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Sifting Applicants

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at cost and his own time by the hour, to the city. While so working he was injured. Compensation was awarded upon the ground that claimant had sustained the burden of proving that he was an employee and not an independent contractor, the test set forth being "whether the employer had the right to direct what should be done, and when and how it should be done."—*Morganelli vs. City of Derby,* 135 *Atl.* 911 (Conn. Jan. 1927).

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An accident resulting from injury for which master is liable under the compensation act must be one resulting from the risk reasonably incident to the employment; so where the janitor of a building was killed by the collapse of a building in an earthquake, and the testimony disclosed that buildings other than the one in which the janitor was killed collapsed from the same cause, and that the particular building was above the average in quality and of a higher grade than others, the employee was not subjected to a peculiar risk by reason of his employment, the injury resulted from an "Act of God" and is not compensable.— *London Guarantee & Accident Co. vs. Industrial Commission,* 253 *Pac.* 323 (Cal. Jan. 1927).

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An employee, engaged in executive work with no stated hours for such work, for her own convenience maintaining offices at home as well as at the plant of employer, generally used her own automobile in traveling to and from her own office to the plant office, the employer contributing towards the maintenance of such automobile. On a certain day an impending storm caused her to leave the auto at home, and while walking on the street to take a street car she fell and was injured. Compensation was denied upon the ground that an executive is governed by the general rule that a person is not in the course of employment in going to and from work. Four exceptions to the rule are set out as follows: 1. Where the employment requires the employee to travel on the highway; 2. Where the employer contracts to and does furnish transportation to and from work; 3. Where the employee is subject to emergency calls; 4. Where the employee is using the highway in doing something incidental to the employment, with the knowledge and approval of the employer; but claimant was held not to come within any of them.—*Whitney vs. Hazard Lead Works,* 136 *Atl.* 105 (Conn. Jan. 1927.)

SIFTING APPLICANTS

The New York Court of Appeals held a public hearing in March of this year, at which time it was considering the proposal to raise the educational requirements for admission to the Bar in that state. A goodly number of those who attended, probably a majority, favored at least two years of college study before entrance into a law school, it being urged that the moral qualities necessary to make a responsible lawyer were more likely to be in evidence if the college requirements were put into effect. Character and fitness examinations were also suggested, and the following is from the report of Mr. Adam Fox, made some time prior to, but presented at, the hearing:

"It is often suggested that some method be adopted for sifting applicants before they are admitted to the law schools, for to reject them at that stage would not be so drastic and serious as to reject them three years later, after they have completed, often at great sacri-

fice, their law school course. But how can such sifting be done? Pennsylvania requires character affidavits before an applicant be admitted to law study. This probably accomplishes little, for our experience is that anyone can secure such affidavits, and that for the most part they mean very little. A character examination at the time of entering law school, at say about 20, which is the average age, would probably result in virtually no rejections. Acts of misconduct which result in rejection usually occur at a later period. Rejection on the ground that the candidate seems generally unfitted to make a success of the law would be infrequent for the examining committee would doubtless feel that the boy might develop a lot in the next few years and that they had better give him the benefit of the doubt and let him try, thinking that the character committee, who would examine him just before admission, could turn him down if he was then still unfit. A character and fitness examination prior to entering law school is theoretically desirable, but as a practical matter I do not believe it feasible. I am inclined to think that about all that can be done along that line is to try to get the law schools themselves to discourage the boys applying for admission who appear unfit to make a success of law."

While not entirely in point, and notwithstanding our own leanings towards higher educational standards prior to law study, it is strongly recommended that the article on "Revolt of a Middle Aged Father" by I. M. Rubinow in the May number of Atlantic Monthly be read in this connection.

SACCO, VANZETTI AND THE COURTS

Outlining and analyzing the case of Sacco and Vanzetti in the March number of Atlantic Monthly, about a month prior to the decision of the Supreme Court of Massachusetts, Mr. Felix Frankfurter, professor of administrative law at Harvard Law School, came to the conclusion that "with these (Mr. Frankfurter's) legal canons as a guide, the outcome ought not to be in doubt." Notwithstanding the professor's dictum, however, the Court denied the motion for new trial, thus sustaining the conviction and the sentence of death imposed by Judge Thayer.

Undoubtedly the biggest problem presented by the murder trial was that of identification by so-called eye-witnesses. The trial in 1921 lasted seven weeks, more than a hundred witnesses being examined, with the jury finding the defendants, who had the benefit of a considerable "defense fund", guilty. Now, after six years of unsuccessful legal battling to overturn the conviction, the judicial machinery is bitterly assailed. The prosecuting officers are charged with unfairness, the trial Judge with prejudice, and previous ruling of the Supreme Court are characterized as "puzzling".

Looking beyond all the facts and charges, including these: that the defendants were shown to be rabid "Reds"; that Anarchists, Communists and Socialists over the world made legal and illegal demonstrations; that there has never been a judicial review of the evidence except by the trial Court; and that Mr. Frankfurter, while challenging nearly every one connected with the prosecution, may himself be accused of some unreasonable bias; at least one question with which lawyers and bar associations may well concern themselves looms up. It is this: Should not our criminal processes be adjusted so that every question