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Book Review (reviewing Acts and Resolutions of the First Session of Eleventh Legislature of Porto Rico (1925))

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BOOK REVIEW

INTERNATIONAL LAW AND INTERNATIONAL RELATIONS. By Elizabeth F. Read. New York: The American Foundation, 1925:

pp. viii + 201.

This little book printed on fine quality paper with excellent type has been issued as a part of the attempt of Mr. Edward W. Bok to educate the American people in regard to foreign relations. The purpose is truly laudable, and the booklet offered for this end has the merit of clarity and brevity, although greater care might have been exercised in the matter of details. For instance, on page nine, a quotation regarding international law as a part of the municipal law of the United States is cited as taken from the case of *Hilton v. Guyot* 159 U. S. 113; whereas, this dictum should be cited as from the case of *The Paquete Habana* 175 U. S. 677. A short but not well-selected bibliography follows the text.

Northwestern University.

KENNETH COLEGROVE.

ACTS AND RESOLUTIONS OF THE FIRST SESSION OF THE ELEVENTH LEGISLATURE OF PORTO RICO. San Juan: Bureau of Supplies, 1925: pp. lv + 1237.

There may be some doubt as to whether statutes are to be classed as legal literature, or whether they do not rather belong to the department of this REVIEW headed "Diversities de la Ley"; but since the REVIEW has received a copy of the session laws of Porto Rico of 1925 for notice, courtesy to our Latin sister jurisdiction in the Caribbean requires an acknowledgment.

The volume of 1,237 pages contains, in addition to the statutes and resolutions of the year, the Organic act of the territory, and two other modifying acts of Congress. All laws are printed on opposite pages in Spanish and in English.

The laws are arranged in the order of their approval, extending from March 7 to September 16. On glancing them over, Act No. 2 makes a decidedly foreign impression: The District court, on petition of an interested party, may waive the fourth degree of consanguinity as a prohibition against marriage, and a death-bed marriage may be celebrated without dispensation between cousins-german living in concubinage when there are children. Such dispensing powers are unknown to legislation in common law jurisdictions. This promise of exotic interest is however not fulfilled on further perusal of the statutes; they might as well have been produced in many American states, except that American states have no occasion to protect the reputation of their coffee, and except that the regulation of horse races is not a common subject of legislation in the states. The conspicuous acts are an income tax law covering

150 pages, modeled on the federal act; the horse racing act just referred to; an act to regulate the practice of dental surgery; and two acts relating to agriculture, one of them regulating warehouses, the other providing for co-operative associations. These acts show exactly the same legislative technique as similar acts in the United States, and have apparently been framed after American models.

ERNST FREUND.

PROCEDURE AND PRACTICE BEFORE THE BOARD OF TAX APPEALS.

By George E. Holmes and Kingman Brewster. Washington, D. C.: John Byrne & Co., 1925: pp. viii + 225.

The purpose of this book is to set forth certain principles of procedure and practice developed by the United States board of tax appeals, a tax forum created by section 900 of the Revenue act of 1924. In the main the authors have accomplished this purpose. Though the board has been marked by Congress as an "independent agency in the *executive* branch of the government,"¹ it has functioned from the outset in a manner unmistakably *judicial*.²

The board is independent of the Treasury department and hence of the Bureau of internal revenue. In a sense it succeeded the Committee on appeals and review, an earlier appellate body within the bureau which in turn succeeded a similar body. Procedure and practice before the committee and its predecessors was, from a judicial standpoint, quite informal. In the 1924 act, Congress authorized the board to prescribe its own rules of procedure and practice.³ After the passage of the act and before the board was organized it was assumed by some that the informal administrative practice before the committee would be continued by the Board of tax appeals. When the board issued its rules in July, 1924, it became apparent that the assumption was ill-founded and that the board would function something like a court.⁴ This volume indicates the extent to which the board has adopted formal court procedure, practice and rules of evidence.

Despite the judicial character of the board, certified public accountants were admitted to practice on par with attorneys. The ground covered by the present volume is for the most part familiar to lawyers. Probably its greatest usefulness will be to accountants without legal training.

Perhaps the book is a little premature. When it was written, the board had published less than two volumes of decisions. Though

1. (1924) Revenue Act sec. 900 (k).

2. Issues are framed on "petition" and answer; the commissioner and the taxpayer are represented by counsel; the burden of proof rests on the taxpayer as the moving party; proof is by deposition or oral evidence; trial practice resembles that of a court of record; written decisions and frequently written opinions are rendered. Other judicial characteristics appear in the rules of the board and in its decisions.

3. "The proceedings of the board and its divisions shall be conducted in accordance with such rules of evidence and procedure as the board may prescribe": (1924) Revenue Act sec. 900 (h).

4. See, for instance, rules 5 to 13 dealing with pleadings; rule 20, burden of proof; rule 26, findings of fact; rule 31, ex parte affidavits.