
WILLIAM L. BUCKLEY AND OTHERS!

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS,
TRANSMITTING A COPY OF THE FINDINGS OF THE COURT IN THE
CASE OF WILLIAM L. BUCKLEY AND SUNDRY SUBNUMBERED
CASES (BROOKLYN NAVY YARD) AGAINST THE UNITED STATES.

JANUARY 23, 1911.—Referred to the Committee on Claims and ordered to be printed.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, January 21, 1911.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid causes, which cases were referred to this court by resolution of the United States Senate, under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. JAMES S. SHERMAN,
President of the Senate.

[Court of Claims of the United States. Congressional case No. 14860—subnumbered as below. (Brooklyn Navy Yard, N. Y.) 85. William L. Buckley; 88. John Dwyer; 96. James Palmer; 104. Mary M. Parent, widow of David Parent, deceased; 106. Helen L. Burnett, George S. Burnett, and Mary O. Powles, sole heirs of Joseph Burnett, deceased, v. the United States.]

STATEMENT OF CASE.

This is a claim for the payment to the above-named claimants for services rendered at the Brooklyn Navy Yard, New York, N. Y., between March 21, 1878, and September 22, 1882, for extra labor above the legal day of eight hours.

On June 21, 1910, the United States Senate, by resolution, referred to the court, under the act of March 3, 1887, known as the Tucker Act, Senate bill No. 5123, which so far as it pertains to the claims herein reads as follows:

“A BILL For the relief of William A. Ashe and others.

“*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to * * * W. L. Buckley, John Dwyer, James Palmer, Mary M. Parent, widow of David Parent, and the heirs at law of Joe Burnett, * * * the amounts that may be found due each of them, respectively, for extra labor above the legal day of eight hours, while employed by the United States as workmen, laborers, or mechanics at the various navy yards of the United States, performed by them by reason of and under the provisions of circular numbered eight, issued by the Secretary of the Navy on March twenty-first, eighteen hundred and seventy-eight.”

Thereafter the claimants named above, and each of them, offered and filed their respective petitions herein, in which they, and each of them, aver substantially as follows:

That between March 21, 1878, and the 21st day of September, 1882, they and each of them were employed by the Government of the United States at the navy yard at Brooklyn, N. Y.; that on the 21st day of March, 1878, the Secretary of the Navy issued the order referred to in claimants' petition, known as Circular No. 8, and set forth in Finding I herein.

That during the six months in each year from the date of said order to the 21st day of September, 1882, they worked during all or a portion of the time they were so employed, in excess of eight working hours per day, and that they, and each of them, were paid for only eight hours' work for the time they were so employed during said period, and that they, and each of them, are entitled to the amounts set forth in their respective petitions, being the pay for all time worked during said period in excess of eight hours per day.

The case was brought to a hearing on the evidence and merits on October 31, 1910.

Messrs. Herbert & Micou appeared for the claimants, and the Attorney General by Percy M. Cox, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the claimants herein or their decedents, and each of them, were in the employ of the United States in the navy yard at Brooklyn, N. Y., during which time the following order was in force:

"Circular No. 8.

"NAVY DEPARTMENT,
"Washington, D. C., March 21, 1878.

"The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

"The working hours will be—

"From March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

"The departments will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of eight hours a day. All workmen electing to labor ten hours a day will receive a proportionate increase of their wages.

"The commandants will notify the men employed, or to be employed, of these conditions, and they are at liberty to continue or accept employment under them or not.

"R. W. THOMPSON,
"Secretary of the Navy."

II. Said claimants and each of them, or their decedents, while in the employ of the United States, as aforesaid, worked on the average the number of hours set opposite their respective names in excess of eight hours a day, and at the wages below stated, to wit:

Sub number.	Names of claimants.	Number of hours.	Rate per day.
85	William L. Buckley.....	136 $\frac{3}{4}$ 99 $\frac{1}{2}$ 280 $\frac{1}{2}$ 178 $\frac{1}{2}$ 142	\$0.90 .98 1.14 1.30 1.40
88	John Dwyer.....	159 66	3.50 3.40
96	James Palmer.....	706 $\frac{1}{2}$ 52 $\frac{1}{2}$	3.26 2.76
104	Mary M. Parent, widow of David Parent, deceased.....	216 $\frac{3}{4}$ 351 $\frac{1}{2}$	3.00 3.26
106	Helen L. Burnett, George S. Burnett, and Mary O. Powles, sole heirs of Joseph Burnett, deceased.....	97 812 347 $\frac{1}{2}$	3.50 3.00 2.76

III. If it is considered that eight hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under Circular No. 8, heretofore referred to, then the claimants or their decedents have been underpaid the sums set opposite their respective names, as follows:

85. William L. Buckley, one hundred and twenty-one dollars and twenty-seven cents (\$121.27).

88. John Dwyer, three hundred and eighty-five dollars and fifty cents (\$385.50).

96. James Palmer, ninety-nine dollars and thirty-two cents (\$99.32).

104. Mary M. Parent, widow of David Parent, deceased, one hundred and eighty-five dollars and fifty-six cents (\$185.56).

106. Helen L. Burnett, George S. Burnett, and Mary O. Powles, sole heirs of Joseph Burnett, deceased, four hundred and twenty-four dollars and fifty-three cents (\$424.53).

IV. All of the above claims, except that of James Palmer, have been filed in this court under general jurisdiction No. 16325, and same were dismissed in 1906 for want of prosecution.

Except as above stated the claims have not been presented to any other court or officer or department of the Government for prosecution or payment prior to the presentation to Congress and reference to this court, as hereinbefore stated, and no evidence is adduced to show why claimants did not earlier prosecute said claims.

CONCLUSION.

Upon the foregoing findings the court concludes that the claims herein are not legal claims against the United States, and are equitable only in the sense that the United States received the benefit of the services of said claimants in excess of eight hours per day as above set forth.

BY THE COURT.

Filed December 5, 1910.

A true copy.

Test this 19th day of January, 1911.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.



