

under a system controlled by the principle of *stare decisis*, a rule may be established by a series of judicial decisions which judges may be expected to follow until it is changed by legislation or by constitutional amendment; but, even with this assurance, the possibilities of a tranquil stability are essentially limited by the constant development of novel situations and the opportunities which they afford for new interpretations, to say nothing of the recurring changes in personnel to which every human tribunal is subject.

On the other hand, in much of the recent agitation for a "world court," it has been distinctly proposed to limit its jurisdiction to questions of a "judicial order," sometimes defined, positively or negatively, in a sense so narrow as to exclude practically all disputes of a serious character.

In discussing the various aspects of the problem, Mr. Balch has endeavored to point out the danger of placing undue reliance upon any single method of settling disputes, while neglecting the causes by which they are produced. Unfortunately, there is a general tendency, familiar to students of law and of history, to find a sense of security in devices because they are supposed to be new. To this cause is chiefly to be ascribed the hasty and unadvised legislation which so often defeats the end which it was intended to accomplish, while creating difficulties that did not previously exist. For this reason, a careful analysis, such as Mr. Balch has given, of fundamental conditions, in the light of experience, is always to be commended as a work of real value.

J. B. MOORE.

*Institut Américain de Droit International. Acte Finale de la Session de la Havane, 22-27 Janvier 1917. Resolutions et Projets.* New York, Oxford University Press, 1917.—xiii, 129 pp.

This volume contains the record of the proceedings at the second meeting of the American Institute of International Law, which was organized some time ago under the auspices of the Carnegie Endowment for International Peace, and of which Mr. Root is honorary president; Dr. James Brown Scott, president; and Dr. Alejandro Alvarez, general secretary. The proceedings indicate the prevalence of a striking harmony of sentiment. The "Acte Finale" was adopted by a unanimous vote, as had previously been ten recommendations on international organization, moved by the president of the society. These recommendations embraced the calling of a third Hague con-

ference, as well as the establishment of regular periodical meetings of the conference, the regulation of its procedure, and the systematic carrying-on of its work; an international agreement on certain fundamental principles of international law, such as those adopted by the Institute itself on January 6, 1916; the creation of a council of conciliation to deal with questions of a non-justiciable character, and the employment of good offices, mediation, or amicable concession for their solution; the regulation of the process of arbitration; the negotiation of a convention creating a judicial union, after the type of the universal postal union of 1908, in order to secure the submission of questions of a judicial order to a permanent court; the creation of a pronounced public opinion in favor of these proposals and in general of the pacific solution of international disputes.

Certain *vœux* were also unanimously adopted, the first of which expressed the wish that the Central American Court of Justice, established under the international convention signed at Washington, December 20, 1907, might be maintained as a guarantee of peace between the republics of Central America.

Accompanying the "Acte Finale" there are several appendices, containing commentaries by Dr. Scott on the recommendations adopted on the subject of international organization; and projects and explanations (*Exposé des Motifs*) by Dr. Alvarez. In these Dr. Alvarez treats of the reconstruction of international law in its universal aspects and also in its relation to special situations or questions such as exist on the American continents.

In an *exposé* relating to the creation of a continental union or council of conciliation, Dr. Alvarez makes a searching examination of the League to Enforce Peace, formed in the United States under the presidency of Mr. Taft. His conclusions are altogether unfavorable. Dr. Alvarez maintains that the actual results would be contrary to the end sought. If the aggressor was a secondary power, it might indeed be readily suppressed; if it was a great power, it would not, he believes, be restrained. Feeble states, or states having no direct interest in the dispute, would hold aloof, and the league would prove to be a mere engagement on paper.

Dr. Alvarez also considers the platform or plan of the league to be defective in that (1) while it assumes the principle of universality, it in terms embraces only signatory powers, and is thus self-contradictory and inconsistent; (2) it provides no sanction in case the parties refuse to accept the decision of the arbitral tribunal or the advice of the council of conciliation, nor does it cover the case of

war by a non-adhering power against a member; (3) it does not prescribe or define the character or the composition of the proposed tribunal and council. He believes that these are capital defects, and that the entire plan tends to insure control by great powers, after the manner of the Holy Alliance. So far as concerns the New World, Dr. Alvarez declares that the American republics could hardly submit to such a coercive regimen. He holds that the maintenance of peace cannot be assured by such means. The problem is in his opinion far more complex than the advocates of the measure under consideration have supposed. He believes that the evil must be taken at its roots by organizing for peace, in the sense of avoiding or minimizing the causes of conflict and developing a spirit of solidarity and co-operation. The causes of conflict among states are, he observes, of various kinds—political, economic, social, psychological, moral. A careful examination of them shows that they for the most part proceed from the individualism which manifests itself in national and international life, and which makes each country desire a development which it does not think it can obtain by dependence on other countries. From this source there has arisen the narrow and chauvinistic nationalism which has, in spite of the progress of civilization, engendered economic rivalries, imperialistic policies, the hates of races, the desire for revenge, and the idea or postulate which has up to the present time dominated international relations, namely, that so-called questions of “national honor” or “national dignity” must not be submitted to arbitration, but must be solved by arms.

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*The Life and Letters of John Fiske.* By JOHN SPENCER CLARKE. Houghton Mifflin and Company, 1917.—Two volumes: xxvii, 533; xi, 523 pp.

Mr. Clarke's sympathetic biography confirms in the main the accepted opinion of John Fiske. It shows us an omnivorous reader, gifted with an extraordinarily retentive memory, and a faculty of lucid exposition that has rarely been surpassed. Fiske possessed in an eminent degree the qualities necessary for brilliant literary popularization of the thoughts of other men, but he was not a creative thinker in the highest sense of the term. Both in his philosophical and in his historical work he was rather the live wire that diffuses knowledge than the dynamo that generates it. His life and letters confirm this fact, which has been established by his previous contributions to philosophical and historical writing.