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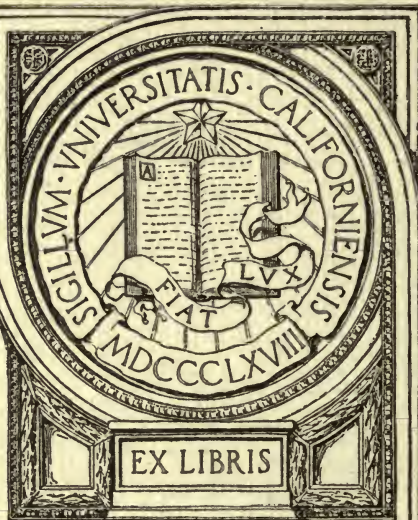
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TRANSLATION

OF

THE LAW OF PORTS

IN FORCE IN

THE ISLAND OF CUBA.

DIVISION OF CUSTOMS AND INSULAR AFFAIRS,
WAR DEPARTMENT.

May, 1900.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
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TO WHOM
IT MAY COME

ROYAL DECREE.

In view of the reasons submitted to me by the colonial secretary, making use of the authority granted the Government by article 89 of the Constitution of the Monarchy, and in pursuance with the report of the council of state in full:

In the name of My August Son the King, Don Alfonso XIII, and as Queen Regent of the Kingdom,

I decree the following:

ARTICLE 1. The law of ports promulgated for the Peninsula on May 7, 1880, shall be in force in the island of Cuba without any other amendments than those contained in the annexed text.

ART. 2. The colonial secretary shall issue the instructions for the execution of the law, and shall inform the Cortes of this decree.

Issued at the Palace on October 31, 1890.

MARIA CHRISTINA.

ANTONIO MARÍA FABIÉ,
Colonial Secretary.

ART. 4. Anchorages, ship-yards, docks, arsenals, and other establishments intended by the Government for the exclusive use of the navy, are the property of the State. First and second class harbors of general interest are national property and for public use.

ART. 5. Everything cast upon the shore by the sea and which has no known owner belongs to the State. The treasury department, after the proper inventory and appraisal, shall seize it, and shall be liable for the claims of a third person and for the payment of charges and rewards for the finding and salvage thereof, in accordance with the prescriptions of laws and regulations.

ART. 6. The Government, without prejudice to the obligations and rights of the owners and consignees, shall provide for the salvage of wrecked vessels, their cargoes and effects, and also for their recovery from the wreck in case of a total loss, in accordance with the provisions of maritime ordinances and regulations.

Consular agents shall exercise the proper intervention according to international agreements with regard to the nations they represent.

ART. 7. Private lands adjoining the sea or lying within the littoral zone are subject to the easements of salvage and coast surveillance.

ART. 8. The salvage easement has the same extension on private lands adjoining the sea as on the littoral zone within which they are situated and 20 meters in addition thereto toward the interior of the lands; and public use shall be made thereof for the purpose of saving and depositing the flotsam, effects, and cargoes of wrecked vessels.

Fishing vessels may also beach within this zone of easement when compelled to do so on account of the condition of the sea, and in the same manner deposit their effects on land while the storm rages.

This zone of easement shall advance or recede with the advance or recession of the sea, as established in general for the littoral zone.

For damages caused to property on the occasion of a salvage an indemnity shall be proper, but only to the extent of the value of the objects saved, after the expenses of assistance given and rewards to finders have been paid according to law.

ART. 9. The salvage easement is not an obstacle to owners of lands adjoining the sea from sowing and planting on their premises within the littoral zone and constructing agricultural buildings and country resorts thereon.

In order to build in such places, notice must first be given to the governor of the province, who, after hearing the naval commander and the chief engineer of public works, may withhold his consent should it cause any obstruction to the exercise of the easement referred to in the foregoing article.

ART 10. The coast surveillance easement consists of the obligation to leave free a general passage 6 meters wide adjoining the highest water line or that reached by the surf during the heaviest storms

where tides are not perceptible, to be established when necessary by the governor-general of the island after hearing the naval authorities. In places where it is difficult or dangerous to pass, the passage may be carried more than 6 meters inland, but without exceeding what, in the opinion of said authority, is strictly necessary.

The surveillance easement, in extraordinary cases and when necessary for the service of the State, is imposed alike on lands that are fenced in, as on those that are open. Property which has not been subject to the surveillance easement until the promulgation of the water law of August 3, 1886, and subsequently thereto has suffered visible and material damages through the imposition of said easement, shall be paid the proper indemnity for said damage.

CHAPTER II.

USE AND UTILIZATION OF THE COAST WATERS AND BEACHES.

ART. 11. Only the owners of ponds, lakes, or basins of sea water in private property, having no navigable communication with the sea, have a right to fish therein without any restrictions but those relating to public health.

ART. 12. The free use of the coast waters, coves, roadsteads, bays, and havens is understood for the purposes of navigation, fishing, shipping and landing, anchoring, and other similar acts, within the legal prescriptions and police regulations relating thereto. The same is the case with regard to the public use of beaches, which under similar restrictions is granted to everybody for traveling, bathing, spreading and drying clothes, casting nets, beaching, careening and building ships, bathing cattle, picking shells, plants, and shellfish.

CHAPTER III.

CLASSIFICATION OF PORTS.

ART. 13. For the purposes of this law ports are those places on the coast more or less protected, either by reason of the natural lay of the land or by expressly constructed works, and wherein maritime traffic is carried on in a permanent and legal manner.

ART. 14. Estuaries and mouths of rivers are likewise considered as ports up to where the tides are perceptible, and where there are none, up to where the surf reaches during ordinary storms, altering their usual flow. Above these points the banks or margins of rivers preserve their special fluvial character.

ART. 15. Ports are classified as first and second class ports of general interest, and ports of local or provincial and municipal interest.

Ports of general interest are considered those specially destined to anchoring grounds, mercantile depots, loading and unloading of vessels

employed in maritime trade, when such trade may be of interest to several provinces, and when said ports are in direct communication with the principal centers of production of the island of the Peninsula, and of foreign countries. Ports of refuge, so called owing to their position and special advantages of capacity, security, and shelter during storms, are also of general interest.

Ports of local interest, or provincial and municipal ports, are those principally destined for anchoring grounds, loading and unloading of vessels employed in local industry and commerce, without prejudice to being classified among those of general interest when their trade may extend to other localities, territories, or provinces.

The foregoing classification can not be altered except by virtue of a law.

ART. 16. Ports of the island which are qualified for foreign trade or commerce on the high seas are declared first-class ports of general interest.

Ports not so qualified, at which coasting vessels engaged between two or more provinces make a stop, are declared second-class ports of general interest.

ART. 17. All ports not included in the preceding article, and in which commercial trade is carried on, are declared ports of local interest.

CHAPTER IV.

EXECUTION AND MAINTENANCE OF WORKS IN PORTS, THEIR MANAGEMENT AND POLICE.

ART. 18. It shall be the duty of the colonial secretary to order the survey and preparation of plans for all kinds of works in ports of general interest; to approve the same and order their execution after hearing the department of the navy; to grant concessions, make service regulations, designate the necessary personnel, and prescribe the duties of officials depending on the department of the colonies who are to direct and supervise the works.

ART. 19. In harbor works in ports of provincial interest the same duties devolve upon the provincial deputation as are assigned to the department of the colonies in the preceding article, except where the works should affect lands of public ownership, in which case the provisions of Chapter VIII of the general law of public works must be observed. Similar duties appertain to municipal councils with regard to municipal harbors.

The plans for works in ports corresponding to the provincial deputation or municipal councils shall, after the proper naval authorities have passed thereon, be submitted for the approval of the colonial department, which is also intrusted with the technical direction of the works and the appointment of the personnel required thereon.

ART. 20. The same duties appertain to the navy department, with regard to the surveys, plans, and execution of works in ports having military arsenals, in so far as they relate to the latter ports.

ART. 21. The establishment, repair, maintenance, and cleaning of ports, and management, service, and police thereof, in all civil matters appertain, in ports of general interest, to the colonial department, and in ports of local interest, to the deputations or municipal councils, according as to whether they are of a provincial or municipal character.

ART. 22. The port service is divided into two classes, one relating to the general shipping traffic, arrivals, departures, anchorages, berths, moorings and unmoorings at wharves; towing and maritime assistance appertain to the naval authority; and the other, including the execution and maintenance of the works and buildings, operations of loading and unloading on wharves, traffic on the same and within its zone of service, and all that relates to the use of the various works, intended for the trade of the port, which appertain to the colonial department.

ART. 23. The governor-general of the island, as the superior chief of all the branches of the civil administration and as delegate of the colonial department, is the chief of all such services at the ports as are in charge of said colonial department.

ART. 24. Subject to the general service regulations and to the orders and instructions of the colonial department, and under the authority of the governor-general of the island, the engineers of roads, canals, and ports shall have charge of the survey and direction of all the works and supervision of the services comprised in the second class mentioned in article 22, excepting such works and services as pertain to the military arsenals.

ART. 25. Port of general interest shall be maintained by the State, according to the sums appropriated therefor in the general budgets and those included in their respective budgets by the deputations and municipal councils when these corporations wish to contribute toward the expenses of said ports. The works shall be executed either by officials of the administration or by contract, as may be determined in each case.

ART. 26. The Government may provide for the cost of harbor works by means of special taxes levied in the locality, to be exclusively applied to said works, independently of the general State budget, and organize boards of harbor works intrusted with the administration and disbursement of funds and the execution of the works, under the supervision and surveillance of the colonial department.

ART. 27. The colonial department shall issue general regulations for the organization and management of existing boards of harbor works and for such as may hereafter be established. The appointment and removal of the chief engineer of said works shall be subject to the will of the Government, which may also appoint special delegates on the said boards whenever it may consider it advisable.

ART. 28. Works in ports of general interest, including such as have been planned or begun for the account of the State, may also be executed by means of concessions to private companies, in accordance with the general law of public works.

ART. 29. Ports of local interest shall be maintained with funds of the deputations or municipal councils, according as to whether the works are provincial or municipal. Toward the execution of works in ports pertaining to deputations, the State and municipal councils may contribute, either by furnishing skilled officials or by making appropriations for the purpose in their respective budgets. In like manner the State and provincial deputations may contribute toward harbor works which may be instituted by municipalities.

The surveys and plans and their approval as well as the concessions of provincial and municipal harbor works shall be made in accordance with the provisions of articles 39 and 48 of the general law of public works.

ART. 30. The proper instructions for the formation and approval of plans of new works in harbors, stating the formalities and reports which must precede said approval, shall be included in the regulations for the execution of said law.

ART. 31. At every port there shall be a littoral zone of service, to be fixed by the colonial department, in each case, for the operation of loading and unloading, warehousing and transportation of goods, and the transit of persons and vehicles. The approval and project of said zone, and the apportionment thereof for the different services, carry with them the declaration of public utility, and such private lands or buildings as lie within it are subject to the exercise of the right of eminent domain.

ART. 32. The governor of the province, after hearing the captain of the port, the chief engineer, the provincial board of health, and the collector of customs, shall mark out and assign the zones of the port to the different services on the wharves, and shall decide all questions that may arise with regard to their use and police, when the port in question is of local interest; if it be of general interest, the governor-general of the island shall have these duties. From the decisions an appeal lies to the governor-general or to the secretary of the colonies, as the case may be.

ART. 33. Whenever a vessel is wrecked within a port her owners, or the consignees of the insurance companies shall proceed to raise her within the term fixed by the naval commander of the province. Should they not do so, the secretary of the navy shall order it done, deducting the cost from the proceeds of the vessel and goods which it may contain.

ART. 34. If, either willfully or through carelessness, any damage should be caused by vessels or their mooring cables to the works of any port, or the latter should thereby be fouled, the captain of the

port shall cause the parties responsible therefor to pay, in addition to the fines in stamped paper established by the regulations, the sum at which the engineer may estimate the necessary repairs, the latter amount to be paid into the Treasury.

ART. 35. Besides the general regulations for the execution of this law, special-service and police by-laws shall be framed for each port, containing the provisions relating to its use, and which must be approved by the colonial department, procuring the greatest uniformity in these regulations, in so far as possible, through the different conditions of each port for the benefit of commerce and maritime industry.

CHAPTER V.

SERVICES CONNECTED WITH PORTS.

ART. 36. The pilot service in ports of the Spanish domain shall continue to be in charge of the navy department.

ART. 37. Lights and beacons, being services connected with that of the ports, shall continue to be in charge of the colonial department. The maritime watch stations and semaphores and lifeboats shall be in charge of the same, but shall depend immediately on the superior naval authority of the island.

CHAPTER VI.

WORKS EXECUTED BY PRIVATE PERSONS.

ART. 38. At no points on the coasts, beaches, ports, and mouths of rivers, or on the islands formed within the littoral zone, can new works of any kind be executed, or buildings constructed without the proper authorization, in accordance with the provisions of this law.

ART. 39. Permission to build temporary barracks or constructions designed for baths shall be granted by the governors, in maritime capitals, and in other towns, by the mayors, after consulting the naval authority, if said constructions are to be built outside the port; but if within the same the chief engineer shall also be heard, in addition to the naval authority.

ART. 40. Permission to establish other services or improvements of a temporary character within the littoral zone, which is national property and for public use, shall be granted by the naval commanders of the provinces, provided they do not interfere with the common uses to which said zone is devoted, and after hearing the governors and chief engineers of public works, where such concessions might affect other services under the control of the colonial office or some other branch of the administration.

ART. 41. Such permissions shall be revoked whenever necessary for a proper surveillance and service of the coasts, the town and rural

police, or the concession of the land for other purposes of greater utility and importance, after instituting an inquiry and hearing the person interested before the authority who may have granted the permission.

In such cases the owners of the temporary constructions shall dispose only of the materials employed without any right to indemnity.

ART. 42. When the constructions and improvements referred to in the foregoing articles are of a permanent character, the authorization shall be granted by the secretary of the colonies, after hearing the secretary of the navy.

ART. 43. Works for coast defense to protect private estates or buildings against the beating of the waves, even though of a permanent character, shall be authorized by the governor of the province, after hearing the opinion of the naval authorities and of the chief engineer of public works.

ART. 44. It is the duty of the colonial secretary to grant authorization, after hearing the naval authorities, for the construction on the sea or beaches and adjoining lands, or in ports, whether for private or public use, of such wharves, quays, dockyards, floating docks, shipyards, and other similar works as are complementary and auxiliary to those existing for the service of the port. Such authorization shall not constitute a monopoly, and therefore others may be granted for the same class of works in the same harbor, beach, or stretch of coast, provided the public service or use does not suffer thereby.

ART. 45. It is the duty of the colonial secretary, after hearing the naval authorities, to grant authorization for the establishment of salt ponds, works, and other buildings which may wholly or in part occupy public lands for private use.

ART. 46. It is the duty of the secretary of the navy to grant concessions for all sorts of fisheries, fish garths, crawls, shellfish nurseries, in accordance with the ordinances and regulations in force thereon or that may hereafter be established.

ART. 47. The colonial department may authorize private individuals or companies, under the terms prescribed in the general law of public works, to construct ports at places on the coast where there are no works or plans of other ports that are classified, or where no special rights exist for the use and utilization of said place, after hearing the navy department.

ART. 48. When the works of a port the concession of which is applied for, whether in conformity with the plan of the applicant, or subject to the one surveyed and approved by the colonial department, refers to one in which, although no work has yet been executed, there exists a legally authorized maritime commerce, and services are performed with more or less perfection, the concession must be granted under such conditions as may be necessary to reserve in full force the

existing rights of entering the port, anchoring, loading, and unloading, afloat or on the coast, so that none of the services that are freely exercised or enjoyed by the public may be made compulsory.

ART. 49. Proper authorization may also be granted to a private company for executing the works of a port in charge of the State or for completing those which are constructed or suspended, or carrying out one part of the plan while the State executes the other, in which case special conditions may be established in compensation of the expenses thereof and for the benefit of the company in the shape of the cession of the land where the works are carried on, for a limited time, or other privileges, according to the available portion of the work, the cost of those that may be executed and the nature or importance of the public services existing in the port, provided prior rights to the use of the port and its works are reserved in full force, as stated in the preceding article.

ART. 50. In case works declared of public utility are to be executed in a port by the State, the deputations, or municipal councils, and in order to carry them out it should become necessary to utilize or destroy those constructed by private persons by virtue of concessions granted them, the concessionaries shall have a right to be indemnified only for the value of the material employed in said works, after an appraisal by experts made in conformity with the general regulations for the execution of this law.

ART. 51. The colonial department shall grant authorization for draining, cultivating, or otherwise improving salt marshes belonging to the State, or of public ownership, and such as do not belong to town commons or other property devoted to general use.

In order to request of the colonial department a declaration of lands pertaining to town commons, or devoted to general use, a period of one year is allowed from the date of the publication of this law. If the towns fail to obtain a favorable decision or the term expires without an application having been made for such declaration, said salt marshes shall be considered as waste lands; this, however, not to interfere in any case with the free public use of their natural products.

Salt marshes of private ownership may be drained by their owners with the consent of the governor, who shall give it after hearing the naval authority and the chief engineer of the province, provided navigation and fishing are not injured thereby.

For the draining and improvement of salt marshes that may be declared unhealthy, the provisions contained in the water law regarding marsh lands shall be observed.

ART. 52. The concessions referred to in the foregoing articles shall be subject to the formalities mentioned in the general regulations for the execution of this law.

ART. 53. Authorization for the survey or for drawing the plans of the works included in articles 44 and 45, and those mentioned in articles 47 and 51, shall be granted by the Governor-General of the island after receiving the report of the general inspector of public works of the same.

Those comprised in article 46 shall be granted by the naval commander of the maritime province to which they belong.

ART. 54. The concessions of works and public lands mentioned in articles 44, 45, 47, and 48 shall be granted by the colonial department without any public bid or limited term, subject to the provisions of article 50. Should there be more than one application for the same or similar work, or the plans presented prove incompatible owing to their occupying a portion of public property used in common on the beaches, shores, or ports, where they may be established, those plans shall be preferred which offer the greatest advantages, and if they be equal, the one first presented.

ART. 55. Concessions of salt marshes shall be granted without public bids and in perpetuity, except in case some private party or company should demand an award by bids, presenting to that effect a proposition in which a standard of valuation is fixed and offered, guaranteed by a temporary deposit equal to said standard, which shall serve as a basis for the bid. If the person obtaining the award should not be the author of the plan approved for the drainage works, he shall have to pay the cost of said plan to the author, appraised in accordance with the provisions governing such cases in bids for public works, or in the manner prescribed by the regulations.

ART. 56. Concessions of works in the cases referred to in article 49 shall be granted through bids and for a limited period. The bids shall be made upon any one of these three bases, namely:

The appraisal of the existing works and of the constructions and lands to be utilized; the reduction of the tariff rates charged for the use of the works; the period of time during which the company is to enjoy the benefits of the works.

The colonial department shall fix the basis, standard, and conditions for the bid, taking into consideration the plans and proposals that may have been presented requesting the concession.

ART. 57. In concessions of works in ports, whereby lands are reclaimed from the sea, there shall always be excepted, out of the lands recognized as the property of the concessioner, that portion which may be necessary for the service zone referred to in article 31, which shall remain the property of the State.

ART. 58. In every concession of public or private works there shall be fixed:

First. The period for which the concession is granted.

Second. The terms within which the works are to be begun and concluded.

Third. The proportional part of the estimate which has to be spent in each of the periods that it may be thought advisable to fix in order to carry out the concession within the full term allowed for the termination of the works.

Fourth. The conditions for the establishment and use of the work as may be necessary in order not to injure acquired rights and general interests.

Fifth. The bond required of the concessioner in the case of a public work, to guarantee the execution thereof; and,

Sixth. The case where the concession may be declared forfeited, as well as the consequences thereof.

ART. 59. When a declaration of public utility is requested by private persons in behalf of any work, the procedure prescribed by the general law of public works for said declaration shall be observed.

ART. 60. He who shall have enjoyed during twenty years the usufruct of some maritime industry established on public property without opposition on the part of the authority or of a third party, shall continue to enjoy the same, even though he fail to show that he had obtained proper authority therefor; this right shall be understood as in force so long as the class of industry or the application of the space occupied have undergone no changes or alterations during the aforesaid twenty years; and otherwise it shall be declared forfeited unless authorization be obtained as in the case of a new work, and in the manner prescribed in this law.

ART. 61. All laws, royal decrees, regulations, royal orders, and other provisions conflicting with this law are hereby repealed.

ART. 62. The governor-general of the island may anticipate the concessions of the works included in this chapter, and which, according to the provisions thereof, it is the duty of the colonial department to grant, without prejudice to, and reserving the definite decision which may be proper if the persons interested accept this condition, and provided there is no opposition or objection on the part of the corporations or officials interested, being obliged otherwise to forward to the colonial department the respective proceedings with their report for a final decision.

Approved by Royal Decree of this date.

FABIÉ.

Madrid, October 31, 1890.

(*Gaceta* of December 13.)

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The first part of the book is devoted to a general history of the United States from its discovery to the present time. It is divided into three volumes, the first of which contains the history of the discovery and settlement of the continent, the second the history of the colonies, and the third the history of the United States from its independence to the present time.

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THE HISTORY OF THE UNITED STATES
 BY
 JOHN W. FOSTER
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