

เรื่องเสร็จที่ ๒๑/๒๕๖๖

ที่ ก. ๗๕๐/๖๖

กระทรวงพาณิชย์

วันที่ ๑๐ ธันวาคม พุทธศักราช ๒๕๖๖

แจ้งความมายัง เจ้าพระยาอภัยราชามหายมุติธรรมธร เสนาบดีกระทรวงยุติธรรม

ด้วยเวลานี้กระทรวงพาณิชย์กำลังรวบรวมความรู้ต่าง ๆ ในการพาณิชย์ เพื่อ
จัดพิมพ์ Importers & Exporters Directory ขึ้นเป็นครั้งที่ ๒ ใน Directory เล่มใหม่นี้
เห็นสมควรมีข้อความว่าด้วยศาลที่พิจารณาพิพากษาคดีที่เกี่ยวกับค้าขายทั้งปวงพร้อมทั้งพิธี
พิจารณาลงไว้ด้วย เพื่อเผยแพร่ข่าวพาณิชย์ของเมืองไทยให้กว้างขวางออกไปอีกในนานาประเทศ
เพราะฉะนั้น ขอเจ้าคุณได้สั่งให้เจ้าหน้าที่เรียบเรียงเรื่องการศาล และวิธีพิจารณา
อรรถคดีที่เกี่ยวกับการค้าขายเป็นภาษาอังกฤษให้สักเรื่องหนึ่ง เป็นทำนองเผยแพร่ความรู้ดังกล่าว
แล้ว ค่ะเนาให้บรรจุทำประมาณพันคำลงมา จะได้ลงพิมพ์ใน Directory ได้หน้าหนึ่งพอดี

(ลงพระนาม) กิตติยากร
เสนาบดีกระทรวงพาณิชย์

No. 49/90

Mr. R. Guyon to E. E. Chao Phya Abhal Raja. Minister of Justice. President of the Committee of Legislation.

th. December 1923.

Your Excellency,

I bas to answer your letter No. 30/4848 dated 12th. December 1933.
forwarding a copy of the letter dated 1 0 th. December by which the Ministry of commerce requests from the Department of Legislation an article to be inserted in the new “Importers and Exporters Directory” and concerning the law and procedure on Commercial matters in Siam.

I submit a Draft to that affect, annexed hereto.

I am your most faithful servant.

COMMERCIAL LAW IN SIAM

It is noticeable that in Siam there is no fundamental discrimination between Civil and Commercial Laws, as made in some other countries. Courts take cognizance both of civil and commercial cases, and there is no criterion or record to specify who is a trader and is not

Consequences of that policy are found in the new codes promulgated or under examination. The Code promulgated on November 1923 is a "Civil and Commercial Code" (section 1) and the general provisions contained therein (Books I and II) apply both to civil and commercial matters. Then, there are a number of important rules, already promulgated and to be enforced on the 1st. of January 2487 (1925) which concern commercial law: especially the construction of law by the Court the calculation of periods of time, the validity of contracts, the rules in case of plurality of creditors and debtors, the places and times of performance of obligations, the rules for preacribtio, etc. In addition to such general principles, the business-man may find in the new code provisions concerning especially trade; for instance section 50. which allows a lawful representative or a Court to authorize a minor to conduct commercial or industrial undertaking "when he appears able to properly carry on it.

The following Book of the new civil and Commercial Code, (Specific Contracts), now under revision has important Parts specially devoted to commercial law, namely carriage (of goods or of passengers) hire (of services or of work), warehousing, brokerage, current account, insurance, bills, etc.

Procedure before the Courts is still included in the Law R. S. 127 said "Law on Procedure in civil Cases" but which really apply both to civil and Commercial matters by application of the policy here above reminded.

The most important laws dealing especially with commercial matters are the Law on Bankruptcy and the Law on Partnerships and Companies both in force since more than ten years

The Law on Bankruptcy R. S. 130 has repealed the old Debtors Act R. S. 137. It proves again the policy of non-discrimination between civil and commercial matters, since everybody may be declared bankrupt. The proceedings include a petition to the Court and upon evidence collected, the declaration of bankruptcy with appointment of an official Receiver in whom are vested all the property of the bankrupt. Bankruptcy and appointment of the Official Receiver are published in the Government Gazette. His powers are extensive, but he must summon general meetings of the creditors which may appoint managers of the bankrupt's estate (including the bankrupt) . The consequences of the procedure may be an annulment of the bankruptcy if the debts are paid in full, a discharge of the bankrupt, or a final realization of his property for distribution of final dividend to the creditors. Composition may be agreed by meetings of creditors. Special rules are provided for bankruptcy proceedings against partnerships.

The Law on Partnerships and Companies has come into force on the 1st. January B. S. 130. It includes provisions for Ordinary and Limited Partnerships and Limited Companies. Limited Partnerships and Companies must be registered and a Registry has been created to that effect, summary of entries made in the registrar being published in the Government Gazette. The Law provides for the management and dissolution of the partnerships. For the Limited Companies, the promoters must be seven or more in number and have to call a statutory meeting of the subscribers before and registration shall be made, management of the Limited Companies, including general meetings, production of balance sheets, audit, issue of debentures, etc. is provided by the law. Inspection may take place, being directed by the Minister of Justice upon application of shareholders or of his own motion. Liquidations are made by liquidators who are either the managing partners or directors, or persons appointed by Court.

It is of interest to note that Railways, Insurance or Banking Companies cannot be formed unless incorporated by Royal Charter.

Commercial matters have often taken place also in the recent years which have been promulgated. The Law on Railways and Highways B. E. 2464 especially contains complete provisions for the business of the concessionnaires of railways and for industrial railways; concessions are granted by the Government after examination by the Commissioner-General and the Board of Railways Commissioners. The same law contains a number of provisions for the carriage of goods by railway. The trade of opium and other drugs have been regulated by laws issued B. E. 2464 and 2465. Printing business comes under the Law on Books, Documents and Newspapers B. E. 2465 and the new Medical Law provides authorizations for the apothecaries-shops and similar trades.

25th December 1928

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Department of Legislative Drafting.

20th March 1924.

Dear Mr. Le May,

Thank you very much for your kind letter.

If the resume you want is only a short introduction, in addition to the precedent note, I see no difficulty to draft it before my departure, and I send to you under the present letter something which, I hope, may be of use.

Yours sincerely,