

War Powers of the Executive in the United States. By CLARENCE A. BERDAHL, Ph.D., Instructor in Political Science, University of Illinois. [University of Illinois, Studies in the Social Sciences, vol. IX., nos. 1 and 2.] (Urbana: the University. 1921. Pp. 296. \$2.25.)

THIS study is a straightforward dissertation on the subject indicated by the title. Four general phases of the topic are considered, powers relating to the beginning of war, military powers in war time, civil powers in war time, and powers relating to the termination of war. Each of the divisions is again subdivided into chapters wherein separate aspects of the general phase are discussed; for example, military powers in time of war are treated under Power to Raise and Organize the Armed Forces, Powers of Command, Powers of Military Jurisdiction, and Powers of Military Government. The reader is assisted by a somewhat detailed table of contents, a good index, and a full bibliography of the materials used by the author, although it is a little surprising that there is no reference to Maclay's biting *Journal*.

While there has been little if anything new brought out in this account, a large portion of the available information upon this highly important matter has here been brought together and summarized in convenient form. Constitutional provisions, statutory law, custom, and numerous comments both of contemporary statesmen and writers on law and government are marshalled in almost encyclopedic array. The encyclopedic flavor is somewhat enhanced, moreover, by a style which is not exactly easy or inspiring, although it must be confessed that the subject is not one which conduces to fine writing. The author has confined himself pretty closely to the strict presentation of the facts as he found them, and has not often ventured to intrude his own opinions in his summaries. However, when considering the question of the President and the Senate in relation to the making of treaties concluding wars, he does venture to state that

it would seem that much of the recent criticism of President Wilson by Senator Lodge and his followers is unjustified, especially in so far as it is based on the relative constitutional position and powers of the Senate and the Executive in regard to the making of treaties. However overbearing and tactless the President may have been in his relations to the Senate, clearly he has at no time in his negotiation of the Treaty of Versailles exceeded the traditional view of his constitutional powers nor encroached on those of the Senate.

A slight criticism might be made of the author's too great reliance upon general histories and traditional views in laying his background for some of his legal points; for example President Madison is again made to purchase his re-election in 1812 by yielding to war clamor (p. 85), and von Holst's views of Polk are clearly visible when the Mexican war and its inception are discussed (p. 71, 86). Again, when

outlining some of the forces determining the election of 1916, perhaps too much stress has been laid upon the fact that Wilson "kept us out of war". These criticisms, however, are of matters which are subsidiary to the main purpose of the book. But, when the Senate's constitutional privilege to "advise and consent" to treaties is under consideration (p. 244) and there is found the statement that "President Polk in 1846 referred to the practice as 'eminently wise'", it would have been more satisfactory had it been brought out that Polk actually did seek the "previous advice" of the Senate before he submitted to that body for ratification the treaty with England regarding the Oregon country, even though this was not a treaty closing a war.

Opening a Highway to the Pacific, 1838-1846. By JAMES CHRISTY BELL, Ph.D. [Columbia University Studies in History, Economics, and Public Law, vol. XCVI., no. 1.] (New York: Longmans, Green, and Company. 1921. Pp. 209. \$2.25.)

THE author tells us in the preface:

The present monograph has grown out of a wish for more light on one early phase of this expansion [to the Pacific]. . . . The pioneers opened a road across the Rocky Mountains to the Pacific Coast—the preface to territorial expansion—because they wished to realize the benefits from its geographical position in opening a new market for agricultural produce, and because they could not await but must have a hand in making their own destiny.

The above quotations give by far the clearest statement of purpose which the book affords, and the reader does well to keep this declared purpose clearly in mind as he reads.

The author departs widely from the method of exposition through narrative, traditional with writers of histories on the scale of this one. His is pronouncedly a monographic, "disquisitionary" method. By this we do not mean that he fails to display a sufficient grasp on facts and incidents bearing on his theme. He has an abundance of these, but instead of causing them to stand up and tell their own story he, so to speak, makes them lie down while he explains what happened. This method always involves the temptation to subordinate facts to the discussion of their meaning, and it is to be feared the author has not always been able to resist that temptation. One of the outstanding merits of the book is the thoroughness of his search for the printed sources, and the author has used some unprinted material in addition.

As interpretation the book seems needlessly long and repetitious. The interpretation, in fact, is given practically in chapter IX., which is a review and restatement of what has gone before and is far clearer than the argument of the body of the book. Another partial restatement occurs in the appendix which follows chapter IX. And there is, in the main section of the book, much repetition of ideas and facts, and much "cutting and fitting" of facts to new turns in the discussion.