

**TAXATION—PERSONAL LIABILITY OF TAX COLLECTOR SAME AS AT COMMON LAW.**

The case of *Smietanka v. Indiana Steel Co.*, decided by the United States Supreme Court October 24, 1921, holds that taxes unlawfully assessed and collected by a collector of internal revenue cannot be recovered from his successor in office. In this case the court held that the personal liability of a collector of internal revenue for taxes wrongfully collected, remains the same as at common law, and has not been changed by the statutes which provide for reimbursement of the collector by the United States under certain circumstances.

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**TAXATION—PAYMENT OF TAX TO WRONG COLLECTOR HELD NO PAYMENT.**

A collector of taxes is not liable for taxes paid to a deputy not assigned to the district in which the taxpayer resides. This point was decided in the case of *Hurst v. Lederer*, 273 Fed. 174, which involved the construction of the Act of March 1, 1879. c. 125. Sec. 2 (Compiled Statutes Sec. 5849) which provides that every deputy collector of internal revenue shall have the same authority as the collector to collect taxes levied or assessed *within the portion of the district assigned to him*, etc. The court held that this Act did not make the collector responsible for taxes paid to a deputy, where he was not the deputy assigned to the portion of the district in which the taxes were levied or assessed.

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**WILLS—WIDOW'S RIGHT TO ELECTION WITHIN ONE YEAR AFTER PROBATE OF WILL.**

In the recent case of *In Re Goessling's Estate*, 230 S. W. 613, (Mo.) the widow's right of election, for one year after the probate of a will, to take under the will or to renounce it and take under the law, was upheld. In that case, the Missouri Supreme Court held that the widow had a right to renounce the will (by complying with the requirements of the statute) any time prior to the expiration of twelve months after probate, notwithstanding that her conduct in accepting the provisions of the will up to the time of her renunciation would have amounted to an estoppel if she had been a person other than a widow.

The testator had devised his homestead to his widow for her life or during widowhood and had also given her \$200 per month for her lifetime, from the income of the estate. The widow occupied the homestead, which was valued at \$14,000 from the time of the testator's death and accepted eleven monthly payments of \$200 under the will, and receipted these payments as being made under the clause of the will. But within the twelfth month, just before the expiration of the year after probate, the widow renounced the will and elected

to take under the law. It would seem from the foregoing facts that the widow had previously elected to take under the will and would be estopped from later renouncing it. But the court held that the widow was immune from the ordinary rules of election, waiver, and estoppel, the statute being designed to confer privileges on women which were denied to men; and that these privileges were not to be denied because she was a *feme sole, and sui juris*. The widow is always protected when she acts in ignorance of the law or upon a misapprehension of the facts. The court said that the widow was entitled to the mansion house of the husband until the assignment of dower, and that in accepting monthly payments under the will, she took no more than that to which she was entitled in the property of her husband according to law, and that therefore no person was injured by her actions.

However the opinion in effect holds, that under the circumstances of this case, the widow has the full twelve months in which to elect, and that although for eleven months and twenty-nine days she fully accepts the will, she can, upon the last day, make another election, and take under the law. Although the case follows a long line of Missouri decisions to the same effect; *Bretz v. Matney*, 60 Mo. 444; *Spratt v. Lawson*, 176 Mo. 175; *Egger v. Egger*, 225 Mo. 116; yet it will be seen that the ruling is not unquestioned, for in the present case three judges dissented.