

claim the same within nine days of the registration of the sale in the Register and pay the price into court.

SECTION II. PERSONS ENGAGED IN SHIPPING

Chapter II. Masters and skippers of ships

Article 622. A master or skipper must be a Peruvian citizen and capable of concluding a contract in accordance with this Code; he must prove that he possesses the skill, experience and qualifications required to command and navigate a ship as provided in the statutes, orders and regulations relating to shipping or navigation; and he must not be disqualified under any statute, order or regulation as aforesaid from holding the command.

(c) ACT CONCERNING COASTWISE TRADE BY PERUVIAN VESSELS, NO. 6207 OF 14 MAY 1928.¹

Article 1. Coastwise trade along the Peruvian coast shall be reserved solely and exclusively to ships flying the Peruvian flag.

Article 10. This Act shall not operate to benefit foreign ships which merely change their flag; and a ship shall not be a Peruvian ship unless it is owned by Peruvian citizens resident in Peru and unless two-thirds of the officers and crew are Peruvian citizens. A vessel belonging to a company shall not be a Peruvian ship unless three-quarters of the registered capital is Peruvian and the afore-mentioned conditions are satisfied.

(d) ACT CONCERNING THE SALE OF STEAMSHIPS AND SAILING SHIPS USING THE PERUVIAN FLAG, NO. 2761 OF 19 JUNE 1918.²

Sole article. The sale of steamships and sailing ships using the Peruvian flag shall be subject to the previous authorization of the Government, which, after hearing the opinion of the Lima Chamber of Commerce and having regard to the circumstances of the sale and the ship's potential importance for the maritime commerce of Peru, shall grant or withhold permission.

47. Philippines

ADMINISTRATIVE CODE OF 1917, AS REVISED.³

Section 1116. Registration and documentation of vessels. The Bureau of Customs is vested with exclusive authority over the registration and documentation of Philippine vessels. By it shall be kept and preserved the records of registration and of transfers and incumbrances of vessels; and by

¹ Eduardo G. Calderón, *Constitución, Códigos y Leyes del Perú*, 1942, p. 1523. Translation by the Secretariat of the United Nations.

² Eduardo G. Calderón, *Constitución, Códigos y Leyes del Perú*, p. 2569. Translation by the Secretariat of the United Nations.

³ Text of Code provided by the Permanent Delegation of the Philippines.

it shall be issued all certificates, licenses, or other documents incident to registration and documentation, or otherwise requisite for Philippine vessels.

Section 1167. Vessels required to be registered. Every vessel of more than three tons gross used in Philippine waters, not being a transient of foreign register, shall be registered in the Bureau of Customs. To this end it shall be the duty of the master, owner, or agent of every such vessel to make application to the proper collector of customs for the registration thereof within fifteen days after the vessel becomes subject to such registration.

Section. 1168. Where registration to be effected. The registration of a vessel shall be effected at its home port, being a port of entry, or at the port of entry of the district of the vessel's home port.

Section 1169. Exemption of small boats. A vessel of three tons gross or less shall not be registered, unless the owner shall so desire, nor shall documents or licenses of any kind be required for such vessel, but the proper fee shall be charged for admeasurement, when admeasurement is necessary.

Section 1170. Data to be noted in register of vessels. In the register of vessels, to be kept at each port of entry, the following facts concerning each vessel there registered shall be noted in such form and detail as the Commissioner shall prescribe:

- (a) Name of vessel;
- (b) Rig of vessel;
- (c) Material of hull;
- (d) Principal dimensions;
- (e) Gross tonnage;
- (f) Net tonnage;
- (g) Where built;
- (h) Year when built;
- (i) Name, citizenship, nationality, and residence of owner;
- (j) Date of issuance of certificate of Philippine register;
- (k) Any material change of condition in respect to any of the preceding items;
- (l) Any other fact required to be there noted by the regulations of the Bureau of Customs.

Section 1171. Record of documents affecting title. In the record of transfers and incumbrances of vessels, to be kept at each principal port of entry, shall be recorded at length all transfers, bills of sale, mortgages, liens, or other documents which evidence ownerships or directly or indirectly affect the title of registered vessels, and therein shall be recorded all receipts, certificates, or acknowledgments cancelling or satisfying, in whole or in part, any such obligations. No other record of any such document or paper shall be required than such as is affected hereunder.

Section 1172. Certificate of Philippine register. Upon registration of a vessel of domestic ownership, and of more than fifteen tons gross, a certificate of Philippine register shall be issued for it. If the vessel is of domestic ownership and of fifteen tons gross or less, the taking of the certificate of Philippine register shall be optional with the owner.

"Domestic ownership", as used in this section, means ownership vested in some one or more of the following classes of persons: (a) Citizens of the Philippines; (b) citizens of the United States residing in the Philippines; (c) any corporation or company composed wholly of citizens of the

United States or of the Philippines, or of both, created under the laws of the United States, or of any State thereof, or of the Philippines, provided some duly authorized officer thereof, or the agent, master, or administrator of the vessel resides in the Philippines; *(d)* any corporation or company created under the laws of the United States, or of any State thereof, or of the Philippines, duly authorized to engage in business in the Philippines, provided seventy-five per centum at least of the capital stock thereof or of any interest in said capital is wholly owned by citizens of the Philippines, or of the United States, or of both, and provided some duly authorized officer thereof, or the agent, master, or administrator of the vessel resides in the Philippines; *(e)* any corporation or company created under the laws of the United States, or of any State thereof, or of the Philippines, provided some duly authorized officer thereof, or the agent, master or administrator of the vessel resides in the Philippines: Provided, That the certificate of Philippine register issued to a vessel because the owner thereof comes under the provisions of this subsection *(e)*, shall extend to the vessel the privilege of engaging only in the foreign or high sea commerce, but not in the Philippine coastwise trade.

Any vessel of more than fifteen tons gross which on February eight, nineteen hundred and eighteen, had a certificate of Philippine register under existing law, shall likewise be deemed a vessel of domestic ownership so long as there shall not be any change in the ownership nor any transfer of stock of the companies or corporations owning such vessel to persons who are not citizens of the Philippines or of the United States, and if any such vessel should have been, during this year, or should be hereafter, totally lost through shipwreck, collision or any other marine disaster, while being lawfully operated under the provisions hereof, it may be replaced with another vessel of the same or lesser tonnage by the same person, company, or corporation owning and operating same by virtue of this section, under such terms and conditions as may be prescribed by the Commissioner of Customs consistent with public policy and with the view of its utility for Government service in case of war or any public emergency.

Under the terms of this Act, no corporation, firm or company shall be considered as of domestic ownership for the coastwise trade unless the president or managing directors thereof are citizens of the United States or of the Philippines: Provided, however, That in the case of a corporation, association, firm or company operating any vessel in the coastwise trade, the controlling interest or capital stock held by citizens of the United States or of the Philippines, or both, shall be seventy-five per centum of the capital investment in the same: Provided, further, That the controlling interest in the corporation shall not be considered as held by citizens of the United States or of the Philippines: *(a)* If the majority of the stock is not held by such citizens and such stock is not subject to any trust or fiduciary obligation in favor of any person not a citizen of the United States or of the Philippines; *(b)* if the majority of the votes in said corporation is not in the hands of citizens of the United States or of the Philippines; *(c)* if by means of a contract or agreement, it has been so arranged that the majority of the stock can be voted directly or indirectly in favor of any person not a citizen of the United States or of the Philippines; *(d)* if by any other means, the control of the corporation is conferred upon or allowed to be exercised by any person not a citizen of the United States or of the Philippines.

It shall not be considered that seventy-five per centum of the interest in a corporation are held by citizens of the United States or of the Philippines: (a) If the certificates of seventy-five per centum of the capital stock are not held by such citizens and such certificates are not subject to some or other fiduciary obligation in favor of a person not a citizen of the United States or of the Philippines; (b) if seventy-five per centum of the votes of said corporation are not in the hands of citizens of the United States or of the Philippines; (c) if by means of some contract or agreement it has been so arranged that over twenty-five per centum of the stock in such corporation or company can be voted directly or indirectly in favor of any person not a citizen of the United States or of the Philippines; (d) if by any other means, the control of any interest in the corporation in excess of twenty-five per centum has been conferred upon or is allowed to be exercised by any person not a citizen of the United States or of the Philippines.

The provisions of this Act shall be applicable to the administrator and trustees of all persons coming under the provisions of this Act and to the successors or assigns of such persons.

Section 1174. Form and recitals of certificate of Philippine register. The certificate of Philippine register shall be in such form as shall be prescribed by the Commissioner, and it shall show that the vessel is engaged in legitimate trade and is entitled to the protection and flag of the United States.

Section 1175. Privileges conferred by certificate of Philippine register. A certificate of Philippine register confers upon the vessel the right to engage, consistently with law, in the Philippine coastwise trade and entitles it to the protection of the authorities and the flag of the United States in all ports and on the high seas, and at the same time secures to it the same privileges and subjects it to the same disabilities as, under the laws of the United States, pertain to foreign-built vessels transferred abroad to citizens of the United States.

Section 1176. Investigation into character of vessel. No application for a certificate of Philippine register shall be approved until the Collector of Customs is satisfied from an inspection of the vessel that it is engaged or destined to be engaged in legitimate trade and that it is of domestic ownership as such ownership is defined in section eleven hundred and seventy-two of this Code.

A Collector may at any time inspect a vessel or examine its owner, master, crew, or passenger in order to ascertain whether the vessel is engaged in legitimate trade and is entitled to have or retain the certificate of Philippine register.

The Collector of Customs may at any time make an administrative investigation as to the ownership or title of any vessel engaged in the coastwise trade and whether such title or ownership is in accordance with the requirements of this Act; and any vessel chartered, sold, transferred, or mortgaged to any person not a citizen of the United States or the Philippines without previous permission of the Commissioner of Customs, or put under foreign register or flag without such permission, or operated in violation of any of the provisions of this Act, shall be seized by the Government of the Republic of the Philippines; and any person, corporation, company, or association violating any of the provisions of this Act shall be guilty of a misdemeanor and be punished by a fine of not more than

five thousand pesos or imprisonment for not more than five years, or both: Provided, That in the event the person guilty of such violation is a corporation, company or association, the manager or, in his default, the president thereof shall be criminally responsible for such violation.

Section 1176 1/4 License of yachts exclusively for pleasure. The Commissioner of Customs may license yachts used and employed exclusively as pleasure vessels owned by Filipino or American citizens, on terms which will authorize them to proceed from port to port of the Philippines and to foreign ports without entering or clearing at the customhouse: Provided, however, That any yacht so licensed, upon arriving from a foreign port in the Philippines after having previously advised the Commissioner of Customs by telegraph of its probable arrival, shall enter at a port of entry in the Philippines and shall immediately report its arrival to the Customs authorities. Such license shall be in such form as the Commissioner of Customs may prescribe. Such vessels shall have their name and port of registration placed on some conspicuous portion of their hulls. Such vessels shall in all respects be subject to the laws of the Philippines, and shall be liable to seizure and forfeiture for any violation of these provisions.

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Section 1178. Application of shipping laws to Government boats. Vessels owned or operated by the Government shall not be subject to the requirement of this chapter relative to registration and navigation except in so far as prescribed in the regulations of the Bureau of Customs.

Section 1179. Revocation of certificate. When it shall appear to the Commissioner that any certificate of Philippine register or certificate of ownership was illegally or improperly issued, he may cancel the same.

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Section 1202. Limiting number of foreign personnel on board vessels. No Philippine vessel operating in the coastwise trade or on the high seas shall be permitted to have on board more than one master or one mate and one engineer who are not citizens of the United States or of the Philippines, but the master, mate or engineer so employed must hold a license under section one thousand one hundred and ninety-nine hereof. No other person who is not a citizen of the United States or of the Philippines shall be an officer or a member of the crew of such vessel. Any such vessel which fails to comply with the terms of this section shall be required to pay an additional tonnage tax of fifty centavos per net ton per month during the continuance of said failure: Provided, That a vessel registered under section eleven hundred and seventy-two of this Code operating on the high seas and not engaged in the coastwise trade may employ foreign seamen as members of its crew except watch and engine-room officers; And provided, further, That nothing herein contained shall be construed as revoking or modifying any of the existing provisions of the Acts of the United States Congress regulating immigration.

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