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

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LEGATION OF THE
UNITED STATES OF AMERICA

Bangkok, April 4, 1935

No. 197

Subject: Acquisition of Land by Americans in Siam

BY AIR MAIL

The Honorable
The Secretary of State,
Washington, D.C.

Sir:

I have the honor to refer to my despatch No. 26 of January 27, 1934 (File No. 852), and to bring to the attention of the Department the fact that various obstacles are being placed in the way of acquisition of land by Americans in Siam.

While the purchase of land by Americans in Siam is a privilege for which no provision was made in the Treaty of December 16, 1920, the Legation continued

effect

892.5211/20

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after this treaty came into effect to present by formal note to the Foreign Office the requests of American citizens or corporations to acquire land in Siam, whether by purchase or by lease for a term of years. The Department's Instruction No. 28 of January 11, 1922 (File No. 892.5211/long) creates some doubt in my mind as to whether the Department would approve formal intercession of the Legation for Americans desiring to acquire land by purchase, and while I have acted on the basis of numerous precedents in the requests that I have made, I should like to have the Department's decision in the matter.

If it is assumed that the United States Government does not regard as a right in which it is interested, the acquisition of land by purchase subsequent to the coming into effect of the Treaty of 1920, there would remain three aspects of protection of the rights of Americans with regard to land in Siam in which I believe the Government would be interested. These are:

(a) Protection of rights affecting land owned by Americans at the time of coming into effect of the Treaty of 1920 (to which reference is made in the Treaty).

(b) Protection of rights affecting leases of land under a term of years (the right of lease for certain purposes being provided under the Treaty).

(c) Protection of rights affecting lands purchased by Americans subsequent to the coming into effect of the Treaty of 1920 on the same basis as if said lands had been leased instead of purchased.

In each instance as the right to purchase land has been granted to Americans since the coming into effect

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of the Treaty of 1920, it has been indicated the permission was granted by courtesy. The last instance of extension of the permission occurred in the case of Mr. Marion B. Palmer, Superintendent of the Bangkok Christian College, representing the Presbyterian Board of Foreign Missions in the United States. The Legation presented the request of Mr. Palmer by its note No. 256-A of January 20, 1933; the reply under note No. C.51/16395 of February 6, 1933 reading in part as follows:

> "As you are aware American citizens are not granted the right under the treaty with the United States to acquire land in Siam. In view, however, of the educational and medical work carried on in Siam by the Mission, it has been the policy of His Majesty's Government, as a matter of courtesy, to grant the Mission permission for the acquisition of land. I am accordingly glad to inform you that His Majesty's Government will grant the application in this case. I am notifying the Ministry of the Interior of Mr. Palmer's application and that permission should be granted."

This permission was granted during the conservative regime of Phya Manopakarana, which was replaced by the regime of Phya Phahol (or Phya Bahol Bolabayuhasena) which assumed power in June 1933 and has since continued in control. It is the present attitude of the Siamese Government that the extension of permission to purchase land in the case of aliens not protected in the right by treaty can, under the constitutional regime, be granted only by legislation; the attitude, it has been indicated, will further take into consideration the rights or privileges with regard to acquisition of land which are accorded a Siamese subject by the State whose subject is seeking the permission to acquire land in Siam.

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By AT NARS, Date 2-21-96

in Siam. In this connection attention is invited to my despatch No. 198 of this date, entitled "Policy of Siamese Government regarding Purchase of Land by Aliens."

Although no such right was provided for under the Treaty of 1920, local Americans have placed great value on their right to purchase land in Siam and are disturbed by recent developments, particularly since so many obstacles are placed in the way of obtaining and renewing land by term lease. The most frequent type of lease granted Americans applies to land owned by the Siamese Government, and in these instances officials have insisted upon leases of as short a term as three years and induced the lessees to accept such conditions. The Siamese laws permit leases of thirty years. Other obstacles affecting the acquirement of leases consist of delays in approaching district officials and awaiting permission from the Foreign Office, which according to the directions of the Foreign Office must be requested through the Legation, even in the case of leases for which right is fully granted under the Treaty. An obstacle affecting renewal is the fact that the Siamese Government considers, as in an instance now pending at Nongkhae, that all improvements placed on the ground by the lessee become the property of the lessor (in this case the Siamese Government), on which ground it demands increased rental from the lessee; the ground in this case is leased by the Presbyterian Mission and such a single obstacle in itself could have very serious results to the detriment of the Mission.

Other

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Other obstacles affect the changing of name in titles to land or in leases when it appears that the interests of the owners or of the Siamese Government would in no way be affected by such change of name; and when the exchange for one plot of land for another is sought, obstruction is also encountered.

While the establishment of full title in the case of a number of plots obtained by the Presbyterian Mission prior to 1920 has never been completed, the Siamese authorities have never shown in any way that they question the right of full title.

I have presented the situation in order that the Department might understand the interpretation placed by the Siamese Government upon the rights and privileges of Americans in Siam with respect to ownership and leasing of land, as such information might be of assistance in any future negotiations comprehending the subject.

It would be of assistance to the Legation if some indication of the circumstances which would affect holding of leases by Siamese in the United States could be supplied, particularly as to length of lease, procedure and time involved in the acquirement of a lease, and circumstances affecting renewals. I should also appreciate the Department's instruction as to the policy which should be followed by the Legation with regard to intercession by formal note or otherwise in instances where permission is sought by Americans to purchase land and also in instances where permission

to

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to lease land is requested.

Respectfully,

James M. Baker

James M. Baker,
American Minister

Legation File No. 852

JMB/rmh