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Book Reviews

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THE PROCESS OF INTERNATIONAL ARBITRATION. By Kenneth S. Carlston.

New York: Columbia University Press, 1946. Pp. xiv, 304.

Professor Carlston's monograph is a technical and critical study of an important subject which has received little attention from writers in the past. This study of the arbitral process in international relations examines the following topics: procedure of tribunals, minimum procedural standards, jurisdiction, the doctrine of essential error, finality of the award, rehearing, appeal and future progress.

In dealing with each topic the author summarizes the views of publicists of many different nationalities and then examines available state practice illustrating the points in question. He indicates in the preface that "An unusual degree of attention has been given to a study of cases. Aside from the fact that they are a primary source of the law, detailed analyses and reporting of the precedents have been included for the reason that much of their source material is not readily available. . . ." Central and South American precedents, often neglected, are here included. The table of cases cites the pages of the text where the case is discussed.

This monograph will be of immediate practical value primarily to foreign offices because they must formulate the *compromis* or special agreement which forms the basis of an arbitration, and it is here that careful drafting may incorporate principles disclosed in the monograph. The author points out, for example, that it is desirable for the *compromis* to include detailed rules of procedure, instead of leaving the task to the arbitral tribunal. Advantages are that the tribunal may operate more speedily with the substance of the disputes, and that disputes and misunderstandings between agents of governments concerning procedure will be reduced. This is especially important when the parties in dispute have different traditions of municipal law, one following the Anglo-American system, the other following the civil law.

A person called upon to serve on an international tribunal would benefit from this study, especially chapters two and three, and would be warned of pitfalls to avoid. He would, for example, see the importance of confining his award strictly to the questions asked so as to avoid dissatisfaction with the award on the ground the arbitrator exceeded his jurisdiction. If he is asked to answer which of two lines is the boundary of two disputing states, he is not authorized to settle upon some third line, even though it is impossible to determine which of the two lines is the proper one.

The teacher of international law and his students will profit from this book, partly because it throws light on an important aspect of the administration of justice and partly because it contains materials not easily accessible which supple-

ment the texts of arbitral awards often printed in the case-books. Thus, examination of criticism by states of objectionable arbitral awards are of value in deciding what weight as a precedent should be given to a principle contained in the award.

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