

Students appear to think that an undue amount of space is devoted to the vague, inchoate, illusory, intangible doctrine of "Separation of Powers." Student opinion, though not to be lightly disregarded, is often lacking in perspective and seasoned maturity of judgment. A small amount of this space might well have been devoted to the problems of the modern metropolitan areas, which are breaking down old state and county divisional lines and have given rise to Metropolitan Planning, Transit, Water and Sewerage Commissions, Port Authorities, Interstate Tunnel Boards, etc. The problem of exclusion, however, is as delicate and acute a one as the problem of selection, and the material included in the book is of great aid in the solution of the problems not directly presented.

The contributions of Professor Davison to the book are doubtless as important as those of Professor Frankfurter. There is, of course, no way of appraising their work separately, and the reviewer has taken the liberty of merging their identities under the title of Frankfurter, the senior editor.

Book reviews are probably written too soon after publication. It might be better to wait five years and see how the book has lasted. But, alas, too often all we would have to write then would be an epitaph. A few books are destined for immortality, according to Horace, and therein they also make the writer immortal. Circumstances prevent casebooks on law from being within this group, but the prediction is made with some confidence, that here is a book that will "stand up" for a long time to come.

BASIL HUBBARD POLLITT.

Cambridge, Mass.

CONVICING THE INNOCENT: ERRORS OF CRIMINAL JUSTICE. By Edwin M. Borchard. New Haven: Yale University Press, 1932. pp. 421.

On October 14, 1926 a mail truck was held up in Elizabeth, New Jersey by a gang of seven bandits. Machine guns were used to overcome the guards and over \$150,000.00 was taken from the truck. On April 11, 1927 James Sweeney was put on trial for the crime before Supreme Court Justice Kalisch. He was found guilty and sentenced to life imprisonment. In November 1928, Sweeney was freed due to the confessions of the real bandits and proof that the chief witness for the prosecution had been guilty of perjury. The State of New Jersey had obtained the conviction of an innocent man. Beyond the release from prison, he received no redress for the injury done him.

Sixty-five such wrongful convictions have been chosen for presentation, three drawn from English cases and the rest scattered throughout the United States. In thirteen cases convictions were obtained although no crime had been committed and in six of these cases the "murdered" person reappeared. In the case of Herbert T. Andrews seventeen witnesses testifying at the trial identified the defendant as the person who had passed bad checks though there was no resemblance between him and the man later proven to have committed the crimes. In the case of Will Purvis the rope round his neck slipped when the trap was sprung. He was returned to jail and only through this accident was the State of Mississippi able to vote \$5000.00 to a living man for the harm shown to have been done to him

when the true murderer was found. The one bright spot in the record is the readiness of judge and prosecutor to work for the release of the convicted man when the evidence of innocence is unearthed.

Few books of fiction offer as much excitement as these tales of innocent men pursued by police and prosecuting attorneys. Whether the mistake result from errors in identification or from perjury, whether it be made possible by the prosecution's suppression of evidence of innocence or by the overzealousness of police, whether innocence is established through the appearance of the "murdered" party or of the guilty one, is of no consequence. Each case is a record of a chase, each is the tale of a conviction, each is the story of theft by society of years of the life of some one of its members. There is enough human interest to make each one front page news for the tabloids, but the author has sensed that a straightforward retelling of facts suffices with such material and there is no attempt to be sensational. One's confidence is won. Society is proven guilty and the least that can be asked is some financial payment to the injured person. Yet the assumption seems to be that the State in freeing a man wrongfully convicted has amply repaid him for the torture of a criminal trial, the time served in prison and the damage to his reputation. Only three States, California, North Dakota, and Wisconsin give the victim of such an error in criminal justice redress under their statutes.

In this kind of social legislation as in most others the United States lags behind Europe. In a concluding chapter Professor Borchard discloses the history of such relief, and the condition of the law in the jurisdictions which have recognized this duty. The logical arguments for following their example are scarcely necessary after the vivid pictures of injustice which go before..

One feels certain that the fortunate accident which saved many of the victims in these cases from death or long imprisonment has not turned up for many innocent men now in prison. Some measures for prevention of the obvious abuses which bring about faulty convictions should be employed, chief of which would be some means of lessening the eagerness of prosecutors for convictions to advance their own prestige.

Such a moving social document should result in legislation in favor of State indemnity of the innocent. One regrets that there is little likelihood of any action. The economic factor has become so important in industrial society that legislation responds to but little else; and back of the certain justice demanded by the condition exposed in this volume there is no weight of a kind to which politics is today responsive. We need here as in most of our problems central planning by experts and Professor Borchard has with his remarkable contribution pointed the way.

DAVID MANDEL.

PERTH AMBOY, N. J.

NEW JERSEY LAW PRACTICE. Vol. 2. By James Morgan Sheen. Newark: Soney & Sage Co. 1932. pp. 1520.

The second volume of New Jersey Law Practice (2nd Edition) by James M. Sheen has recently been published. The first volume, containing the Laws