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Is It a Way of Escape

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Burden of Proof

The new act provides that in all cases involving fraud or the assertion of a liability against the transferee of a taxpayer, where the case is pending before the United States Board of Tax Appeals, and the hearing thereon has not been held prior to May 29, 1928, the burden of proving or showing that fraud has been committed or that the individual in question is actually a transferee of the primary taxpayer, shall be upon the Commissioner. These changes indicate a change in administrative policy for which the taxpaying public may well be grateful.

Statute of Limitations

The new act further limits the time within which an additional tax may be asserted to two years from the date the return was filed so far as taxes imposed by the new act are concerned. The provisions of prior acts relative to failure to file any return and fraudulent returns remains unchanged.

Despite protests from many sources, a provision appears in the new act denying refunds where the tax was paid after the expiration of the statute of limitations provided by prior acts, provided the tax was assessed within the statute and prior to June 2, 1924, and a claim in abatement was filed by the taxpayer. This provision renders practically inoperative the decision of the Supreme Court in the case of *Bowers vs. New York and Albany Lighterage Co.* 273 *U. S.* 346.

September 5 and 6

IS IT A WAY OF ESCAPE?

Most of us have probably noted, upon occasion, the "pointing with pride" by state's attorneys to the fact that so many of the criminal causes started by them have been disposed of at little or no expense to the community through pleas of guilty. What is known as the "Cleveland Survey," by Mr. Alfred Bettman of Cincinnati, brings to the attention a view of these pleas of guilty that is not as complimentary to the social success of this method of handling criminal cases as most of us have imagined. It should be remembered, however, that conditions in rural communities, such as are to be found in North Dakota, are not entirely comparable to the conditions in cities; yet, notwithstanding that, there is sufficient in the following quotation from the study of Mr. Bettman to invite a serious thought:

"The popular impression is that when an offender enters a plea of guilty he throws himself upon the 'mercy of the court.' As a practical proposition he does nothing of the kind. He has already thrown himself upon the mercy of, or struck a bargain with, the prosecutor before he takes his plea. The court usually accepts the recommendation of the prosecutor as to the punishment on plea of guilty. The facts show that in the cities a penitentiary sentence follows a conviction by the jury in a much higher percentage of cases than where sentence is imposed upon a plea of guilty, and that a plea of guilty upon arraignment reduces the chances of a penitentiary sentence in the cities above one-half. In the cities . . . the prosecutors have an immense

volume of cases before them constantly, and the tendency is to dispose of as many of them as possible by guilty pleas. This lessens the work and is usually fairly satisfactory to the prosecuting witness and to the public. This tendency generally results in negotiations and bargaining between the prosecutor and counsel for the defendant. . . A common practice in cases of this kind is bargaining for a plea in consideration for a parole. In this way the defendants escape with no punishment at all."

September 5 and 6

SACCO-VANZETTI RECORD

Announcement has been made that Henry Holt & Co. will publish the complete record in the Sacco-Vanzetti case, four volumes of about 1,000 pages each, the same to be available at cost, $25.00. As a reference work it should be invaluable, for as the approval of the publication by such men as Newton D. Baker, Emory R. Buckner, C. C. Burlingham, John W. Davis, Bernard Flexner, Raymond B. Fosdick, Charles P. Howland, Victor Morawetz, Charles Nagel, W. H. Pollack and Elihu Root points out: "The Sacco-Vanzetti case is without doubt an historical trial. As such it promises to be a subject of controversy and discussion for many years to come. It is important that the complete record of all the proceedings in the case should be available and accessible to historical students. Very few copies of the record are now in existence, and these practically not within reach of inquirers. Without the record, comment and criticism must be partial, if not partisan; with it, there can be no excuse for misrepresentation through ignorance or design."

September 5 and 6

THE DATES ARE SEPTEMBER 5 AND 6

Dates for the annual meeting of the State Bar Association, which will be held at Minot this year, have been definitely fixed for Wednesday and Thursday, September 5 and 6. Minot intends to live up to its well-earned reputation as one of the leading convention cities of the State, hence we may look forward to a representative gathering of lawyers. Mark your calendar now for the annual meeting at Minot, September 5 and 6.

September 5 and 6

AMERICAN BAR JOURNAL APPROVES

The American Bar Association Journal quotes, apparently with approval, our editorial in the March issue, dealing with the "wide range of usefulness of the Judicial Council," and in which we suggested that the plans be laid as broadly as the opportunities presented by the delegated powers.