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# Governor of Porto Rico

FOR THE FISCAL YEAR

ENDING JUNE 30

# 1907



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## EXHIBIT B.

### REPORT OF THE ATTORNEY-GENERAL OF PORTO RICO.

OFFICE OF ATTORNEY-GENERAL OF PORTO RICO,  
*San Juan, September 24, 1907.*

In accordance with the terms of the organic law of Porto Rico, I have the honor to submit herewith my annual report on the operations of the department of justice for the fiscal year 1906-7.

#### JUDICIARY.

The judicial system established by the act of 1904 and its amendments continue to work satisfactorily. The judges of the courts and members of the legal profession are readily adapting themselves to the new conditions of things, and it may be confidently said that American laws of procedure will remain on this island permanently. Few, if any, of the native judges or lawyers now advocate a return to the Spanish adjective laws, though some changes have been suggested in the present system.

In the application of the new laws of procedure, practice, and evidence there is a tendency on the part of the Porto Rican members of the legal profession to infuse, to some extent, into those laws the spirit of the legislation and jurisprudence of Spain, though that tendency is gradually disappearing. That men educated and trained under the Spanish system of laws should be influenced by it in their interpretation of the new legislation is most natural. No doubt that is the result in every case where a change takes place in legislation, and especially so when it is as radical as that made here. It is to be expected that some principles of Spanish law will enter into and influence the new procedure; but the basic principles of American legislation on that subject have not been and will not be affected in any way. They will remain unaltered; the influence of the Spanish system is affecting the new procedure in its form, but not substantially.

The district court of San Juan was reorganized at the legislative session of 1906 and provided with two judges, each of whom presides over one of the two sections of the court. Section 1 was vested with civil jurisdiction only, which, with the exception of a few classes of cases, was coextensive with that exercised by the district courts generally; and section 2 was given exclusive jurisdiction in criminal matters within the limits conferred on all the district courts and civil jurisdiction in certain specified matters. It was soon discovered that the distribution of business between the two sections was unequal. Section 1, with its comprehensive jurisdiction in civil matters, was overburdened with an ever-increasing docket, with which the judge could not keep pace. On the other hand, section 2 did not have sufficient matters before it to keep the judge occupied, and its sphere of usefulness could be increased. The matter was brought to the attention of the assembly at its last session, and an act was passed to relieve the situation. The act vested in section 2 concurrent jurisdiction

with section 1 in civil matters, in addition to the exclusive criminal jurisdiction already vested in it; and in order to prevent an undue accumulation of business in either of the sections provision is made in the act by which the two judges may meet and agree upon a transfer of civil cases from time to time from one section to the other, and thus an equitable division of the work between them is assured. The new law has brought the desired relief to the overburdened section of the court, and meets with the approval of the two judges, the legal profession, and the general public.

The island of Vieques had felt the necessity of a resident municipal court for some time. The municipality formerly belonged to the judicial district of Humacao, and its citizens suffered much inconvenience and delay in having to await the coming of the municipal judge of Humacao, who held sessions of the court in Vieques at intervals of one or two months. Persons accused of offenses, when unable to give bond, were often detained in the local municipal jail to await the session of the court for a period of time not justified by the grade of the offense committed, and the cost of their maintenance was a burden on the tax-paying element of the community.

Vieques is a populous island, and contains much wealth; the good citizens of that locality were therefore entitled to a local court with sufficient jurisdiction and dignity to maintain order and lend security to persons and property. The claims of the people of Vieques were recognized by the legislative assembly, which at its last session passed an act establishing a municipal court for that island. Under the law the judge and other officers of the court are appointed by the governor with the approval of the executive council. The judicial officers in all the other municipal districts are elected by popular vote. An exception was made of the Vieques court because it was believed that a more efficient judiciary could be obtained for the island by removing the court officials from the field of active politics. Vieques in the past had given evidence of disorders during election periods, and its separation from the main island by a channel about fifteen miles in width made it most necessary that the authorities upon whom the obligation rests to maintain order should be free from the influence of local politics.

The municipal court of Vieques was installed on the 1st of July last. The governor and attorney-general were present at its inauguration.

A municipal court was also created for the municipality of Adjuntas at the last session of the assembly. Adjuntas had been attached to Ponce for judicial purposes. This arrangement was found inconvenient for the people of Adjuntas, owing to the long intervals occurring between the sessions of the court. The municipal court of Ponce, by reason of the large amount of business coming before it at the capital of the district, could go to Adjuntas only once every month or six weeks. Adjuntas has quite a large population and is situated far up in the mountains. These considerations impelled the assembly to establish a court there. The justice court at Adjuntas has been abolished, and the jurisdiction formerly exercised by it is now vested in the new court.

Experience has shown that the present system of municipal courts is unsatisfactory. It does not afford the people the speedy judicial remedy to which they are entitled. Many of the municipal judicial

districts include within their respective limits more than one municipality, in each of which the courts are required to hold sessions. The municipal court of Bayamon has a district containing seven municipalities. It is needless to say that this court can hold sessions in the outlying municipalities not oftener than once every two months. In the meantime judicial business is delayed, and the moral effect resulting from the speedy enforcement of criminal laws is lost, and it often happens that when the court does arrive at a municipality to hold a session it finds the witnesses scattered and the evidence against persons accused of offenses hard to obtain. Courts are organized for the purpose of hearing and determining matters of complaint between the commonwealth and those who infringe its laws and to resolve issues between citizens who resort to them for the adjustment of justiciable rights. But these are not the only purposes for which courts are created. Their existence in a community is a guarantee of good order and brings to the citizen the assurance that he is safe in his person and property from unwarranted attack.

A tribunal of the dignity of the municipal court adds to the importance of a municipality by promoting its business interests and enhancing its property values; but under the present system no such advantages are obtained. The sessions of the courts at long intervals, and these only of a day or two duration, have many disadvantages and are without practical benefits. Delay in the dispatch of litigation is the rule, and the various localities are burdened with the maintenance of persons charged with petty offenses held in jail awaiting trial. The uncertainty regarding the time for holding sessions of the courts and the imperfect means of communication in the mountain regions often cause the nonappearance of witnesses and litigants upon the day set for the hearing of cases, and the business pending before the court must either be dismissed or continued. These difficulties could be overcome in a very great measure if each municipality were given a court with a fixed residence. I earnestly advocate the reorganization of the municipal courts on a basis that will provide one court for each municipality. The justice courts might well be abolished and the jurisdiction now exercised by them conferred on the municipal courts. I would suggest the division of the municipal courts into three classes—that is to say, classes 1, 2, and 3. Classes 1 and 2 should be presided over by lawyers, while laymen of intelligence and a fair knowledge of law may be selected for the third class. The expenses of the courts should be met in part out of the insular treasury and in part out of the respective municipal treasuries. Fines, fees, and forfeitures collected by the municipal courts should be covered into the respective municipal treasuries.

But my views regarding the reorganization of the municipal courts require a radical departure from the present method of selecting court officers. Their election by popular vote should be discontinued. They should be appointed by the governor, with the approval of the executive council, to hold their respective offices for a fixed term and subject to removal by the governor for cause.

Judicial officers should be removed from the sphere of politics, that they may be free from the influence of political leaders, and this is especially necessary in Porto Rico, where politics are of such a character that the voters are guided more by the personality of the lead-

ers than by the principles involved in the contest. The judicial officers in 25 districts are now elected by popular vote. Should that method of selecting them be extended to the 66 municipalities, the evils resulting from the present system would be largely increased. One can readily imagine the disturbance to the peace and good order of the island were the court officials in all the municipalities to engage in a struggle for victory in a political turmoil.

The reports from the district courts show an increase in civil business for the fiscal year just ended over that of the preceding year, while the number of criminal cases presented was less than that reported in the latter year.

Sixty-six homicides of all grades were filed in the district courts during the year 1905-6, while only 57 cases were reported for the year just terminated; but the effect of last year's record is neutralized to some extent by the fact that 18 murder cases were recorded during that period and only 10 such cases for the year preceding it.

The homicide cases filed by the district attorneys in the district courts represent practically all of the offenses of that character committed on the island. But three cases of homicides have come to my knowledge in which the perpetrators of the crime have not been discovered. One of these was in the district of Arcibo and the other two in the district of Humacao. That there is so small a number of homicides in which the guilty parties have not been brought to justice is due to the zeal and efficiency of the prosecuting officers and members of the police force. The discovery of crime is not so difficult in communities where means of communication are easy and rapid, but here on this island, with its mountain regions and torrential streams and with few roads affording easy transit, the task of discovering the perpetrators of crime is not an easy one.

Three men were executed for the crime of murder in the first degree during the last fiscal year. Two of the executions took place in the month of February and the other during the month of June. They were the first executions under the penal laws established by the American Government in Porto Rico and, as far as I have been informed, the first legal executions by hanging that have been witnessed on the island. Previously capital punishment under judicial mandate was inflicted by garrote.

#### GOVERNMENT BUILDINGS.

The offices of the central government distributed throughout the island are, in the main, located in rented buildings, and the public moneys expended in the payment of rents is considerable. Insular buildings for the accommodation of the courts and other offices could be erected in many of the municipalities with a saving to the treasury. In some localities the need of such buildings is pressing for the accommodation of the district and municipal courts, the offices of the registrar of property, the tax collector, insular telegraph, and quarters for the police. Their construction would be beneficial to the government, not alone in relieving the treasury from the payment of rents, but in bringing to the insular authorities all the advantages incident to the absolute ownership in the properties.

The growing prosperity of the island has increased the demand for houses for commercial purposes, and this department has encountered

much difficulty in obtaining quarters for the courts and registrars' offices.

I am of the opinion that the erection of public buildings, in some of the municipalities at least, is a matter well worth the consideration of the legislative assembly, and I would respectfully suggest that it be brought to the attention of that body at its next session.

#### CHURCH CASES.

The litigation between the Catholic Church in Porto Rico and the people of Porto Rico, which has been pending in the supreme court since 1904, and in which the church sought recovery of certain properties and moneys from the insular government, was finally determined by the supreme court of Porto Rico in favor of the church. The last of the cases was decided on December 15, 1906. A brief historical review of the question and of the issues involved would not be out of place here.

Immediately after the change of sovereignty, the Catholic Church in Porto Rico presented certain claims to the authorities at Washington wherein it asserted ownership to some pieces of real estate situated in the city of San Juan, basing its claim on the ground that the property belonged to the Dominican and Franciscan friars, and had been unlawfully taken from them by the Spanish authorities in Porto Rico many years ago. The church also demanded the payment of certain moneys claimed to belong to the church, resulting from the collection of censos, which it said the government had unlawfully appropriated to itself. An effort was made by the church to obtain Congressional action in the matter, but without success.

By the act of July 1, 1902, the Congress of the United States ceded to the people of Porto Rico all the public lands and buildings situated in the island not reserved by the President for Federal purposes. By virtue of that act the properties situated in the city of San Juan known as the San Francisco Barracks, the insane asylum, and the ground upon which the city market is situated passed to the people of Porto Rico. Soon after the passage of the act of Congress above mentioned the Catholic Church applied to the insular government for an adjustment of its claims. An effort was made at the legislative session of 1904 to secure the appointment of a legislative committee with power to hear and determine the differences between the people of Porto Rico and the church. The legislature refused to provide for the appointment of the committee; but an act was passed at that same session by which jurisdiction was conferred on the supreme court of Porto Rico to hear and determine all of the points at issue between the church and the insular government, or any municipality of the island.

Not long after the act of the legislature conferring the special jurisdiction on the supreme court was approved the Catholic Church instituted three suits in that court against the people of Porto Rico. One of the suits was for the recovery of some \$80,000 or more of moneys alleged by the church to have been collected from censos by the American military government in Porto Rico, and rightfully belonging to the church. This case was decided in favor of the people of Porto Rico by the court in a majority opinion. No appeal has been taken by the church, and it is my belief that it is satisfied with the decision.

Another suit was for the recovery of the little chapel adjoining the Boys' Charity School in Santurce. This case was predicated upon a resolution of the diputacion provincial, which authorized the Catholic bishop to use the chapel, but upon the express condition that the government reserved the right to enter upon and take possession of the property at will. The resolution contained the declaration that the diputacion provincial could not transfer the title nor the unqualified possession of the property to the church, because the state was the only authority competent to do so. This case was also decided in favor of the people of Porto Rico by the court in a majority opinion. An appeal to the Supreme Court of the United States has been taken by the church.

The other case, and the most important one, involved the San Francisco Barracks, now used as quarters for the insular police and for the high school; the building known as the Dominican Convent, now occupied by the supreme court and the district court of San Juan and by the commissary department of the army, and the grounds upon which are situated the city market, the insane asylum, and the Ballajá Barracks.

The buildings known as the Dominican Convent and the Ballajá Barracks were reserved by the President of the United States for Federal purposes by virtue of the act of July 1, 1902, under which the public lands were ceded to Porto Rico, as I have already stated. The insular government, therefore, had no claim to those two pieces of property, and disclaimer of ownership in them on its behalf was filed in the suit. The Government of the United States was not a party to the suit. In view of that fact, and that the insular government disclaimed any interest in them, the Dominican Convent building and the Ballajá Barracks were eliminated from the case by a decree of the court, and the question as to the true ownership of those properties was left undecided.

The case was decided by the supreme court of the island against the people of Porto Rico and in favor of the Catholic Church by a majority opinion. The decree divested the insular government of the title and possession of the San Francisco Barracks and the grounds upon which are situated the city market and the insane asylum and vested the title to those properties in the Catholic Church; and the court also gave judgment in favor of the church against the people of Porto Rico for the sum of \$20,000 or more of censos money.

Not only was the real estate in question adjudicated to the church, but a rental of 5 per cent per annum for the use and occupancy of the same from the 18th day of October, 1899, until the date of the judgment is allowed to it on the market value of the property involved in the decree.

An appeal has been taken on behalf of the people of Porto Rico in this case to the Supreme Court of the United States, and an appearance has been duly entered and record filed in that court. The brief for the appellant is now being prepared by special counsel for the people. We believe that material errors were committed by the supreme court of Porto Rico to the prejudice of the people of the island on the trial of this case, and a reversal of the judgment is hoped for.

When the act of 1904, conferring jurisdiction on the supreme court in the church matters, was adopted, it became necessary to employ

special counsel to assist this department in conducting the litigation. The attorney-general and his two assistants, owing to the many other duties devolving on them, were unable to give the question the attention its importance requires. In order to arrive at a correct understanding of the issues involved much historical research was necessary, as well as a long and careful examination of old Spanish laws, of royal orders and decrees, and the inspection of voluminous records in the department of the treasury and of the interior. The Hon. Charles Hartzell, formerly secretary of Porto Rico and now a practicing attorney in San Juan, was employed by the governor of Porto Rico to assist the attorney-general in the defense of the island's interests in the controversy. The special counsel is now engaged in preparing briefs on behalf of the people of Porto Rico, to be submitted to the Supreme Court of the United States.

The facts involved in the controversy between the church and the government are mostly of a historical nature and are very interesting.

It appears that in the year 1838 the Franciscan friars were in possession of what is now called the San Francisco Barracks, in San Juan, and a community of Dominican friars were occupying what is now known as the Santo Domingo Convent, in the same city. The properties had been occupied for many years by the two religious communities, who, by common repute, were the owners of them; but in the year 1838 they were forcibly dispossessed of them by the Spanish authorities in Porto Rico, who claimed to act under the "disamortization" laws. An inventory was taken by the civil authorities of all the properties seized by them, including the San Francisco Barracks and the Santo Domingo Convent.

It is claimed by the church that the two religious communities owned the real estate in question, and that the Dominican friars also owned the lands upon which are situated the city market, insane asylum, and Ballaja Barracks under grants from Ponce de Leon, the first governor of Porto Rico. No written evidence of these grants was submitted in the case, and so far as we have been able to ascertain none ever existed. But the church bases its title upon the fact that from time immemorial the properties were recognized by the public as belonging to the two religious communities and that they are mentioned in the inventories made at the time of the dispossession of the friars. These facts, the church asserts, are sufficient to warrant the presumption of the existence of grants from the government to the religious communities. On behalf of the people of Porto Rico it is denied that the title was in the friars at the time of their dispossession.

It is contended on behalf of the people of Porto Rico that the dispossession of the friars was an act of the duly constituted authorities, who acted under the sanction of law; that it took place under the laws of disamortization, which directed the seizure of the properties of the religious orders. This claim of the insular government is denied by the church, which also denies that the laws of disamortization were applicable to Porto Rico or that they had been extended to it.

The properties in question have been in the continuous, undisturbed possession of the civil authorities since the year 1838. There is no evidence in the records that the religious orders or the church ever made any demand on the Spanish authorities in the Peninsula or in



Porto Rico for the property. Nothing seems to have been done until after the change of sovereignty, when the church presented its claims to the authorities at Washington.

In the year 1851 an agreement was entered into between His Holiness the Pope and the Crown of Spain in respect to the properties of which the church and its religious orders had been dispossessed under the laws of disamortization. This agreement is known as the "concordat of 1851," and was supplemented by another in the year 1859. By the terms of these two concordats it is provided that the properties that were taken by the Spanish authorities from the religious communities under the disamortization laws and not alienated by the government should revert back to the religious communities; but inasmuch as it was not expedient to return the possession of the properties to the communities, it was agreed that they should remain with the government, and in lieu of their return the communities were to receive intransmissible bonds of the public debt of Spain, bearing interest at 3 per cent, the capital and interest of the bonds to be distributed among the religious communities in proportion to their needs and circumstances. It is claimed by the church that the concordats extended to the Spanish possessions in America as well as to the Peninsula, and in support of this contention the royal decree of 1852, issued by Queen Isabella II of Spain to the authorities in Cuba, is referred to. That decree declared that the concordats were applicable to Cuba, and it was thereby ordered that the properties of which the religious orders had been dispossessed be sold and the proceeds thereof applied to the use and benefit of the religious orders in Cuba.

The insular government denies that the concordats applied to Porto Rico, or were ever extended to the island, and claims that the very royal decree issued by Queen Isabella II to the Cuban authorities demonstrates their inapplicability to the Spanish possessions in America; for in that decree the Queen declared that the provision of the concordats relating to intransmissible bonds of the public debt of Spain, which were to be delivered to the religious communities, was inapplicable to Cuba by reason of the fact that bonds of the public debt of Spain could not be issued in exchange for properties in the Spanish possessions in America under the terms of the law as it then existed. And it was asserted by the insular government that if a provision of so much importance was not applicable it could not be said that any part of the concordats were made extensive to those possessions. The insular government also supports its contention that the concordats were not applicable to Porto Rico on the ground that since the year 1838 the civil authorities have been in uninterrupted possession of the properties in question, and that no evidence of a protest of any kind on the part of the church to the Spanish authorities was shown at the trial.

The people of Porto Rico also claim the property under the statute of limitation of thirty years. The plea of the statute of limitation is denied by the church on the ground that the latter could not have instituted any suit against the Spanish authorities to recover the properties, because by the terms of the concordats the religious communities could insist on the bonds being issued to them and nothing else.

I have given but a brief statement of the facts and issues involved in the controversy. No argument is made here in favor of the government's theory of the case, and, in my judgment, none would be proper. What has been said is simply with the purpose of presenting the controversy from the view point of the two contending parties. There are some technical questions of jurisdiction and procedure involved in the case, but I have not referred to them, and have limited myself to the merits of the controversy.

#### ADJUSTMENT OF THE BOUNDARIES OF THE NAVAL RESERVATION.

The President of the United States, acting under the authority vested in him by act of Congress of July 1, 1902, reserved a tract of land fronting on the San Antonio Channel in the harbor of San Juan, and extending north beyond the San Juan-Ponce road, and east from the American railroad station, to include 80 acres of public land. A disagreement arose between the Navy Department and the insular government in regard to the boundaries of the tract so reserved by the President. It was claimed by the local authorities that the reservation only embraced a tract of 80 acres, including within the limits of the 80 acres private as well as public lands. The naval authorities, on the other hand, insisted that the intention of the President was to reserve 80 acres of public land, and that the lines of the tract must extend eastward from the railroad station so as to include that much public land.

The question remained in abeyance until the governor of Porto Rico suggested to the Navy Department the advisability of referring the issues to a joint commission consisting of a representative of the Navy Department and one to be appointed by the insular government. The Secretary of the Navy assigned Capt. Samuel C. Lemly, U. S. Navy, retired, to act for the Navy Department, and the attorney-general of Porto Rico was selected by the governor to represent the local authorities.

The commissioners held several conferences in San Juan, and finally arrived at a conclusion which seemed to them to do justice to both sides. In accordance with their instructions, a joint report was made by the commission to the Secretary of the Navy and the governor of Porto Rico of their findings and recommendations. The joint report was approved by both of these authorities.

On the recommendation of the Secretary of the Navy the Congress of the United States passed an act by which the President was authorized to cede to the people of Porto Rico such portions of the naval reservation at San Juan as were not needed for the purposes of the Navy, upon the condition precedent that the insular government would cede to the United States three certain tracts of land described in the act of Congress. The legislative assembly of Porto Rico, on the governor's recommendation, passed an act directing him to convey to the United States the three tracts of land specified in the act of Congress. They were the same which the joint commission recommended for cession by the insular authorities to the National Government. The formal transfer of the parcels of land is now being prepared, and only a few details are lacking to complete the transaction.

The adjustment of the boundaries of the naval station of San Juan is a matter of the utmost importance to the city, and, I may

say, to the entire island. By the settlement the insular government will acquire the title and possession of the San Juan-Ponce highway through Puerta de Tierra, as well as the title and possession to nearly all of the water front along the San Antonio channel. The San Juan-Ponce road is the only highway leading to the main island from the islet on which the city of San Juan is situated, and it is most essential that the title and jurisdiction of this thoroughfare be vested in the local government. The acquisition of the water front along the San Antonio channel will not only afford the port of San Juan greater facilities for the accommodation of its rapidly increasing commerce, but will also allow the insular government to recover from the sea approximately about 100 acres of land by reclaiming the manglares along the channel. The settlement will also bring to the insular government that valuable tract of land lying between the American railroad station and the military corral adjoining the Naval Hospital, thus affording space for the city's growth, this being the only direction in which it could expand, owing to the fact that it is surrounded by water on all sides, except on the east. It is upon part of this tract that the capitol of Porto Rico is to be built.

In return for the concessions to be made by the National Government the insular authorities will convey to the United States three tracts of land, which consist, first, of a parcel of land of 11 acres, including within its limits the powder magazine in Puerta de Tierra; second, the small triangular tract of seven-tenths of an acre lying to the rear of the Naval Hospital in Puerta de Tierra; and third, the penitentiary, or presidio. In respect to the third parcel to be ceded to the United States, I would say that the act of Congress requires the insular government to cede all of that tract of land known as the Puntilla, and the public buildings thereon. However, the Puntilla tract, with the exception of the presidio, had already been reserved by the President in a former proclamation, so that the effect of the cession now about to be made by the insular government will be only to cede the penitentiary, or presidio.

Public lands are not matters that pertain to the department of justice, but as the settlement of the disputed boundary question was referred to the attorney-general under a special commission, I deemed it proper to refer to it here as part of the operations of this office during the last fiscal year.

#### HARBOR LAWS.

During the latter part of the fiscal year 1905-6 an attempt was made by one of the transportation companies to monopolize the harbor facilities at San Juan. The authorities met with considerable difficulty in their efforts to prevent the control of the limited wharfage conveniences in that port. Owing to the absence of adequate legislation on the subject, the local authorities could not effectively police the harbor area and the water front. The executive council had established rules and regulations for the policing of the harbor areas, docks and shores, but the legality of those rules and regulations was very seriously doubted. They were adopted by the executive council under an act of the legislative assembly of Porto Rico by which authority was granted to the council to promulgate harbor rules and regulations; but it was contended, and with much reason,

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that the act in question attempted to delegate legislative power to the executive council, and was therefore invalid. The executive council therefore requested the governor to call a special session of the legislature for the purpose of adopting such legislative measures as would afford ample protection to the business community of San Juan against the aggressions of the transportation companies. Responding to the resolution of the executive council, the governor convened the legislature in extraordinary session on the 5th of July, 1906, and by special message called its attention to the conditions existing in the port of San Juan, and recommended the adoption of suitable legislation to meet the emergency. An act was promptly passed entitled: "An act for the regulation and government of the docks and harbors of Porto Rico." It establishes a system of police laws for the government of the harbors, and especially in respect to the use of docks, shore front, and anchorage, and for the regulation of pilotage. Adequate punishments are prescribed for infractions of the law, and the commissioner of the interior, with the approval of the executive council, is thereby authorized to promulgate rules and regulations to carry out the purposes of the act. The law has had a most beneficial effect, and the shipping facilities are now more effectively under the control of the local authorities than formerly, so that the obstructions to commerce heretofore existing have disappeared in a great measure.

#### CONTRACTS IN RESTRAINT OF TRADE AND MONOPOLIES.

The practice has prevailed in the island among dealers in the necessities of life to combine for the purpose of controlling the prices of those commodities to the detriment of the people, and especially so to that of the peasantry of the island. A most obnoxious feature of the practice was that which existed in some of the municipalities in regard to the sale of meat, which was, in most cases, monopolized by one man, or set of men. Meat was sold at one price during the week days, and at a much higher price on Sundays, notwithstanding the sales of meat on the latter days were usually about three times greater than on the former days, Sunday being the day usually selected by the peasant class on which to come to town to make their weekly purchases of supplies. It was to compel the country people to pay a higher price for their meat than that paid by the town people during the week that this pernicious practice was adopted, and I regret to say that the men engaged in it received encouragement from the municipal authorities in many instances. Thus, the laboring people in the country who, of all others, are less able to afford an increase in the price of the necessaries of life, were forced to pay several cents more for their meat than the rest of the community paid during week days. The legislative assembly at the last session passed an act prohibiting contracts in restraint of trade and monopolies. The act was promptly approved by the governor, and is now the law of the land, and the district attorneys have been instructed by this office to enforce its provisions vigorously. It is to be hoped that the new act will prevent such unlawful combinations in the future. This department will use every effort to bring to justice those who, in defiance of the new law, attempt any such

practices. Several prosecutions are now pending in the district courts, and we hope to obtain the conviction of all the accused parties.

#### LAND LAWS.

In my report to the governor at the end of the fiscal year 1905-6 I recommended a reform in our land laws. The legislature met since then and adjourned without taking any action in the matter. The necessity for a change in the land laws has greatly increased, for the reason that the commerce of Porto Rico is growing rapidly. The record for the past year shows that the island's commerce was more than double that of the best commercial year of the Spanish régime. The prosperity now being enjoyed by these people is beyond anything seen in the history of the island. Land transactions have increased to a very great extent, and I sincerely believe the increase would have been much greater had it not been for the many difficulties that purchasers of real estate encounter in obtaining title deeds and in having them put on record. The system of land laws now prevailing is, in my opinion, cumbersome and expensive and causes unreasonable delays in the adjustment of land transactions. The basis of the wealth of Porto Rico is in its agricultural interests, and of necessity its lands constitute the most important element of its commercial activities. Real estate should be made easily available for all mercantile purposes, and that object can be attained only by providing a simple, effective, and speedy system for the transfer of land titles.

Many complaints have been received at this office of delays of from one to six months occurring in the recording of deeds. An investigation of these complaints has brought forth the uniform replies from the registrars that the delays are due to the excessive amount of business now coming to their offices. In my opinion the registrars are not to blame for the delays; the fault lies in the system. The registrars are required to pass on the sufficiency of every conveyance to real estate that is brought before them to be recorded, and to do so they must test it in the light of all laws affecting the transfer of real estate, whether the transfer be by device, descent, or contract. They do this ordinarily without any aid from the interested parties; they hear no lawyers on either side, and must rely for the determination of the question submitted to them not only on their sound legal judgment, but on their memories as well. It is asking too much of any man to expect him to arrive at a correct decision in all cases under such circumstances. Mistakes must necessarily result from such a system. It is well known among the legal profession that a strong judiciary can only exist in a community where the judges receive the constant aid of an intelligent and painstaking bar, yet under our land system the registrars rely on their own resources in passing on questions of such importance as those affecting the title and possession of real estate. We ought not to expect so much from these men. And the serious part of it all is that the class of property affected by their rulings is that which, above all others, should have every safeguard thrown around it. Holders of real estate should not be subjected to a system that brings uncertainty in regard to their property rights. It is the duty of the government to make land titles as perfect as possible and to give to the people a simple system of land laws.

There are other serious defects in our land system. The procedure for the adjudication of titles to real estate is most unsatisfactory. Two kinds of titles are recognized under the present system; one is called possessory title and the other dominion title. A possessory title is adjudicated to any person who comes before a court of competent jurisdiction and shows that he is a squatter upon the land. Possessory title is, in fact, no title at all; it simply amounts to a record notice that a person is in possession claiming a right to the land.

The best title which can be obtained under the laws of Porto Rico is that called dominion, which is nothing more than a squatter title matured by a certain number of years of actual occupancy of the land with the payment of taxes. Anyone occupying land under these conditions may apply to a court of competent jurisdiction and obtain a decree adjudicating dominion title in the land to him; but the decree vesting the title is not final and conclusive. The title held under it may be attacked collaterally. The decree does not vest title against the government, because the latter is not a party to the proceedings. Thus, a citizen who acquires a dominion title in our courts, the best title which our present laws can afford him, must remain in the uncertainty that comes from the knowledge that his title may be attacked at any time. This should not be, for the effect is most demoralizing on the business interests of the community, which looks to the agricultural values of the island for its chief collateral in commercial transactions.

A change in the land laws is most urgent, and the legislature should not delay action in the matter. The landed interests should be speedily relieved of the embarrassments which surround every effort to make real estate an available commercial asset. A decree vesting title of dominion should be made absolute against the entire world, including the government. By that means the security now so necessary to property rights could be obtained, and anyone securing a dominion title under our laws would then rest in the security that his right to the property had the same protection as that accorded to owners of real estate in all civilized communities. That can not be said of our present system.

In concluding this report, I wish to acknowledge the valuable services rendered to this department and to the public by the district attorneys. They have been earnest, fearless, and efficient at all times in the prosecution of crime and in maintaining order and good government in their respective districts. The spirit of cooperation with each other and with this office which prevails among them adds greatly to the effectiveness of their good work. As chief of the department I am afforded the pleasure of recognizing the loyal support given by them to this office, especially in matters relating to administrative investigations of complaints against officials.

Very respectfully,

FRANK FENILLE,  
*Attorney-General.*

The GOVERNOR OF PORTO RICO,  
*San Juan, P. R.*