

## Abstract

According to the right to discovery of an accused before adducing evidence as prescribed in section 173/1 and 173/2 of the added Criminal Procedure code, before the date of inspecting the evidence according to section 173/1 paragraph 1 not less than seven days, the parties shall file the list specifying the witness; oral, documentary, material evidence. In the date of inspecting the evidence, the parties shall send the documentary evidence and real evidence in one's possession to the court for other party to inspect, unless the Court will issue the order as otherwise, after that each party makes a statement the way of offering the evidence to the Court, and the Court shall inquire the parties to relation with issue and necessity to take of evidence relied upon including the admission of other parties, evidence, and then the Court shall designate the date taking of evidence, and notify parties before not less than seven days.

A finding in study is that both added and former the Criminal Procedure code, section 173/1 and 173/2, the right to discovery of an accused is entitled over; an arraignment, before adducing evidence, the prosecutor is entitled to open the case by setting forth the nature of charge as prescribed on section 174, evidence is taken by the Court if the Court thinks fit as prescribed on section 229, a file the list specifying the witness according to section 229/1. However, there was no complying with the rules, in ordinary. So section 173/1 and 173/2, based upon the adversarial system used in the United State of America, is in conformity with the inquisitorial system where the Court and a part of the Court is actively involved in determining the facts of the case, used in Thailand criminal trial. Therefore, the law enforcement is in conformity with the legislative intent.

We suggested that section 173/1 and 173/2 would be remedied, the right to discovery of an accused should be taken only on the public prosecutor instituting the criminal prosecution. In that case the accused and lawyer has a right to acknowledge the file of the inquiry, oral evidence might be concealed. In addition, The Court should act as a case manager by judicial discretion in case of necessity and suitably for the benefit of fair of the accused as section 229/1 prescribed.