1910 – 1929

892.6171 Siam: Tree: Forestry

1.

~~892.6172~~ Siam: Tree: Lumbering

+

1910 – 1929

892.5211 Lands: Rights of national of Siam to hold or acquire real property in the US.

No.	Org.
1	14
2	
16	

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E.O. 12065, Section 6-102
By AI NARS, Date 2-21-96

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SOLICITOR'S OFFICE
DEC 16 1921
DEPARTMENT OF STATE

LEGATION OF THE
UNITED STATES OF AMERICA,

Bangkok, October 28, 1921.

Serial No. -167-

DIVISION OF
FAR EASTERN AFFAIRS,
DEC 14 1921
Department of State.

Quadruplicate
1/4/22 Jan-6
File 93

~~CONFIDENTIAL~~.

File 93K 11

INDEX BUREAU
FILED
JUN 23 1923

To the Honorable

The Secretary of State,

Washington, D.C.

Sir:-

I have the honor to enquire whether it is the understanding of the Department that within the provisions of the Treaty of December 16, 1920, the right of owning land in Siam obtains for American citizens and American corporations.

I would state that from the date of ratification of the Treaty by the American Government enquiries have continuously been received at the Legation as to the rights, if any, of American citizens to own land. Such requests for information were quite apart from any questions of title to Missionary properties.

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In the past, however, Mr. Hunt did not deem it to be within his province to express any opinion in this regard, prior to the exchange of ratifications of the Treaty and without a clear lead from the Department in the matter.

Following upon the entering into effect of the Treaty, Dr. Eldon R. James, Adviser in Foreign Affairs to the Siamese Government, approached the Legation and requested a definition of Mr. Hunt's views as regards land-ownership. Dr. James stated frankly that the exact position under the Treaty was to him an unknown quantity, and accordingly he preferred that an expression of official American opinion should be made. It did not appear that the Minister for Foreign Affairs would assume an attitude hostile to the American viewpoint. Mr. Hunt indicated at that time his reluctance to take action of any character without instructions from the Department, adding his belief that such instructions would no doubt be received at an early date.

More recently, the opinion of the Legation has again been sought by Dr. James, and I desire therefore to explain the situation in detail. Dr James prefers that the issue of land-ownership be disposed of completely in advance, before there shall have arisen any cases of doubtful status tending to complicate a solution of the difficulty. With such a view I am in full accord, insofar as no attempt is made to rush the matter too hastily to a conclusion, offending thereby the susceptibilities of the Siamese. I do not consider it probable that the question of American land tenure will involve considerations of a diplomatic nature in the immediate future: it is assumedly possible that Dr. T. Heyward Hays may intentionally bring

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the subject to the fore by attempting direct purchase, but there has not so far been notification of such intention conveyed to the Legation.

Mortgage rights, however, raise the question in an indirect way. It has been in Siam the practice when establishing inland branches of a commercial enterprise to place the provincial store-keeper under bond, to take over his insurance policy, or even to assume mortgage rights over his property. Such has been the procedure followed here by many firmly-established British corporations. The assistance of the Legation has now been sought by representatives both of the Standard Oil Company of New York and of the Vacuum Oil Company, who have intimated to me a desire to take over mortgage rights upon the real property of their agents, up-country. It has been made clear to me that the assumption of mortgages is a necessary corollary to the trade activities of these firms.

The BANGKOK TIMES devoted an editorial to the land question upon the twenty-second instant, copy of 1/ of which is enclosed, herewith, and I was constrained by it to mention the subject casually in the course of a long conversation, during that evening, with the Minister for Foreign Affairs. In accordance with my expectations, Prince Devawongse avoided any expression of opinion upon the general subject, beyond agreeing with my observation that it appeared inopportune to raise the issue directly at this time. I enquired, however, whether it was in any degree likely that objection would be seen by the Siamese Government to the assumption by American citizens, or by American corporations, of mortgage rights in the provinces,

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provinces, insofar as such procedure was -

"incident to or necessary for trade",

within the context of Article I., of the Treaty of December 16, 1920. Prince Devawongse indicated his belief to the contrary. I have accordingly notified to the representatives of these American corporations this expression of official opinion.

Such then is the situation. Americans resident in Siam are as a unit anxious that the right to own land shall be definitely established without delay. It has been expressed to me that American trade expansion is impossible without the existence of the right absolutely to possess real property, whenever in the provinces commercial competition makes this desirable. Moreover, the Siamese are in a receptive mood and the official atmosphere appears genuinely pro-American. It would therefore seem possible to obtain the right of land ownership in this country, without reference to controversial phases of the California land legislation. Siamese interests in American are too small to render an arrangement of this character unfairly unilateral.

I venture respectfully to suggest, for the Department's consideration, that the Legation be instructed to propose to the Siamese Government an exchange of notes, ensuring to American citizens, and to American corporations, the right to own land in Siam, wherever it is -

"incident to or necessary for trade",

within the meaning of Article I., referred to above. Whether in any particular case the ownership were actually incident to or necessary for trade, might in that intance form the subject of diplomatic discussion between

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the Legation and the Foreign Office; otherwise, the right would generally obtain. I believe such a proposal would meet with the approval of Dr. James, and would secure his advocacy to the Siamese Government.

I do not anticipate any obstacles in the way of securing these assurances, but it would be best to face the situation squarely. Prince Devawongse has come to realize, during his long tenure of Cabinet rank, that Siamese independence is to a large degree dependent upon Siam's ability to avoid antagonizing any of the Great Powers. Consequently, in his attitude towards America and things American, as, for example, even the Washington Conference, he is exceedingly cautious to refrain from opposing Japanese interests. I have no doubt that my Japanese Colleague has reported to his Government the difficult status as regards American land ownership in Siam. Whether or not in the future Siam might perhaps prove unwilling to accord rights to Americans without reciprocal privileges, it is difficult to say. I indicate it merely as a possibility, which at present seems remote.

It is a curious commentary upon the foregoing that the majority of the British membership in the business community in Bangkok hold the belief firmly that Americans have been assured rights of land-ownership through an unpublished understanding with the Siamese Government, or possibly by a secret protocol. Indeed, this opinion was expressed to the Legation, only yesterday, by a member of the leading firm of Solicitors.
I have accordingly indicated marginally a pertinent passage in The BANGKOK TIMES article, of above date.

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I have the honor to be, Sir,

Your obedient servant,

Curtis Williams

Enclosure:-

Article from THE BANGKOK TIMES
"The American Treaty"
of October 22, 1921.

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Enclosure No.-1-in Despatch No.-167-dated October 28, 1921.

COPY

THE BANGKOK TIMES

Bangkok, Siam,

October 22, 1921.

Subject: THE AMERICAN TREATY.

Everyone who owns any landed property here trusts that in due course a definite public statement will be made as to how the hard cases created by the American Treaty have been dealt with. One assumes that when that Treaty was ratified several American citizens owned land in this country, and certainly the Treaty provides a deadly "short way" of dealing with them. The British Treaty continues in full force all the provisions of former treaties and agreements that are not specifically modified or abrogated by the new Treaty. Under Article XVI. of the American Treaty all the previous treaties and agreements and all arrangements subsidiary thereto ceased to be binding on the 1st September last, the day when the ratifications were exchanged. That is to say, Article IV of the Treaty of 1856, under which Americans have hitherto been entitled to own land in this country, was definitely abrogated on that day. From that day Americans have had liberty to own and occupy houses and shops, and to lease land. Nothing more. There appears not the smallest locus standi here for American land-owners either past or future, for even the shadowy possibility that to own a shop or a house may imply ownership of the land on which it stands, vanishes before the clear opposition and contrast deliberately set up in the text,

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text, and the fact that it is by no means unknown in Siam for the lessee of land to be the owner of buildings, e. g., houses, shops, rice-mills, &c., erected upon it. In fact, if words are to have their plain and natural meaning the title to all land owned by American citizens lapsed to the Siamese State on the 1st of last month. That seems to create such monstrously hard cases that one wonders if there may not be a protocol in existence dealing with them, which has not been made public. The writer is not an American property owner, but the question is not prompted merely by idle curiosity. Anything that modifies the rights of some owners is of possible importance to all. If these hard cases do not form part of the settlement arrived at in Washington, the way out of the difficultly may not be easy. On the face of it the refusal to grant American citizens liberty to own land in Siam was inserted, not by the wish of Siam, but by the wish of America, and for a reason that is evident to everyone. However the terms of the Treaty may be interpreted, then, there must be reciprocity. Now, it is evidence that America is not going to create a precedent by granting a hypothetical Siamese the right to own land in the States; and if that be so, land-owning is barred to the actual American here also. The American Government may be prepared to compensate its own citizens, of course, but few people would put that amount of faith in any Government. It would lessen the injustice, however, if the owners of the lands in question were given a definite period of time, say a year, in which to sell their property. That is certainly more than the Treaty concedes, but at least the Secretary of State should have no hesitation in making the same concession to all hypothetical Siamese owners of land in America.

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January 11, 1922.

Curtis C. Williams, Esquire,

American Chargé d'Affaires ad interim,

Bangkok.

Sir:

In your confidential despatch No. 167 of October 28, 1921, you ask whether it is the Department's understanding that, under the provisions of the Treaty of December 16, 1920, between the United States and Siam, American citizens and corporations have the right to own land in Siam. You enclose a copy of an editorial published in the BANGKOK TIMES of October 22, 1921, in which the opinion is expressed that the title to all land owned by American citizens "lapsed to the Siamese State" upon the coming into force of the Treaty. You suggest that, if the Department does not regard the right of American citizens and corporations to own land in Siam as having been assured by the treaty, the present may be an opportune time for an exchange of notes whereby the Siamese Government might, without a reciprocal assurance by this Government, recognize the right of American citizens and corporations to own land in Siam wherever ownership of such land is "incident to or necessary for trade" within the meaning of Article I of the Treaty.

The Treaty of December 16, 1920, does not appear to the Department to be fairly open to the construction

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that it was intended to confer upon American citizens and corporations or other concerns the right to own land in Siam. On the other hand, the omission from the Treaty of provisions relating to the acquisition of land does not, in the view of this Government, afford any sanction for the disturbance of interests actually vested in American citizens and concerns prior to the coming into force of the Treaty, and such interests are not regarded by this Government as having been affected in any way by the provision in the Treaty with respect to the termination of previous treaties, conventions, agreements and arrangements between the High Contracting Parties. Your statements concerning the desirability of a recognition by the Siamese Government of the right of American citizens and concerns to own land in Siam are understood to relate to the right of such citizens and concerns to acquire land in the future.

Since it is not apprehended that the view of the Siamese Government with respect to the status of vested interests of American citizens and concerns is at variance with the view of this Government, the Department does not perceive that there is any occasion for a formal discussion by the two Governments of the status of such interests. The future acquisition of land in Siam by American citizens and concerns seems to the Department, under all the circumstances to be a matter in regard to which the initiative could not, with propriety, be assumed by this Government. The Department is therefore not prepared to authorize you to propose to the Siamese Government an exchange of notes concerning

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the right of American citizens and concerns to hold or acquire land in Siam. If, however, the Siamese Government should take the initiative in the matter, you may bring to the attention of that Government the facts stated below in regard to the Federal and State laws of the United States concerning the ownership of land by aliens, and in this connection you may say that this Government would be glad to receive any assurance which the Siamese Government may see its way clear to give in regard to the acquisition of land in Siam by American citizens and concerns.

The right of aliens to acquire and hold title to real property other than Federal lands in the United States is, in general, controlled by the laws of the particular State in which the property in question is located. In many of the States no distinction is made between aliens and citizens; in others aliens are accorded the same rights as are accorded to American citizens by the laws of the countries of which the aliens are subjects; and in still others they may acquire and hold real property indefinitely for specified purposes. While in some States title acquired by aliens may be escheated to the States by appropriate judicial proceedings, aliens are permitted in all States freely to dispose, either by sale or by devise, of any lands held by them at any time prior to the escheatment.

Under the applicable Federal statutes title to Federal lands can be acquired directly from the Government only by American citizens. Title to privately owned lands

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in the territories of the United States may, however, in accordance with the provisions of an Act of Congress, approved March 2, 1897, (29 Stat. L. page 618), be acquired by aliens resident in the United States and may be held so long as they, in good faith, continue to reside in this country. Resident aliens are also permitted freely to dispose of such lands at any time within ten years after they have abandoned their residence in this country.

I am, Sir,

Your obedient servant,

For the Secretary of State:

Henry P. Fletcher

INDEX BUREAU
JUN 23 1923

A true copy of the signed original

Alvey A. Adee.

JAN 10, 1922

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SO-ET/JMH-SS