BOOK REVIEWS

THE DESIGN OF DEMOCRACY. By George Washington Goble. Norman: University of Oklahoma Press. 1946. Pp. 234.

Shocked by what he witnessed during a tour of Germany and Italy, shortly before the outbreak of World War II, Professor Goble, of the University of Illinois, departed from his special fields of contracts and insurance law to ask himself some broader questions: "Is there still danger that this philosophy of hatred, intolerance, oppression, and brutality will spread to our own country?" Knowing in a general way the "safeguards against such a social order" in America, he nevertheless found not too satisfying or reassuring the answers to his own questions that came immediately to mind. He determined to engage upon a more penetrating analysis. The result is his book, which is worth much more than the relatively short time required to read it.

Conceding at the outset that before and during the late World War, democracy was losing out in many countries and further that "much that has been included in the definition of democracy may not merit retention," the author undertakes to point out those elements which have proved their value. These he believes constitute "the core or essence of democracy" and as such represent "one of the creations of man that deserve to survive."

The major portion of the book is given to discussion and analysis of "the four cornerstones of democracy," which, he feels, from the realistic viewpoint, comprise certain procedures set up for the attainment of ends which we deem desirable. These he describes as those (1) for the maintenance of individual liberties, (2) for the promotion of order and national unity through mutual adjustment, (3) for the maintenance of powers by which individuals may influence governmental action, and (4) for the maintenance of the responsibility of industry to its employees and to the people, and for the promotion of economic security.

Within the first category, individual liberties, the author discusses the usual list of rights and immunities. He is not concerned over the fact that our constitutions and laws, fostering and encouraging these fundamental freedoms, result in a wide diversity in objectives, standards, and procedures or that the general scene is one of confusion. He reasons that "things are seldom what they seem on the surface. Even the ocean is calm beneath its heaving billows." One could wish that others not likely at the outset to hold the views of most of us in this country would read Professor Goble's simply stated reasoning by which he arrives at the conclusion that freedom for the masses, the majority and the minorities, "is justified not only because of its beneficial effect upon the individual, but also because freedom furnishes the best means for the discovery of truth and for making ideas available for use both to individuals and to society." Perhaps at points his argument goes far: "If one is free to speak, he is forced to think." Maybe all that is needed by students entering the law schools is greater freedom of speech!

Many readers will find particularly interesting the author's discussion of radio, the distinctions between it and the press with respect to "freedom," and the reasoning from which he concludes that "foolishly used, the radio carries a threat of serious proportions to democratic institutions. Wisely used, it may prove to be one of our most powerful instruments for education in democracy."

Greater space is given to consideration of "Order and National Unity." Here the author copes with the old problem—"these forces toward liberty and toward unity are, to a degree, in opposition to each other." He makes the point that the problem is not merely, as some contend, that of drawing a line between liberty and authority. He admits the impossibility of drawing any hard and fast line between "liberties which, in a democracy, must be held inviolate and those which, in the interest of order and unity, are subject to restriction by compromise, adjustment, or regulation." After propounding the question how there can be unity in a democracy which protects and encourages differences and diversity in views and opinions, Professor Goble gives the only answers I believe exist. They are so simple to state but apparently so difficult or at least slow in achievement. He makes quite clear (what is too often not sufficiently appreciated) why democracy does not necessarily mean that the will of the majority shall prevail.

Under the heading, "The Political Party and the Politician," Mr. Goble makes pertinent observations concerning the operation of our and other political party systems as well as the place of the "independent party man," concluding that "the politician and the independent are so important in a democracy that each ought to be charitable in his criticism of the other." Proceeding next to "Revolution versus Evolution," the author contrasts what has taken place in a number of countries of the world and the developments in Great Britain. "Whatever gains have been made for democracy in seven hundred years of evolutionary development and growth are embodied in the Great Britain of today. Modern Britain and her people are the product of the forces of democracy operating over these many years." He concludes that Great Britain, with the collaboration of America, has developed a way of life and has set up a system of procedures—political, legal, and economic—which offers the best hope yet devised by man for the ultimate elimination of tyranny, oppression, and the exploitation of the weak by the strong. He hastens to add: "It is not that the sins of either England or America are to be condoned."

Two topics treated in the Chapter entitled "Individual Power—Responsibility in Government," will have particular interest to many readers. In his discussion of "The Bureaucratic Process," Professor Goble manifests a broad understanding in relation to the various objections that have been raised to our bureaucratic system. Similarly effective is his dissertation regarding the difference between law in a democracy and law in a fascist state.

The fourth cornerstone of democracy is given as responsibility in industry and business. After tracing briefly the development of the private corporation, the author points up the "new social problem" presented and proceeds to inquire into its bearing upon democracy. In particular does he discuss the validity of the arguments directed against the intervention of the government in industrial affairs in behalf of labor. He undertakes to support the proposition that "The National Labor Relations Act has done more than any other single enactment to introduce democracy into the industrial organization."

While the book is concerned primarily with democracy in peacetime, its scope is extended slightly in a short chapter, "Democracy, the War, and the Peace." Throughout, the author makes clear that it has not been his purpose "to advocate any social program or reform—to solve any of the myriad problems with which we are confronted" but rather "to separate the chaff from the wheat among the institutions and procedures we already have, and to show that democracy has supplied us with highly effective tools

for doing whatever we want to do, if we but have the courage and patience to use them."

Professor Goble has done a good job in finding for himself and making available to others the answers to his questions and concerns after a look at pre-war Europe. His discussion is simple, easy to follow and persuasive. The statement of the case for democracy is temperate and well-balanced. Both "conservatives" and liberals" will find much in it to applaud. Some may find in it "nothing particularly new," but in my opinion the book is timely in this day of "conflicting ideologies" and to a law professor we, lawyers and laymen, are indebted for a dispassionate analysis of the fundamental and worth conserving procedures best calculated to give recognition to "the incomparable value and dignity of the human being."

Earl G. Harrison†

THE PROVINCE AND FUNCTION OF LAW. By Julius Stone. Sydney, Australia. Associated General Publications Pty. Ltd. 1946. Pp. lxiv, 918.

> "In an age of rapidly extending social control through law, we are still teaching, for the most part, a jurisprudence which fitted the needs of a *laissez faire* society. In an age when bitter disagreement concerning human purposes and concerning the nature of society, permeates the whole field of law, we are still teaching a jurisprudence based on an assumed general agreement or at least indifference in these matters. In an age when man is constrained to bring disciplined thought to bear upon the control of himself individually and in the mass, we are still, for the most part, indulging the assumption that the really significant question about the law is whether it can be viewed as a logically self-contained system. In an age unrivalled for fluidity and rapid change even in basic legal conceptions, we are still teaching jurisprudence as if the law were static, capable of being dismantled and restored at leisure. Or if we profess the purer analytical science, we are seeking those logical verities, which must necessarily, insofar as they claim absolute validity, be removed *toto coelo* from the urgencies of the age in which we live." (p. 42)

The appearance of this monumental work on jurisprudence introduces order and system into a field shot through in the present century with as diffuse, occasional and chaotic a literature as has ever burdened a subject matter with pretensions to "science." The outstanding marks of *The Province and Function of Law* by the distinguished Challis Professor of Jurisprudence and International Law at the University of Sydney are clarity and orderliness of exposition on the one hand, and, on the other, meticulous attention to detail and complete, even labored, documentation of source material and authorities.

The work begins with a general introduction entitled "The Province of Jurisprudence Redetermined." Herein, the author first demonstrates the "precipitating" character of his mind by proposing a simplified scheme

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for classifying the methods of jurisprudence which discards such adventitious or nonce categories as historical jurisprudence, philosophical jurisprudence, general jurisprudence, particular jurisprudence, comparative jurisprudence, and the like. The proposal is made that jurisprudence be divided into three grand parts: Analytical Jurisprudence, Theory of Justice, and Sociological or Functional Jurisprudence. The test of the adequacy of this scheme is the book itself which is divided into three parts to correspond with this classification: Part I, Law and Logic; Part II, Law and Justice; Part III, Law and Society. Not the least important aspect of this classification is its eminent teachableness. The book is meant for "legal scholars, practitioners, teachers, students."

Part I, then, deals with Law and Logic, and it is to this category that Stone reduces the penetrating if somewhat discursive writings of the leaders of analytical jurisprudence. The enduring worth of Austin, Roguin, Kelsen, Hohfeld, the "free scientific research" of Geny, and the interminable paradoxes arising from the conflict of theories of *stare decisis* and progress in the law, all are seen as efforts to lay bare the formal structure of law, its logic, as distinguished from its two main material elements: justice and society. This is indeed a bold stroke of simplification, or better still, of insight into what this confused body of jurisprudential materials really deals with.

Viewed as attempts to reduce the body of law to self-consistent propositions, the work of the analytical jurists is relieved of the charge that it fails to take account of vast areas of relevant legal data. The one-sidedness of analytical jurisprudence becomes its virtue. These systems ignore what they cannot and should not encompass, and the sole test of their adequacy is that by which any formal system should be judged: internal self-consistency.

Austin and Hohfeld present no great difficulty when viewed as legal logicians, or as we might say, formalists. Their systems are partial and self-limited. Kelsen's, on the contrary, purports to be a scheme of universal applicability. Moreover, its prime elements, legal norms, are thought of as devoid of all reference to justice or to social data. They are, in the words of Kelsen, "pure" or *a priori* until they are determined, sociological jurisprudence has no province (p. 105). Stone patiently follows the unfolding of this logical scheme until he comes to the basic norm, the one from which all other norms are derived. For Stone, the Kelsenian claim that the basic norm, for example, the constitution of a federal state, can be selected and, let us say, understood without reference to the social milieu out of which it arose is inconceivable. Stone does concede, however, that once having obtained a basic norm (from its social or cultural setting) subsidiary norms may be deduced from it in "pure" fashion, that is, without reference to theories of justice or to social data.

The reviewer must confess that he is quite at a loss to see how subordinate norms can be drawn from a basic norm without reference to nonlogical and "meta-legal" considerations. To begin with, no known jurisprudential system is adequate to stand as the formal basis for a system of law; that is, a system of jurisprudence of such a character that granting its formal presuppositions, subordinate propositions follow as theorems. That much is certain. But, if this requirement of legal logic be passed over as utopian, there remains for the subordinate norms precisely the same difficulty Stone was at such pains to reveal in the determination of the basic norm. That is, how *select* among possible competing subordinate norms save on the basis of sociological data, theories of legislation, theories of

decision, what not? Moreover, how understand and apply the subordinate norms even though their selection by a *tour de force* be granted?

In fact, it is the reviewer's conviction, which must here be merely noted but not defended, that none of these analytical systems are logical systems at all, and their parts hang together, if indeed they do, as apt characterizations of socio-legal relations and not as parts of logically consistent schemes. They are incipient or inchoate *formal* systems of law, in aim akin to the postulational or presuppositional frames of reference of the mathematical and physical sciences, and as such very precious to the legal methodologist, since in fact they represent the most successful and most adroit attempts at formal structural analysis existing in the whole field of living behavior including biology, psychology and all of the social sciences.

These formal legal structures use logic, as do non-formal systems of thought. But they are not logic. Indeed, I think Professor Stone might well agree that there is no such thing as "legal logic" (p. 17) or "logic *of* the law" (p. 31). There are many and diverse applications of logic *to* the law, only one of which is the application of logic to formal systems of law.

That the law has little to do with logic as the modern world treats that discipline was well known to Professor Stone who expressly excepts from consideration theories of the nature of logic not likely to be familiar to his general reader (p. 137). In a word, although in theory he sticks to the older logic of the syllogism, yet in practice effectively disposes of this vehicle of ratiocination by a thorough analysis of Fallacies (I should say Inadequacies) of the Logical Form in Legal Reasoning.

Part II tackles the relation of Law to Justice. This section encompasses most of what passes currently as Philosophical Jurisprudence or the study of the ideal element of law. Stone refers these systems, heavily charged as many of them are with philosophical currents, to the social situations out of which they arise and to the practical problems they are designed to solve. Law and Justice is a very valuable contribution to the "sociology of knowledge." Legal philosophical systems are here handled as social factors of the time and place. The chapter headings illustrate in the main this point: Metaphysical Individualism (Kant); Individualist Utilitarianism (Bentham); Social Utilitarianism (Jhering); Social Idealism (Stammler); Neo-Hegelian Civilization (Kohler); Social Solidarism (Duguit); Pragmatism (Pound).

The chapter on Jeremy Bentham is a masterpiece. Here the British author is completely at home and quite definitely on his own. The chapter on Natural Law is an adequate historical sketch. Those on Social Utilitarianism, Neo-Hegelian Civilization and Social Solidarism are thorough analyses by one sure of the material he handles, and sensitive to the humanitarian aspects of the projects these movements advance. The section on Roscoe Pound is an objective and detached survey of the pragmatic foundations of Pound's work.

It is in the chapters on Kant and Stammler that Stone fails to hold the pace. We may well let Kant go, as an old story many times told. But Stammler is a different matter. Relying mainly on the *Lehre von richtigen Rechte* Stone painstakingly follows Stammler's professed attempt to pass from *a priori* principles of universal law to positive rules for deciding cases or enacting legislation. The task is to find the point at which Stammler bridges the gap from heaven to earth, *i. e.*, applies a principle having no empirical content to a situation having only empirical content. Stammler offers as a transition device a scheme known as the model of just law—a device compounded of both *a priori* and empirical elements, a mixture of

both heaven and earth, as it were. The notion is evidently borrowed from the Schema of Kant's *Critique of Pure Reason* which serves the same purpose as the model of just law.

Professor Stone's actual criticisms of the Stammlerian system are twofold: first, the principles of just law are tautological. "It is necessary to know what is arbitrary in order to know what is 'just'. But can we know what is arbitrary unless we know what is just?" (p. 325) Second, Stammler fails to bridge the gap beteen his *a priori* system of principles and the empirical conflict of claims. This second criticism is the one history has most often levelled at Stammler's master, Kant. And it is one which remains unanswered unless one chooses to regard Kant's philosophical system (and Stammler's also) as formal structures in the sense discussed above in connection with analytical jurisprudence. If Kant's efforts in the Critiques be viewed as methodology for science, and not (as Kant himself thought) an account of how the whole learning process arises, that is, if the Critiques be regarded as concerned with the problem of how a scientific experimenter, not a mere experiencer, acquires knowledge, then the *a priori* character of his work (and that of Stammler as well) loses its fantastic quality of make-believe and other worldliness and becomes a formal frame of reference for science (and for law).

This viewpoint accepted, Stone's first criticism would likewise fall. It is no objection that formal principles are tautological. Many of them are mere definitions and therefore tautologies by nature. It is true some tautologies are sterile, as would be the case if one were to say for example that arbitrary conduct is unjust and unjustice is arbitrary conduct. But this would merely be a slip or oversight in a formal scheme, easily corrected. It would not be a formal defect in the system.

Part III, Law and Society, comprises slightly more than half of the text. Here is the test of Stone's work with the law in action, the mutual interactions of society and law. Law and Society interpenetrate without losing their identity: no aspect of law that is not suffused with the effects of the social milieu; no society so rudimentary and none so complex that law does not enter it as a prime factor of social control. In this Part, orderly arrangement struggles to maintain itself against the social flood. That Stone is able to keep his (analytical) head above water marks him apart from most students of law and society. This part of the book is really a godsend to the newcomer in the field of what is often loosely called "Sociology of Law". That the struggle to maintain orderliness exacts its price is not to be wondered at. In this catch-as-catch-can branch of the law in the making, violence must be done some of the conflicting interests clamoring for recognition and Stone sacrifices much less than most minds with the strong analytical bent.

Part III is itself divided into three sections on a rough temporal continuum of past, present and future: Law and Society in Retrospect; Law in Modern Democratic Society; and Social, Economic and Psychological Factors in Legal Stability and Change. Law and Society in Retrospect is an analysis of the material of historical jurisprudence against the background of Law and National Development. This is a significant departure from the ordinary treatment of historical jurisprudence as an autonomous jurisprudential method without vital reference to the social scene which gave it birth and shaped its development. This section is a very important contribution to sociological history, transcending as it does the lawyer's natural tendency to tie his study of history closely to the course of development of purely legal institutions.

Law in Modern Democratic Society is a well worked out study of the Theory of Interests. It contains a concise account of the extent to which law in modern western society, secures individual, social and economic interests. The analysis cuts across the ordinary legal compartments such as torts, domestic relations, property, commercial transactions, and economic interests such as taxation, labor law, workmen's compensation, monopoly, and the like. The technique used is the familiar one of viewing law as a means for reconciling conflicting interests that press for recognition in modern democratic society. This section of the book is a thorough summary statement of the modern law in action. The law student who would work through it should have a synoptic view of the law that would serve to consolidate his piecemeal learning in the various segregated branches of the law to which he has been more or less successfully exposed.

Part III of Part III is the most important section of the book. Here Stone grapples with questions on the very frontiers of the law. The social sciences set the problems to be examined. Familiarity with jurisprudential theories is presumed throughout.

First is the question of the independent existence of state law. "The starting point of all inquiries into the relation of the state-society and its law, is the socially derivative and non-autonomous character of law and its dependence upon environmental conditions . . . " (p. 649). Does state-society law enjoy an identity in some sense separate from the society in which it exists? This question has been answered in the negative from five main viewpoints: (1) Comte's mechanical sociology; (2) Spencer's social evolutionism; (3) Marx's communism; (4) Duguit's social solidarism; and (5) philosophic anarchism. The inadequacies of these systems which threaten to submerge law in the social flux are examined.

Thereafter (Chap. XXV) the socio-ethical pressures behind law observance or law violation are studied at length. The role of non-logical, non-rational and emotional social-psychological factors take up much of the ground formerly occupied by natural law, morality, and conscience as determinants of the ideal element in law or, as it is sometimes put, theories of justice. Weber, Veblen, Pareto, Ehrlich and Timashiff figure largely in this discussion.

The next chapter is entitled Power and the Complexity of Law. This is an extended study of the effect of modern theories of power psychology on law. This contrast between naked power (force) and socially accepted political power relations places in a modern scientific setting the familiar concepts of sovereignty, social contract, bureaucracy, collectivism and totalitarianism on the political level, and the notions of *laissez faire,* competition, monopoly, cartels, labor and management on the economic level. The legal bases of revolution are studied in terms of power. This section raises the discussion of these subjects in their relation to law far above the level ordinarily encountered in juridic writings in this country or in England. The modern collectivist society is accepted as a *fait accompli* and the question of return to the outmoded "power relations" of the nineteenth century is not deemed to be seriously proposed.

The last chapter covers the subject of Law and Social Control. It raises the critical issue whether law can establish itself as the ultimate means whereby society regulates all other methods of internal control, *i. e.,* whether law may properly be viewed as the "control of controls". If so, the next question is: what controls the controller, that is, what ends or aims can be agreed upon as limiting, or rather as directing, law in the fulfillment of its task? If no general agreement can be arrived at concerning the ultimate purposes of law then presumably law serves some special inter-

est or interests. This is the legal relativist's chief dilemma. Stone attempts a preliminary solution of it by means of a minimum program for the humane conduct of government in modern democratic society. He leaves open the problem of how these minimum standards may be raised by the extension of a system of social control through law consistent with democracy.

So much for a running account of the book and its contents. The over-all impression left with the reviewer is that this book might well close an epoch (or at least a sub-division of an epoch) in modern jurisprudence. Its first two parts contain a fair and accurate summary of jurisprudential writings from Austin to the second quarter of the present century. The remainder of the book opens up the wide vistas of law in the social sciences. Hereafter, however much modern curricula of law schools may lag behind even nineteenth century jurisprudence, legal scholarship, at least, has no further excuse for dealing exclusively in the minutiae of the law and abdicating to non-legally trained experts in the social disciplines the task of keeping at razor's edge the "subtle mind of the law."

Analytical jurisprudence, the typically Anglo-American contribution to the basic study of the law, is seen as merely one part of that study, namely, its formal part. Law and Society, or better still law and social science, is looked upon as the important area of legal development for the present and the future. It is hard to believe that academic separation of law and the social sciences which still is well nigh universal in this country can long endure. It is time that we got on with the task of integrating law and the social sciences. Stone's book shows how little we have accomplished in performing this task and how much more remains to be done.

THOMAS A. COWAN †

THE PROCESS OF INTERNATIONAL ARBITRATION. By Kenneth S. Carlston. New York: Columbia University Press. 1946. Pp. xiv, 318.

In this monograph on certain procedural problems of international arbitration, which he regards as "a judicial process, involving the settlement of disputes between States by tribunals acting as courts of law," Professor Carlston states that "study of the international court itself is as important as that of the law laid down by the court."

The scope of this book is somewhat narrower than the title suggests. It does not describe at length international arbitral tribunals or their operating procedures. Its primary concern is with cases in which something goes wrong in the course of an arbitration, rather than with the normal and successful functioning of arbitral tribunals. This emphasis on the failures —which most certainly call for study and for improvement—should not create the impression that such failures are the usual result of submission to international arbitration. Indeed, the reviewer wishes that the author had discussed at greater length those procedural developments which may help to bring about a more speedy and less expensive, yet adequate, consideration of international legal controversies. Professor Carlston's comments on the use of "administrative decisions" by the German-American Mixed Claims Commission to cover groups of cases presenting common

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problems, the employment of agreed statements of facts, and rejection by Agents of claims wherein it is clear that awards cannot be obtained, all make us wish that he had expanded his treatment of improvements in the actual procedure of arbitral tribunals.

The first chapter of the book is devoted to the function and importance of procedural rules, their adaptation to the arbitration in question, and the need for care in the preparation of the *compromis* (the agreement between the two Governments providing for the arbitration—not to be confused with "compromise"!). The author points to the dangers in blindly adopting rules framed for dissimilar arbitrations, and doubts the feasibility of any general codification of international arbitral procedure rules. He urges that the parties incorporate detailed rules of procedure in the *compromis,* and vest in the tribunal power to amend these rules when found necessary.

The next chapter deals with "Minimum Procedural Standards." Conformity to the *compromis* is the primary requisite. The rest is summarized as follows: "The parties are entitled to a decision emanating from the tribunal designated by them in the *compromis,* in its capacity as a tribunal, not as the personal opinions of its members, joined in by a majority of the arbitrators, rendered after due and joint deliberation, and supported by reason. All these conditions are essential to the validity of the tribunal's decision."

The keynote of the lengthy chapter on "Jurisdiction" is that an arbitral tribunal "must ever endeavor in good faith to keep within the limits of its treaty, and its decisions will have validity only insofar as it keeps within its jurisdiction, express or implied." [1] This is the heart of the whole volume. The author discusses the effects of an arbitration under a *compromis* which is invalid or in excess of the constitutional limitations of one party, the power of an arbitral tribunal to decide the question of its own jurisdiction,[2] and problems relating to departure from the terms of submission. Cases considered in full detail include decisions upon issues regarded as not within the scope of the *compromis,* decisions affecting the rights of third States not before the tribunal, failure to apply a rule for decision laid down in the *compromis,*[3] and the improper invocation of "equity" or the resort to the arbitrator's subjective views of right.

In discussing "essential error," Professor Carlston concludes that: "The ramification of the views of writers as to the meaning of essential error demonstrates the looseness, vagueness, and lack of legal exactness of the term. . . . It is a conclusion based upon other and preceding legal steps in the analysis of an award, steps embracing questions such as aspects of departure from terms of submission, express or implied, and failure to apply applicable rules of international law. When the arbitral award is lacking in one or more of the conditions required for its validity, as established by the practice of States, the tribunal may be said to have committed an essential error."

Ensuing chapters deal with "Finality of the Award", "Rehearing", and "Appeal." The author explains that, although by "entering into the arbitration agreement and participating in the proceedings before the tribunal, the parties impliedly engage to execute the award when rendered,"

1. Page 62. It is admitted, however, that "by their conduct the parties can by tacit consent enlarge the powers of the tribunal." (Page 170.)

2. "Unquestionably firmly established as a principle of international arbitral law" (page 74).

3. Or "an applicable rule of international law having a material bearing upon the outcome of the case" (page 140).

international law "permits States to disregard the awards of arbitrators when rendered under certain conditions," which he has discussed. Such arbitral awards have at times been the subject of rehearing or revision. The author urges that "means should be established whereby claims of nullity of awards can be judicially determined," and suggests that review might well be by the International Court of Justice,[4] pursuant to specific grant of authority.

Professor Carlston regards international arbitration as "an infinitely flexible process," saying that "The form of the tribunal and the type of the procedure can always be adjusted to the complexity and volume of the litigation to be submitted for decision." He adds that "Not all international controversies are important enough to justify the weighty and expensive procedures of the International Court of Justice," and recommends that "International claims based on injuries to citizens, for example, can still best be handled by special tribunals." It is regretted that these points are not amplified, with fuller comparison of international arbitral procedure with that of the International Court of Justice.[5] The wide-spread interest in commercial and civil arbitration as a substitute for litigation in our domestic legal system might well encourage further investigation as to what advantages arbitration may have over adjudication in the international field, where both are regarded as judicial processes.

Some may question the author's emphasis or differ with certain of his conclusions. However, there should be no disagreement with his plea that international arbitral decisions be more widely published and translated, and made more readily accessible through digests and indexes. The documentation of the Permanent Court of International Justice was excellent, and the decisions of some arbitral tribunals have been adequately presented to the world. Nevertheless, despite such compilations as Moore's *Arbitrations,*[6] or the *Annual Digest of Public International Law Cases,*[7] much work must be done before international arbitral decisions become available to the government official, the practitioner or the scholar in a manner at all comparable to the output of American courts. Steps in that direction[8] would form a real contribution towards the "progressive development of international law."[9]

Wm. W. Bishop, Jr.†

4. Page 245. He refers to the limited extent to which the Permanent Court of International Justice has already functioned as an appellate tribunal.

5. The distinction between arbitration and adjudication receives little attention in this book, while the procedure of the International Court of Justice or its predecessor is not discussed at length. One may therefore question the appropriateness of the Appendix giving a comparative analysis of the Statute of the International Court of Justice with that of the Permanent Court of International Justice.

6. J. B. MOORE, HISTORY AND DIGEST OF THE INTERNATIONAL ARBITRATIONS TO WHICH THE UNITED STATES HAS BEEN A PARTY (Washington, 1898).

7. Edited by Dr. H. Lauterpacht and others, and covering the period since 1918.

8. As one possibility, Professor Carlston suggests the registration of arbitral awards with the United Nations, in the same fashion as treaties are registered.

9. U. N. CHARTER, Art. 13, ¶ 1 (a).

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