

JUDGE'S OPINION

(Continued from Page One)

Van Kirk was a United States employee, and the court decided that his relationship to the United States—"did in effect constitute an employee of the United States within the sense in which that term is here used." The court then considered the question as to whether "an employee of the United States is qualified to serve as A JUROR IN THE DISTRICT OF COLUMBIA", (the italics mine.) By

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LEGAL NOTICE

IN THE UNITED STATES LAND OFFICE FOR THE JUNEAU LAND DISTRICT AT ANCHORAGE, ALASKA

In the matter of the Application of CARLISLE PACKING COMPANY, a corporation, for a Patent under Sections 2306 and 2307 Revised Statutes to a tract of land as a soldiers' additional homestead embraced in U. S. Official Survey No. 1537. SERIAL NO. 07000. NOTICE OF APPLICATION FOR PATENT.

NOTICE IS HEREBY GIVEN That the CARLISLE PACKING COMPANY, a corporation organized under the laws of the State of Washington, has filed application Serial No. 07000 for a patent under and by virtue of sections numbers 2306 and 2307 Revised Statutes of the United States, as assignee of William N. Tarbox, for a tract of land embraced in U. S. Official Survey No. 1537, situate on the west bank of the Kvichak River, Territory of Alaska, approximately 6, 1-4 miles above the mouth of the Alagnak River, latitude 59 deg. 06 min. 50 sec. N., and longitude 156 deg. 41 min. 30 sec. W., and particularly described as follows, to-wit:

"Beginning at corner No. 1, whence U. S. L. M. R. G. M. Leura S. 32 deg. 50 min. 11 sec. W., 37.05 chains distant, and corner No. 4 of U. S. Survey No. 914 bears W. 6.57 chains distant; thence E. 4.54 chains to corner No. 2. M. C. thence by meanders along the Kvichak River as follows:

- (1) N. 40 deg. 52 min. E., 3.86 chains
- (2) N. 43 deg. 21 min. E., 3.20 chains
- (3) N. 45 deg. 11 min. E., 7.10 chains
- (4) N. 27 deg. 33 min. E., 0.40 chains to corner No. 3 M. C.; thence W. 14.49 chains to corner No. 4; thence S. 10.60 chains to corner No. 1, the place of beginning, containing an area of 10 acres."

Any and all persons claiming adversely any of the above described land should file their adverse claims with the Register of the United States Land Office at Anchorage, Alaska, within the period of publication or thirty days thereafter, or they will be barred by the provisions of the statute.

J. Lindley Green, Register
First Publication May 20, 1929, Last Publication August 10, 1929.

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the italicized position of this quotation the court plainly limited the extent of the application of the doctrine in that decision. It appears from the decision that the defendant relied on Section 217 of District of Columbia, the pertinent parts of which are as follows:

"All executive and judicial officers, salaried officers of the United States and of the District of Columbia***shall be exempt from jury duty and their names shall not be placed in the jury lists."

There is no provision in any of the laws of the Territory of Alaska forbidding placing upon the jury lists the names of persons who are exempt from service nor, as to jurors generally, exempting from service all employees of the United States.

The only provisions of the code of Alaska exempting from liability to act as a grand juror are contained in Section 2121, the provisions of which do not extend so far as to include all employees of the United States. The second subdivision of that section exempts any civil officer of the United States whose duties are at the time INCONSISTENT WITH HIS ATTENDANCE as a juror. The seventh subdivision of that section exempts an acting non-commissioned officer, musician or private of a military organization duly enrolled in the service of the United States or of said District. It does not appear that

Walter G. Culver is included in either of these exempt classes.

So far as I am aware it has always been held by the courts of Alaska that the provisions of Section 2121 were for the benefit of the person summoned to serve as a grand juror, and that if he did not claim exemption he was not disqualified from service.

In the Griffith case the court devoted much of its time to showing that the provisions of Section 217 supra were applicable alike to grand and petit jurors, and concluded that they were so applicable.

In the Code of Alaska the provisions governing the selection of grand and petit jurors are kept distinctly separate. There is no such general provision relating to jurors as in said Section 217. It is true that there is a provision as to trial jurors which makes the existence of the relation of employer and employee between a trial juror and a party to the case on trial the ground for a challenge for implied bias. That provision is clearly limited to trial jurors and in my opinion has no application to a grand juror. Furthermore, a defendant must interpose a challenge on that ground or the juror may serve on the trial. Implied bias is not absolute disqualification. I am not unmindful of the

fact that in the Griffith case the court discussed and applied the common law of Maryland. I am inclined to think that the part of their opinion was mere dictum. Certainly that discussion was limited to the common law of Maryland.

Since I must hold that there is no statute in Alaska under the provisions of which Walter G. Culver is disqualified from acting as a grand juror, I will consider whether the general provisions of the law forbid his acting in that capacity. The most that can be urged by reason of his employment against his serving as a grand juror is that the party defendant might challenge him for implied bias if he were chosen as a trial juror. Actual bias on the part of a grand juror against a person being investigated by the grand jury has repeatedly been held not to disqualify the grand juror.

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12 Ruling Case Law, page 1022. In Corpus Juris I find the following:
"The general rule has been laid down that interest in a particular prosecution, other than a direct pecuniary interest, will not disqualify a grand juror or be a ground for objection to an indictment in the finding of which he participates. Accordingly, in the absence of statutory provisions

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