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HABANA CLEARING HOUSE

(Translation)

LAW

Relating to

Contracts of Crop Advancement,
Cane Planting and
Cane Grinding

(Gaceta, March 6 1922)

HABANA

Imp. La Moderna Poesía, Obispo 135

1922

HABANA CLEARING HOUSE

DEPARTMENT OF JUSTICE

I, ALFREDO ZAYAS Y ALFONSO, President
of the Republic of Cuba,

DO HEREBY MAKE KNOWN: That the
Congress has passed and I have sanctioned
the following—

LAW.

**Contracts of Crop Advancement, Cane
Planting and Cane Grinding.**

CHAPTER FIRST

Contracts of Crop Advancement.

ARTICLE I.—A Contract of Crop Advance-
ment is one under which the owner, holder
usufructuary, lessee or planter of a rural estate
or portion thereof, encumbers the fruits or
products of the same, with reference to such
years or crops as may be specified, to secure
payment of the amounts which he may
receive by way of loan, interest thereon or
other liabilities, whether stipulated or legal, to

the end of applying the sums so advanced towards the expense of administration, maintenance, cultivation, exploitation, improvement, building, installation of machinery, or other objects tending to the betterment of the premises.

ARTICLE II.—Any lack of compliance by the debtor in regard to the application which is to be given to the proceeds of the loan, shall in no wise prejudice the rights or preferences given to creditors under this law.

ARTICLE III.—The term for which any crop advancement contract may be made, shall conform to the following rules:

(a) If the debtor for such advancements shall be the owner, possessor or usufructuary of the premises, he shall not encumber the fruits or products for a longer term than three years or three crops.

(b) If the debtor shall be the lessee or planter (colono), he may only encumber the same for the time of duration of the lease or planter's contract.

(c) In case of the extinguishment, without consent of the lessee or planter, of the lease or planter's contract, the encumbrance of the fruits or products shall likewise become extinguished from the same date.

CHAPTER SECOND

Cane Planting Contracts (Contrato de Colonato).

ARTICLE IV.—A Cane Planting Contract is

one under which a given person, called the planter (colono), acquires from the owner, possessor, usufructuary or lessee of a rural estate, or any part thereof, the right to plant cane thereon, taking over to himself the stubs or plants and fruits derived therefrom during a stipulated period, for such consideration as may in money or sugar be agreed.

ARTICLE V.—In case a cane planting contract shall be effected in consequence of any lease, such contract shall be null as to any and all time that the same may exceed the leasehold period, and it shall likewise cease upon the determination of such lease for any cause other than the consent of the lessee.

ARTICLE VI.—By virtue of the cane planting contract, the stubs or plants and cane become separate and independent from the ownership and all other real rights in the estate, for the time of duration thereof.

CHAPTER THIRD

Contracts of Cane Grinding.

ARTICLE VII.—A Contract of Cane Grinding is one by virtue of which the person or party representing a mill (ingenio) for the making of sugar, on the one hand, and the owner, possessor, usufructuary, lessee or planter (colono) of farms or lands on the other, obligate themselves mutually for delivery by the latter of sugar cane belonging to him and the grinding thereof by the former in his sugar mill, during such term as may be stipulated,

against the payment in quarters (arrobas) of sugar at the rate of so many quarters of sugar for each one hundred of cane, or the equivalent of such sugar in money, at such quotations on determined dates as may be stipulated, and subject to such other lawful agreements as may be set forth.

ARTICLE VIII.—Whenever the party obligated to the delivery of cane shall hold the land by virtue of any lease, the contract for cane grinding shall be null as to all excess of time over that allowed for the temporary use of such land by the former under his contract of rental, and the cane grinding contract shall terminate upon the cessation of the lease through any cause apart from the will of the lessee.

CHAPTER FOURTH

General Provisions.

ARTICLE IX.—Should the debtor under any contract of crop advancement fail to comply with any obligation, the lack of performance of which might deprive him of the enjoyment of lands the fruits of which are encumbered, the crop advancement creditor may fulfil such obligation, the value of which, in addition to such proper expense as may be shown to have been incurred, shall be added to the amount of his original credit, and the security of the fruits shall be likewise extended to such additional amount.

ARTICLE X.—The same right will corres-

pond to a planter by virtue of his contract for cane planting, in the event that the possessor under a temporary title to the lands which are the subject of his contract shall fail to perform any obligations in consequence whereof he may be deprived of the use and enjoyment of the same. In such a case, whatever the planter may pay out for account of such possessor, plus the proper expenses which may be shown to have been incurred, may be recovered by him at the time of the next cane liquidation.

ARTICLE XI.—The same right shall appertain to a sugar mill under a cane grinding contract, in case of non-fulfilment of obligations which may deprive the party obligated to deliver cane of the use of the lands. In such case the mill may, at the time of the next cane liquidation, discount the amount so paid out, plus proper expenses which may be shown to have been incurred by it.

ARTICLE XII.—In case the debtor under a crop advancement contract shall dispose of the fruits given by way of security, or there is reasonable ground to believe that the same is being done to defraud a crop advancement creditor, or where there is neglect in the cane cultivation, such creditor may apply to the proper Court of First Instance, and on establishing the particulars on the evidence of witnesses may obtain a judicial intervention for the care, harvest and sale of the fruits encumbered. The Court will apply to such proceedings the provisions of Section Second, Title XIV, Book Second, of the Law of Civil Procedure.

ARTICLE XIII.—All claims which may be established by a crop advancement creditor shall be entered in the Registry of Property wherein the relative contract may have been inscribed, in case he shall apply therefor at the time of entering suit.

ARTICLE XIV.—In all dispossess proceedings brought for non-fulfilment of any of the obligations of a lease, a certificate of the Registry of Property shall be produced in which the existence or otherwise of one of the contracts established by this Law must be shown, without which certification the suit shall not be entertained. If any such contract or contracts appear in said certificate, the Judge, without suspending such dispossess proceedings, shall summons the parties appearing in the contracts so recorded in order that they may avail themselves of the rights afforded them by Articles IX, X and XI of this Law, before rendering judgment. A performance by the crop advancement creditor of the obligations to be fulfilled will prevent a dispossess judgment.

ARTICLE XV.—Whenever the price in a cane grinding contract shall be stipulated in sugar, the mill shall mark once a week, with such signs as may have been agreed, the bags of sugar corresponding to the party delivering the cane, in proportion to the amount ground during that time, and the mill shall not dispose of the said sacks, of which it shall be deemed depositary, without prejudice to its right to retain them in case it should be a creditor of

the owner of the said sugar for advancements with reference to the crop in question.

CHAPTER FIFTH

Forms of Agreement.

ARTICLE XVI.—Contracts of crop advancement, cane planting and cane grinding, may be made in any of the following forms:

(a) By document before a Notary Public.

(b) By document under intervention of a Notarial-Commercial Broker, in contracts of crop advancement only.

(c) By private document, where the signatures are authenticated by a Notary Public or a Commercial Notary, the latter in contracts of crop advancement only.

(d) The said contracts are transmissible by endorsement, with the simple formality of authentication of the signatures.

In all cases where Notaries Public or Commercial Notaries legalize such contracts or authenticate the same with their signatures, they shall be obliged to report them to the General Direction of Registries, pursuant to the requirements of existing Notarial legislation.

ARTICLE XVII.—Notaries will be entitled to receive the following fees:

For contracts of crop advancement, in loans not exceeding one thousand dollars, for the original and one copy.	\$10.00
Un to ten thousand dollars	25.00

Up to fifty thousand dollars	50.00
From fifty thousand dollar upwards	75.00
For authentication of all signatures in crop advancement loans not ex- ceeding one thousand dollars	5.00
In crop advancement loans exceeding one thousand dollars	7.50

In contracts of cane planting (colonato) and cane grinding, for the original and one copy, five dollars for each year of duration of the contract.

For other copies or transfers of such contracts, they will receive twenty-five per cent of such fees.

ARTICLE XVIII.—In the case of copies of documents executed before Notaries Public or Commercial Notaries as well as of private documents, the parties shall affix the corresponding National Revenue Stamps.

ARTICLE XIX.—Any Notary or Registrar respectively who shall collect fees in excess of those herein prescribed shall be guilty of the crime of extortion.

ARTICLE XX.—Every contract of crop advancement shall be subject to a tax of twenty cents for each one hundred dollars, the same to be liquidated and satisfied in the corresponding revenue office, and for cancellations, ten cents for each one hundred dollars. Contracts of cane planting and cane grinding will pay a tax of one dollar per each year of duration thereof.

CHAPTER SIXTH

Inscription of Contracts of Crop Advancement, Cane Planting and Cane Grinding.

ARTICLE XXI.—All contracts of crop advancement, cane planting and cane grinding shall be inscribable in the Registries of Property, subject to the provisions of the Mortgage Law and its Regulations in so far as the same are not modified by this Law.

ARTICLE XXII.—In the Registries of Property no classification shall be made with respect to such contracts, other than the following:

In Crop Advancements.

(1) Whether the debtor is owner, usufructuary, possessor or lessee of the estate or lands on which the encumbered fruits are to be cultivated, according to the titles which he may present.

(2) Whether the term of the encumbrance is within the period of provisional use by the debtor of the estate or lands in question.

In Cane Planting.

(1) Whether the party assigning the land according to the title presented is the owner, possessor, usufructuary or lessee of the same.

(2) Whether the term of cane planting (colonato) is within the time prescribed for provisional use of the lands by the party.

In Cane Grinding.

(1) Whether the person or party in question is the representative of the sugar mill.

(2) Whether the party obligating himself to deliver cane holds the use of the lands for the term of duration of the contract.

On the concurrence of these two requisites and without the establishment or examination of any other fact or information, the inscription shall be effected, without requiring the prior inscription of the estate (*finca*) or title papers of the party.

ARTICLE XXIII.—From the classification made by the Registrar, and without prejudice to judicial recourse, a governmental appeal will lie, in single resort, to the Government Chamber of the Supreme Court. This appeal will be taken cognizance of by the Judge who is assigned to the respective registry, who shall limit himself to furthering the proceeding and addressing an order to the Registrar on the same day that the writ of appeal is presented, requiring him to place a note at the margin of the entry of presentation of the respective title paper, if in force, as to taking of the appeal, and requesting him at the same time to report within five legal days, which the Registrar shall do, subject to a fine of from five to twenty-five dollars for each day which may elapse thereafter without rendering such report, without prejudice to further correction whenever the circumstances of the case or a repetition of the offense may warrant.

The same day on which the Judge receives the report of the Registrar he shall forward it with a Statement of what has been done to the President of the Supreme Court direct. The Government Chamber will decide the appeal within five legal days from that on which it is received and will communicate the decision, without delay, to the delegated Judge for execution thereof.

The effect of the entry of presentation will be understood to be postponed by reason of the marginal note referred to in the foregoing paragraph, until performance of the decision rendered under the appeal.

Whenever the denial of a Registrar is overruled, costs will be awarded against him according to the judgment of the upper Court, and a term not longer than eight days will be granted in which for him to effect the operation refused by him, which he shall perform without collecting any fees whatever therefor, and immediately report such performance to the authority rendering the resolution.

ARTICLE XXIV.—Registrars will be entitled to receive for the inscription of contracts of crop advancement, cane planting and cane grinding, the same fees as are prescribed for Notaries for the execution of similar contracts.

For cancellations not proceeding from authority, preventive annotations or certifications, they shall receive twenty-five per cent of such fees.

ARTICLE XXV.—Claims for crop advancements shall have preference of collection over

claims of every other nature whatsoever, not previously inscribed, except the following:

(1) Those in favor of the State, Province or Municipality for taxes of the previous year which may be due and unpaid, to which the premises the fruits of which are encumbered are liable.

(2) The amount of rent for the previous year which may be due and unpaid, with reference to the said premises.

(3) The amount of salaries or wages earned by workmen during fifteen days previously.

ARTICLE XXVI.—Entries in the Registry relating to contracts of crop advancement shall be cancelled:

(1) At the instance of the parties prescribed therein, with the same formalities as in the case of their execution.

(2) By judicial mandate.

(3) By the extinction of the rights of the debtor with reference to the lands on which the fruits are grown, provided such extinction is not dependent on the will of the said debtor.

(4) By payment of the loan, duly established.

(5) By reason of the lapse of sixty days after maturity of the loan. This cancellation shall be made without request, and will only be omitted where before the expiration of such sixty days, an extension of the contract may be presented for inscription, or a preventive annotation entered of a suit brought by the creditor.

(6) Through application of the provisions of the Mortgage Law.

ARTICLE XXVII.—The inscription of contracts of cane planting and cane grinding shall produce the following effects:

(a) To oblige the new owner, possessor, holder or other party acquiring title under any form to a sugar mill, plantation or lands whatsoever, to respect such contracts in their entirety.

(b) To give the planters or owners of cane a prior right over other claims not inscribed previously, except those which are privileged and set forth under Article XXV, for the collection of the amount of sugar or money which may have been stipulated in such contracts.

ARTICLE XXVIII.—Entries in the Registry with reference to contracts of cane planting and cane grinding shall be cancelled:

(1) At the instance of the parties therein prescribed, under the same formalities as in the case of their execution.

(2) By judicial mandate.

(3) By the extinction of a lease without consent of the lessee, in case the existence of cane planting (colonato) or cane grinding relations is dependent on the duration of such lease.

(4) By lapsing of the term prescribed in such contracts. This cancellation shall be made without request, and shall only be omitted where, before the expiration of the said term, an extension of the contract may be presented

for inscription or a judicial claim is noted preventively with reference to the same.

CHAPTER SEVENTH

Mortgage Law Amendments.

ARTICLE XXIX.—Subdivision One of Article One Hundred and Eight of the Mortgage Law shall be understood to read as follows:

It shall not be permitted to mortgage:

The fruits or profits appendant to land separately from the soil which produces them, without prejudice to the right of encumbering the said fruits as security for credit advancements in accordance with the special law applicable to such contracts.

ARTICLE XXX.—Article One Hundred and Ten of the Mortgage Law shall have appended thereto a paragraph reading as follows:

The case is excepted where the mortgaged property is already subject to a contract of crop advancement, in which event the fruits standing at the time of collecting the mortgage shall not be liable for the same.

ARTICLE XXXI.—Subdivision Three of Article One Hundred and Eleven of the Mortgage Law shall be made to read as follows:

The fruits which at the time fixed for payment of the mortgage are still appended to trees or plants or have been already gathered; but not such as have been taken away or stored, except where they stand subject to a crop advancement contract in accordance with what is provided in Article One Hundred and Ten.

ARTICLE XXXII.—Subdivision Five of Article Two of the Mortgage Law shall be understood to read as follows:

Contracts of lease of real property for a longer term than one year, or where, in those not coming under this designation, the parties may have expressly agreed to inscribe them.

Transitory Provisions.

First.—Contracts of crop advancement, cane planting or cane grinding, executed prior to this present Law, may be inscribed in case they have satisfied or shall comply with the formalities required hereunder as to execution, provided such inscription is requested within sixty days after this present law goes into effect.

Second.—Contracts inscribed in accordance with the foregoing provision shall not be entitled to preference as between them by reason of the dates of their presentation at the Registries, but they will have preference over those which are not inscribed in pursuance of the provision aforesaid.

Wherefore I order that the present Law be executed and complied with in all its parts.

Issued at the Palace of the President, in

Havana, March second, one thousand nine hundred and twenty-two.

ALFREDO ZAYAS.

(s.) *Erasmus Regüeiferos,*
Secretary of Justice.

(Gaceta, March 6, 1922).

A correct translation:
W. H. MORALES, Manager,
Habana Clearing House,
Havana.

