered the memorials, and thereby, after enquiring into the matter, the goods were ordered to be surrendered to your Petitioner. But the answer arrived after (notwithstanding the Justices' request to the contrary) the sale had taken place.

That your Petitioner has never been informed what was the actual proceeds by sale of such of the goods as were sold, nor what is to be done with the others, which he has often demanded. That although he requested of Mr. Blackmore, both verbally and in writing, to know the amount of duties to be detained and paid for both the sold and unsold goods, and offered him divers receipts in different forms for whatever might be to be paid him, and even explained his willingness to sign any receipt whatever of his own drawing, on first having the liberty of showing the same to an English friend on his behalf; yet it was only after much trouble, expense, and loss of time, and after several hundreds of the inhabitants of the town and neighbourhood of Nelson, who were aware of the circumstances, again memorialized the Government, and expressed their regret at such cruel proceedings by a Government officer towards a poor Russian Pole, that he, on the 22nd of last February, was paid by the hands of Stephen Carcock, Esq., the collector at Wellington, the sum of £277 15s. 10d., as being remitted to him "on account of" the seizure, but no mention made as to the still unsold goods.

That it is now upwards of fifteen months since your Petitioner was thus deprived of his property, and thereby been rendered totally incapable during the interval of gaining his livelihood as hitherto. That the goods so seized were of the value of about £1300; that they consisted of as follows, namely:—Nine gold watches, two whereof cost your Petitioner £28 each, and the rest £14 each, in England; nineteen silver watches, some of which cost your Petitioner £6 10s., others £4 10s. each; eight long gold chains, some of which cost him £8, others £4 10s. each; nine Albert chains, which cost him £5 10s. each; about 100 gold rings, some of which cost him £5 5s. each, others not so much; about 45 gold brooches, some of which cost him £4 4s. each, others not so much; gold thimbles, which cost him £1 10s. each; besides gold and silver earrings, pencil-cases, seals, keys, gold spectacles, eye-glasses, &c.; upon all of which your Petitioner would have gained a jeweller's profit of about 50 per cent. on retail. Also four nuggets of gold, for which he paid £140; a quantity of Colt's revolvers and other pistols (about nine in number), worth from £4 10s. to £9 10s. each; a quantity of tortoiseshell combs, silver fruit and other knives, &c. &c. Also a dressing-case, worth £4 4s., and a writing desk, worth £5; a quantity of wearing apparel, including a valuable cap, worth £5, a new 25s. hat, waistcoat, neckties, stockings, &c. That, besides the loss by his goods, your Petitioner has thus also sustained a loss of his daily earnings as a working jeweller; and that he has been put to an expense of upwards of £100, actually paid to witnesses, for professional assistance, and for travelling and other necessary and indispensable expenses, incurred altogether in consequence of this affair, whereby, after deducting the £277 15s. 10d. received, your Petitioner has still thus sustained an actual damage of upwards of £1,200.

Your Petitioner, therefore, most humbly, earnestly, confidently, and imploringly beseeches your Honorable House to take your Petitioner's case of extreme hardship under your consideration, and to deal therewith in such manner as, towards redressing your Petitioner's grievous pecuniary loss, may to you seem fit towards an oppressed fellow-creature. God Almighty will reward you; and your Petitioner, as in duty bound, will ever pray, &c.

(Signed)

L. BERLOWITZ.