

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.

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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

of New Jersey and the Rules of the Courts regulating practice, with annotations, was reviewed by us in the January number of this Review. This volume contains solely forms of pleadings and of other documents in common use in law practice in this state. Many of these forms are annotated by reference to cases in which they have been actually employed, and in some instances, definitely sustained by the courts.

The volume covers, in large measure, the field of modern practice, and the variety of forms presented would seem ample for any normal type of case. Of complaints alone, there are submitted from two to three hundred examples. These forms should give to the practitioner a ready and satisfactory source upon which he can rely in his daily work.

In our comments on the first volume, we pointed out that we felt a lack therein of any critical analysis of the cases, and of any attempt by the Editor to reconcile conflicting cases, or to recommend what he considered to be the best practice. The same condition appears in this volume. In a great many instances, the complaints are merely copied from actual cases as prepared by a variety of law firms or individual practitioners. We believe that an Editor should try to establish a standard form for general use and let the practitioner modify the same to suit the particular facts of his case.

Similarly in examining the suggested types of answers setting up contributory negligence, we find some in which the allegations are general, and others in which a somewhat detailed recital of specific acts of negligence are set forth. The Editor makes no attempt to indicate which, in his opinion, is the better pleading, but contents himself with citing merely the cases in which the answers were filed, although the courts may have had no occasion to express any opinion as to the correctness of the form of the answer. We believe that the opinion of Judge Dungan in the case of *Barkovitch v. April*¹ states the correct practice, i.e., that specific allegations of the negligence charged are required.

Again, the form used for a *capias ad respondendum* is based on the forms contained in practice books published before the adoption of the Practice Act of 1912.² The suggested form for the writ follows the older practice and does not contain any language requiring the defendant to answer within twenty days. This is not now the correct method as the *capias* acts as a summons and should conform to the later requirements.³

It is perhaps unfair to the Editor to select a few forms out of a total of over thirteen hundred for criticism. While we have not been able to examine all, we have no doubt that the vast majority of these forms are good and will prove satisfactory for regular use.

The regular practitioner has long needed a good form book as an aid in preparing pleadings for law practice. This book should fill that requirement and we are glad to have it available.

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¹ 46 N.J.L.J. 142 (Circ. Ct. 1923).

² See JEFFERY'S "LAW PRECEDENTS," p. 79.

³ Kein v. Katz, 92 N.J.L. 406.