THE ACQUISITION OF TERRITORY IN INTERNATIONAL LAW. By R. Y. Jennings. [Manchester: Manchester University Press; Dobbs Ferry, N.Y.: Oceana. 1963. vii + 130 pp. 18s., U.S.$4.00]

In his Schill Memorial Lectures delivered at the University of Manchester Professor Jennings has provided an excellent and uncomplicated survey of *The Acquisition of Territory in International Law*. The Whewell Professor approached his problem from the standpoints of territorial change; modes of acquisition; recognition, acquiescence and estoppel; title and unlawful force; and legal and political claims.

He points out that the international law relating to title to territory stems from the Roman law and, therefore, both *corpus* and *animus* are essential, although abstract title is recognised and may be vindicated by an international tribunal. He cites as 'by no means the least important example....the long-established rule that a belligerent occupant does not acquire sovereignty until after *debellatio*.' He might equally have drawn attention to the position of both Czechoslovakia and Poland during the latter part of the First World War. He does not mention either of these two nascent States, although he contends that territory is essential for statehood. Had he referred to these two instances, he might also have modified his statement that 'there is no evidence from practice to suggest that recognition by third States can by itself operate to create a title to territory not in possession.'

Professor Jennings points out that in so far as emergent States are concerned, 'international law is singularly undeveloped, uncertain, and.... comparatively unstudied, [although] rights attaching to the territory will continue to bind the holder whether his title be original or derivative.' Herein is to be found fruitful scope for research by the postgraduate student in international law, while the student of jurisprudence might well ponder the apparent assertion that rights 'bind'. The latter might also be interested in investigating how far he would agree with the learned author that inter-temporal law 'is merely an aspect of the rule against retroactive laws, and *to that extent may be regarded as a general principle of law*' (italics added).

It has been generally accepted that any title or claim put forward in international law requires recognition by those against whom it is contended in order to become complete. Professor Jennings, however, emphasises the importance of distinguishing between the acquisition of a title to territory and the recognition of that title once it has been acquired. He points out that if occupation or cession is a means of acquiring title as such, then recognition is unnecessary for this purpose. This leads him to maintain that 'if a State effectively occupies a territory which is *res nullius,* it acquires an immediate title opposable to the whole world. In so far as recognition of that title is required, it is able legally to demand it.' It is a pity that no instance of State practice has been cited to substantiate this assertion.

Traditionally, the most usual method of assuming title to territory was by conquest as a result of war, or cession by way of a peace treaty imposed by a victor. Since the Kellogg Pact there has been a growing tendency to regard changes brought about by force as invalid. Professor Jennings argues that today the ban on the resort to force is imposed by customary law and would operate even against a State which is not a party to the Pact and similar treaties, nor even a member of the United Nations — he refers to the assertion in Article 2 (6) of the Charter [misprinted here as 2 (b)] that the Organisation will ensure that non-members shall act in accordance with the Charter in so far as the maintenance of peace is concerned, without examining how far this is an obligation upon members in their relations with non-members rather than upon the latter themselves. While recognising that not all resorts to force are illegal, Professor Jennings denies to the victim of aggression the right to acquire title by conquest over the territory of a defeated aggressor. Nevertheless, he recognises that such a situation may only be resolved by way of territorial change, but 'the legal sanction for such changes is, I suggest, found not in an anachronistic appeal to the traditional notion of conquest but rather in an exercise of the will of the international community exercising in this respect a legislative or quasi-legislative role.' This, however, would only be true if the United Nations were seized of the issue and functioned without a veto to sustain the change brought about by the victim of the aggression.

The problems associated with the birth of Malaysia lend weight to Professor Jennings' final chapter in which he draws attention to the difference between a legal title and the political contention that that title should be displaced by one put forward by another claimant. Thus, from the legal point of view, 'unless the rule of the intertemporal law is to be totally rejected — and there is neither authority nor reason to do this — old titles by conquest must still remain valid'. The political aspirations of new States may, however, cause this rule to be revised. Such revision would be purely political and for political reasons, although the political result achieved would have legal consequences and might eventually contribute to the evolution of a new legal rule. Nevertheless, even a Resolution like the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly Res. 1514) is only political in character and has no more legal effect than any other General Assembly Resolution. In any case, before it can become effective there would have to be a clear change in the possession of the territory in question.

Enough has been said to indicate the wealth of material to be found in these five lectures on *The Acquisition of Territory in International Law* by the Whewell Professor of International Law in the University of Cambridge. The beginner in the subject must be grateful to Professor Jennings for the lucidity with which he has expounded the problem. The more advanced student, as well as academicians in the field, will be grateful to the learned author for the stimulating way in which he has dealt with an old problem and for the introduction of issues which are by no means generally accepted, but which are becoming of vital importance to consideration of any aspect of international law in modern society.

L. C. GREEN.