

will expand the space given to this side of his narrative and contract the amount given to the political side. After he passes the time when reconstruction is usually accounted at an end, and comes into the less well-known field since, he might properly devote a greater proportion of his space to politics.

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International Conventions and Third States. By RONALD F. ROXBURGH. London, Longmans, Green and Company, 1917.—xvi, 119 pp.

The present work is the second to appear in the series of "Contributions to International Law and Diplomacy," edited by Professor Oppenheim, who, in an introduction, states that the author has "brought together a considerable amount of material" and has "come to very valuable conclusions which require thorough examination and consideration." The author enables us to get a general view of his conclusions by closing his volume with a recapitulation of them. To a great extent they furnish no occasion for discussion. On the other hand, some of them present ample opportunity for speculations, more or less vague, and tending to create unnecessary if not essentially futile distinctions. Oppenheim is cited (page 45) as authority for the proposition that, in the case of accession or adhesion, "the rights and liabilities incurred (*sic*) by the third state are incurred, not under the old treaty, but under an additional treaty identical in terms with the old." As Oppenheim's words are that "accession always constitutes a treaty of itself," it is not clear that he intended to deny that the acceding or adhering state acquires rights and incurs liabilities under the "terms" of the "old treaty." Nor is it clear that we must accept as valid the author's proposition (pages 111-112) that, assuming there is such a thing as inferentially becoming a party to a treaty by conduct, the presence of a clause of "accession" or of "adhesion" "prevents" the creation of such "additional contract" by "conduct amounting to acceptance." Is not such a clause to be regarded as an invitation to accept, rather than as the prescription of an exclusive mode of acceptance? On the other hand, the loose speculations of various recent writers, as to the inferential acceptance of certain treaties, such as the Suez Canal convention and various neutralization clauses, by non-signatory and non-adhering powers, may serve to warn us of the importance of keeping such questions within the bounds of definite legal conceptions.

The author speaks (page 112) of a treaty becoming the "basis" of a rule of "customary law," where states "concerned in its stipulations" habitually "conform" to them "under the conviction that they are legally bound to do so;" but adds that in this case the rights and obligations which were "originally conferred and imposed by treaty, have come to be conferred and imposed by a rule of law." In other words, the theory, translated into simple language, is, as we understand it, that the rule becomes obligatory upon other states, not by force of the treaty, to which they are not parties, but by their conduct in observing it "under the conviction that they are legally bound to do so." But whence are we to infer such a "conviction"? Surely not from the treaty, which confessedly is not legally obligatory upon them. The author himself appears to be quite uncertain, for under the title "Can a Conviction of Legal Necessity ever be Presumed?" he states (page 81) that it is a question "whether, in the absence of direct evidence, it is ever right to 'presume' that a nation acted in a certain way from a sense of legal necessity"; and, while remarking that "perhaps such a presumption ought in certain circumstances to be made," says that "no rule of international law exists on this point."

In this instance, as well as in numerous other instances, the author indeed appears to have been led into metaphysical and somewhat artificial methods of conjecture through tentatively assuming or suggesting that certain legal rules or speculations may by analogy be applied to situations to which no analogy is shown. This is the case with his citations (pages 6-18) of general and often indefinite declarations in various countries of the local law relating to beneficiaries, and (pages 72-95) of speculations concerning the influence of "custom" on the development of municipal law. It would, on the other hand, have been pertinent to trace the actual genesis of certain international rules, such as that of "free ships, free goods," the acceptance of which was advanced by their incorporation in treaties, without anyone's supposing that they were in any sense "imposed" on non-contractants, or that the latter adopted them under a "conviction" of legal necessity. In this relation one may profitably recur to the simple and lucid exposition of the growth of international law given in *The Paquete Habana* (1900), 175 U. S. 700.

The author speaks (page 54) of Austria's "breach" of the Treaty of Berlin in proclaiming in 1908 the annexation of Bosnia and Herzegovina, which were handed over by that treaty to Austria-Hungary to be "occupied and administered," without limitation as to time.

On the other hand, he takes the view (pages 109-110) that the territories occupied by European powers in China, under leases for terms of years and for the most part with an express reservation of Chinese "sovereignty," are to be considered as part of the dominions of the lessees, and that the change in the relations of third powers to such territories is to be attributed, not to "the legal operation of a lease as such," but to "a change in sovereignty, either partial or complete." Furthermore, immediately afterwards (page 110), in referring again to the situation of Bosnia and Herzegovina from 1878 to 1908, he observes that in such cases the changes in the relations of third states "seem to be properly attributable to what is, for most practical purposes, a transference of sovereignty." Would one be unjustified in inferring from this that Austria's act in 1908 was, in the author's opinion, a violation of form rather than of substance, censurable perhaps chiefly because it was superfluous, and that the use in China of the form of a lease was, so far at least as concerns the European powers, an intentional disguise? It may, however, be pointed out that the lease of Kiao-chau to Germany expressly speaks of the latter's "rights of sovereignty" over "the whole of the water area of the bay," but not over the surrounding zone of 50 kilometres, wherein privileges were granted subject to a reservation of China's "rights of sovereignty."

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BOOK NOTES

Cotton as a World Power; A Study in the Economic Interpretation of History (New York, Frederick A. Stokes Company, 1916; 452 pp.), by James B. Scherer, is an interesting book, as regards both plan and content. It "presents the case" for cotton, from the earliest times to the present. The first eleven chapters (or sections) carry the story down to the industrial revolution in England, the next ten show the transformation of England due to that revolution. The rest of the book (about half) is devoted to cotton in American history, domestic and foreign. The study is documented; the points made are brought into sharp relief; there are no words wasted in elaboration and yet the book is one of the best written, most interesting essays as yet in the relatively new field of technical history. The experiment is of interest in itself. Such surveys are necessary preliminaries to a just appraisal of the historic forces at work in the formation of the present. No synthesis of modern history can be accurate in which the history of the economic basis of power is omitted. Steam engines and cotton-gins are as much a part of the modern world as people, and more intimately involved in the structure of society than parliaments. The main reason for not bringing them into history seems to be that when they are brought in, one is so impressed by them as to forget about parliaments altogether—which results, as Germany has shown, in a world not safe for democracy. We need a golden mean between the economic and the political history, and while such books as this of Dr. Scherer are frankly emphasizing one side of the study, they may, as in this case, suggest the whole problem as well. Dr. Scherer's volume succeeds in conveying its message, because, in addition to careful work, it contains a touch of poetry. One needs the imagination at play in fields like this, and Dr. Scherer's brings both imagination and sympathetic insight. Finally, he reacts to the war-philosophy of the "materialistic" school, not by strenuously upholding any one dogma, but by recognizing the tangle of cross stimuli which makes logic so poor an interpreter of life. It is a book intended primarily for the general reader; but whoever reads it will have thought something more upon vital problems, and will probably come back to the study of the history of society with added insight.