

THE ANGLO-SIAMESE NEGOTIATIONS 1900-1909

by

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ABSTRACT

This is a study of a series of negotiations between the British and the Siamese Governments in the first nine years of the twentieth century. The prolonged dispute between the two countries was stirred up in 1902 by the wish of the Siamese Government, under the leadership of King Chulalongkorn, to achieve the abolition of the extraterritorial system which had been initiated in Siam by the Bowring Treaty of 1855. The talks, though simple at the start, became more complex as they progressed. By 1905, when the negotiations reached deadlock and were suspended, two other issues had already been brought into the discussions. These were the abrogation of the Anglo-Siamese Secret Convention of 1897, which required Siam to obtain British sanction for the grant of a prospecting licence over land in the Malay peninsula, and the question of the exact status of Siam in relation to the four Northern Malay States of Kedah, Kelantan, Trengganu and Perlis. The strenuous efforts of Siam would have achieved little if the discussion regarding the construction of the Malay Peninsula Railway had not intervened in 1906. The likely benefits from the new Railway lines influenced the diplomatic talks and they entered a more promising phase. A year later negotiated settlements on the various issues were given a fresh impetus by the Franco-Siamese Treaty by which France agreed to submit all her

Asian subjects to Siamese tribunal. Following closely France's example, the pending negotiations were continued without delay. After a twelve-month interval in 1908, following the death of Mr. E.H. Strobel, the General Adviser to the Siamese Government, who was the architect of the foreign policy of Siam from 1904 onwards, a compromise was reached on March 10, 1909. Under the stipulations of the Treaty Siam agreed to transfer all her rights and suzerainty over Kedah, Kelantan, Trengganu and Perlis to England. In return England relinquished her extraterritorial rights over her subjects, European and Asian alike, in Siam. The Secret Convention of 1897 was abrogated. And Britain gave Siam a loan of £4 million at 4 per cent interest for the construction of the Malay Peninsula Railway.

ABBREVIATIONS USED IN FOOTNOTES.

- C.O. .... Colonial Office.
- F.M. .... Foreign Ministry, Bangkok, Thailand.
- F.O. .... Foreign Office, London.
- I.O. .... India Office.
- N.A. .... National Archives Division, Department of  
Fine Arts, Ministry of Education, Bangkok,  
Thailand.
- PRO .... Public Record Office.

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CHAPTER I

EXISTING ISSUES IN ANGLO-SIAMESE RELATIONS IN 1900.

... I am most certain that as long as I breathe I will not see Siam without her independence ... (1)

This statement, reflecting a strong determination mixed with pain and sorrow, came from King Chulalongkorn of Siam. It was uttered in 1893 when, at the height of the great European imperialist scramble and the commercial assault on the Far East, the 'gun-boat policy' of France, Siam's colonising territorial neighbour, was threatening his country. (2) Fortunately the above promise was fulfilled by King Chulalongkorn's brilliant statesmanship and sense of opportunity during his long and eventful forty-two year reign (1868-1910). Siam has never experienced colonisation and her

(1) NA, R5, File I, Vol.I., King Chulalongkorn - Krom Luang Pichitprichakorn, (Aug-Dec.) 1893.

(2) The difficulties between France and Siam arising out of claims to territory on the left bank of the Mekong founded on the supposed rights of Cambodia and Vietnam culminated during the year 1893 in a rupture of relations. The French carried out a blockade of the Siamese coast and informed the British warships, one anchored opposite the British Legation in the Chao Phraya river and others outside the bar at Paknam, to leave Bangkok. The Siamese had to yield and accepted an ultimatum presented to them. A treaty was made. Under its stipulations Siam suffered a heavy loss of her territory and funds. One provision of the Treaty was that French troops should remain in occupation of Chantaboon pending the other provisions being complied with. Luang Vichitr Vadakarn, Kan Sia Dindaen Thai Hai Gkae Farangset. (The loss of Territory to France), (Bangkok, 1962), pp. 137-162.

*Handwritten notes:*  
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...  
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people are proud to call themselves the "Thai", a word which literarily signifies 'freedom'.

In 1868 King Mongkut, an architect of the 'Open-door' policy (the Anglo-Siamese Treaty of Friendship and Commerce of 1855 was a landmark in Siamese international relations) and a pioneer of administrative reforms, was succeeded by Chulalongkorn, his illustrious son. The well-prepared new King, though being a youth of fifteen years of age, showed a keen interest in consolidating and enlarging the pioneering work handed to him. Internal reforms started from the beginning of his reign and at the approach of the new century every aspect of a national life was in the midst of radical change. But ahead of him lay a major problem:- the maintenance of Siam's independence. Without independence, all attempts at internal change would become meaningless.

Siam's independence was more threatened at the beginning of the twentieth century. She found herself hemmed in between two strong colonising Powers, England and France. The Franco-Siamese crisis of 1893 convinced the King and his ministers that their country could easily be paralysed: a blow at Bangkok meant Siam at some more powerful nation's feet. Though the Anglo-French Declaration of 1896 guaranteed the integrity of the heart of the Kingdom,<sup>(1)</sup> this Declaration,

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(1) This Declaration was to the effect that neither England nor France should advance their armed forces, nor acquire any special privilege or advantage within the region which roughly speaking might be termed the valley of the Menam.

however, was not assuring since Siam took no part in it. This serious situation called attention to the safeguarding of Siam's independence. In a letter to the Interior Minister in 1895 King Chulalongkorn wrote,

... Our country is surrounded by countries which are strictly ruled by more powerful nations. We must have relations along the frontier. One cannot remain aloof as before. There are three ways to safeguard our country internally and externally; to negotiate settlements, to maintain strength to keep peace, and to reform the administrative system...<sup>(1)</sup>

The last policy was successfully accomplished when King Chulalongkorn started a reform of administrative centralization in the Kingdom in 1892. But the threat against national independence still lingered. With regard to maintaining strength the King and his ministers had to accept that they were perfectly aware of the utter weakness of Siam as a power. They knew that they were unable to preserve independence by armaments or by strength of popular patriotism alone. In practice the King had to live by his wits. Fortunately, through his foresight, His Majesty chose the first means - to be friendly with his colonial neighbours and to draw advantages from the rivalry existing between them and from his country's position in order to reach more favourable negotiated

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(1) King Chulalongkorn-Prince Damrong, 143/454, January 18, 1895. The King wrote to Prince Damrong on an occasion of the first annual meeting of the High Commissioners (Kaluang Tesapiban).  
The Bulletin of the Ministry of Interior, (Bangkok, 1952) pp. 147-148.

settlements. Such 'survival policy' proved to be a miracle. True, to some extent the jealousy and rivalry of England and France played a part to maintain Siam's independence. But could such coincidence alone work magic without King Chulalongkorn's command of the situation?

In dealing with the general foreign policy of Siam, two Powers alone - England and France - played a prominent part. It is true that in the late nineteenth century there were indications of Germany trying to establish a footing by various means, and that Denmark strenuously pushed her commercial interests, but these Powers did not possess political influence in the same sense as England and France, Siam's neighbours respectively on the west and on the east.

While the word 'influence' was alike used to describe the authority in Siam exercised by both England and France, this influence in each case sprang from very different sources. British influence in Siam was due to the confidence of the Siamese Government in the British Government, the substantial British education, and long-term commercial and political relations. French influence, on the other hand, was due to fear of French aggression alone.

Consequently the sympathies of the Siamese Government were inclined towards the British Government as against the French. At the same time England responded well to Siam's friendly overtures. Diplomatic negotiations between them

during the nineteenth century were usually in the form of amicable discussions. In 1868 a Convention was concluded between the Governor-General of India and the King of Siam defining the boundary on the mainland between Siam and the British Province of Tenasserim, and this was followed in 1869 by a Treaty defining the boundaries of the British possessions on the mainland of the Malay Peninsula. Some thirty years later, in 1899, the frontier between Perak and Pahang and Kedah and Kelantan, Trengganu and Rahman was also laid down in an Agreement.

21 However, there remained some burning questions such as the problems of extraterritoriality, the existence of the Anglo-Siamese Secret Convention of 1897 and the question of Siamese suzerainty over the northern Malay States of Kedah, Kelantan, Trengganu and Perlis. By the twentieth century the Siamese had begun to realise the necessity of coming to a better understanding with England in order to arouse curiosity among the French authorities, to soften the incessantly aggressive policy of France and to bring them to a more agreeable contact. Painfully and slowly the new century began with Siamese attempts to resolve all existing difficulties with the British Government.

#### Extraterritoriality.

In the mid-nineteenth century when western colonisation was penetrating into the Far East, Siam's independence was

inevitably shaken. By the Treaty of Friendship and Commerce, known as the 'Bowring Treaty' which Siam concluded with England in 1855, she lost a measure of sovereignty. This treaty together with its supplementary Convention of 1856, provided for the appointment of a British Consul to reside in Bangkok, under whose regulation, control and jurisdiction all British subjects were placed. Thus extraterritoriality in Siam was initiated. Article II stipulated that

The interest of all British subjects coming to Siam shall be placed under the regulation and control of a Consul, who will be appointed to reside at Bangkok. ... any dispute arising between British and Siamese subjects shall be heard and determined by the Consul in conjunction with the proper Siamese officers. (1)

In spite of a disadvantage in judicial matters the Siamese negotiators conducted the Treaty negotiations with their eyes open. They knew full well that if they wanted to maintain Siam's independence they had to yield to all demands. Even before his arrival, Sir John Bowring, the British negotiator, alarmed the Siamese Government with an unnecessary explanation:

At present there are many British warships in the China Sea ... But Sir John Bowring will come with few ships. The ministers should not get the wrong impression ... Sir John Bowring does not like the idea of using force ... (2)

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(1) F.O. 97/368, The Bowring Treaty of 1855.

(2) Chao Phraya Tipekorawong, Pharatchaphongsawadan Krung Rattanakosin Ratchakan Thi 4, (Royal Chronicles of the Fourth Reign of the Bangkok Period), (2 Vols. Bangkok, 1961), Vol. I, p.114.

More threatening words came when Bowring summed up the purpose of his mission:

If I can get a treaty, well; if not, I will not consent to delay, but shall simply state that I cannot give more time to the object, but will return to Siam when I have consulted with my colleagues of France and the United States, and the British Admiral.<sup>(1)</sup>

To prevent the arrival of many 'British warships' in Siamese waters, King Mongkut had to listen obediently to the explanation of Bowring that the standard of Siamese law and justice was inferior to that of the British<sup>(2)</sup> and to accept without demurral the proposal to place British subjects under the sole jurisdiction and control of the Consul. The King

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(1) Sir John Bowring, The Kingdom and People of Siam, (London, 1857) Vol.II, pp.212-213. The same alarming tone was repeated by Townsend Harris, an American envoy, after his exhausting negotiations with the Siamese Government in 1856: "The proper way to negotiate with the Siamese is to send two or three men-of-war of not more than sixteen foot draft of water. Let them arrive in October and at once proceed up to Bangkok and fire their salutes. In such case the treaty would not require more days than I have consumed weeks." cf.. James V. Martin, A History of the Diplomatic Relations between Siam and the United States, 1833-1929. Microfilmed by the Library of Congress Photo-duplication service, p.86.

(2) Bowring commented:

... In a country where the authority of the sovereign is absolute, it is obvious that the organisation of tribunals and the protecting power of legislation can afford but very inadequate security. To a great extent, also, the power of interfering with the action of the tribunals is possessed and exercised by the high nobles, according to their rank and influence. Bowring, op.cit, Vol.I, p.150

was satisfied that what he had done was right and timely. In explaining how his timing was right the King told the following story:

Two travellers, carrying home-grown jute, started their journey. Both arrived at a place where they found more valuable material such as cotton. The fool still carried that unprofitable jute while his thoughtful companion exchanged his jute for cotton. Both walked on and reached the silk area. The fool stuck to his jute but the clever one exchanged his cotton for silk. On reaching their destination the foolish one suffered from carrying heavy and valueless goods while his friend easily got a handsome profit.(1)

The King also made a sharp comment on an attack made by some of his councillors regarding his 'open-door' policy. He addressed the Council of Ministers as follows:

I have heard that some Court officials said that since the First King, the Second King and some ministers made friends with the Englishmen and studied English, the Englishmen have begun to take advantages and have caused trouble and irritation. I would like to ask all of you to look back ... Fifty years ago, Penang belonged to us. When it came under British possession in the reign of King Rama I, who made friends with the British then? Singapore, formerly being under Johore, came under British control in 1819: was it because of Siamese associations with the British? Tavoy, Marid, Tenasserim, formerly the Burmese territories, became British states in 1825: who made friends with the British then? ... (2)

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(1) Prince Narathip Phongpraphan, Prawat Kan Tud Thai (History of Siamese Diplomacy), (Bangkok, 1958), p.68.

(2) Manuscript Section, National Library, Bangkok, R4, No.473, King Mongkut's speech, undated.

Though their judicial status was hampered by extra-territorial privileges granted to the British subjects, the Siamese had some consolation. First, British subjects in Siam in 1855 consisted of no more than a handful of Britons residing in Bangkok, and of some Asians who occasionally visited Siam in the course of trade.<sup>(1)</sup> Second, one precious precaution - the disabilities of British subjects in respect of right to hold land, and of travelling or residing beyond somewhat narrow limits<sup>(2)</sup> was inserted in Article IV of the Treaty. Of course, it could not have entered the minds of the negotiators that persons whose religions, laws and customs were similar to those of Siam, such as the British Asian subjects, should be exempt from the Siamese jurisdiction and liable to alien laws. It was also never contemplated that foreign subjects might be established and engaged in trade in large numbers all over the country at a distance of days' - if not months' - journey from the nearest Consular Court.

The arrangement thus entered into might, no doubt, have remained suitable for all time if no changes took place. But

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(1) F.O. 422/64, Paget's Memorandum respecting Anglo-Siamese Treaty Negotiations, April 15, 1909.

(2) Article IV read: British subjects are permitted to trade freely in all the seaports of Siam, but may reside permanently only at Bangkok ... British subjects coming to reside at Bangkok may rent land and buy or build homes, but cannot purchase lands within a circuit of 200 sen (not more than 4 miles English) from the city walls...

the absorption of countries neighbouring Siam on the east and west by Great Britain and France respectively before and after the Bowring Treaty created a wholly new situation.<sup>(1)</sup> Shans, Vietnamese, Cambodians, Chinese, Malays, etc., claiming foreign protection entered into Siam in increasing numbers. The national status of those who were already in the country automatically changed from Siamese to foreign.<sup>(2)</sup> For years and in some cases for generations Siamese subjects, they now suddenly found themselves invested with all the privileges of Europeans. Of these foreign subjects, the British Asians formed the majority. These included Shans, Indians, Chinese, Malays and Eurasians.<sup>(3)</sup>

The exact number of these persons was not easy to calculate. In 1892 the British Asian subjects numbered about 10,000 including 5,750 in the north, and approximately 1,500 were

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- (1) From 1856 to 1899 Siam signed treaties granting judicial privileges to subjects of the following countries; France, the United States, Denmark, Portugal, Netherlands, Germany, Belgium, Italy, Sweden, Austria-Hungary, Spain and Japan.
- (2) Luang Nathabanja, Extraterritoriality in Siam, (Bangkok, 1924), pp. 247-250.
- (3) C.O. 273/315, Report on the Condition of British Asiatic Subjects in Siam, March 18, 1891. The Shans were spread over the whole area of the country. For example, the majority of the labour force of the gem-miners at Pailin in eastern Siam were Shans and so were all the pedlers, itinerant traders, and elephant and cattle dealers. Some Shans became agriculturists and shopkeepers. In the north a large proportion of Shans from Lower Burma were settled in as teak foresters as well as traders. F.O. 69/162, British subjects in Siam. Extract from Mr. Black's report. Enclosure in de Bunsen's letter of August 7, 1895.

where is  
Pailin,  
p. 248

from the Siamese Malay States.<sup>(1)</sup> Within three years the figure rose by 1,800.<sup>(2)</sup> The second largest group were the French subjects. They were the Lao, Vietnamese, and Cambodians pouring into Siam from the East. By the 1890's they were estimated at 6,000.<sup>(3)</sup> Apart from these, there existed Portuguese, Italian, American, Japanese and Dutch subjects.

The presence of a large alien Asian community constituted a real grievance on the part of Siam. These <sup>French</sup> subjects were spread far beyond the original limits assigned by Treaties,

(1) F.O. 69/168, English Population in Siam, July 2, 1892. In 1884 Mr. Holt Hallett, an Englishman, who travelled throughout Siam wrote that the population of the Siamese territory did not exceed 4,000,000. Bangkok itself contained from 400,000 to 500,000. PRO 30/29/278 Report of Mr. Holt Hallett upon the present State and Political Aspect of Indo-China, for the information of the Foreign Office, 1880-1884.

(2) F.O. 69/162. British subjects in Siam, Extract from Mr. Black's report. Enclosure in de Bunsen's letter of August 7, 1895. They were as follows:

In South Eastern Siam	2,500
North Eastern Siam	800
Nan	400
Phre	400
Chiengmai, Lakhon and up to North frontier	5,000
Lower Mee Ping and Menam Valley	800
Bangkok	<u>1,900</u>
Total	<u>11,800</u>

With regard to the European British subjects its number in the Chiengmai Consular district rose from some two or three in 1884 to over 50 in 1902.

F.O. 69/246, Beckett's Memorandum, December 17, 1903.

(3) H. Warrington Smith, Five Years in Siam 1891-1896, 2 Vols, (London, 1898) Vol. II, p.242.

and enjoyed, with the tacit approval of the Siamese Government, judicial rights practically free from all restriction. In 1884 the Siamese themselves issued a Royal Proclamation providing that a person charged with an offence should, if he claimed to be under foreign jurisdiction, be conducted to his Consulate for trial in accordance with Treaty stipulations.<sup>(1)</sup> By enjoying access to their Consulate the Asian subjects were placed in a much more favourable position than the Siamese. For example, if they were living in places distant from their Consul, they were released from Siamese administrative control but were not directly controlled by the Consul and could make themselves very objectionable to the local authorities. If they wanted redress through the Consular Courts, they had to lay their complaints in Bangkok or a representative had to come out from Bangkok which was exceedingly inconvenient. However, Chinese, Shans, Cambodians and Lao, often indistinguishable from Siamese could pose as Siamese subjects as long as they were plaintiffs, but when they were sued as defendants they could produce their certificates as foreign subjects and refer the local authorities to their Consul. When a case arose at a place far from a Consular Court, none but the most serious offences or important civil cases could be settled by law, and even in these, justice was likely to

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(1) F.O. 69/262, Minutes respecting Registration in Siam: Burden of Proof as to the right to hold a British Certificate, Morrison, October 1, 1897.

be hampered by the expense and difficulty of getting witnesses to the Court.<sup>(1)</sup>

Worse still, it was the practice of the foreign Legations in Siam, whatever the rights or the wrongs of a case might be, to support these protected persons against the Siamese authorities, and if possible to thwart the administration of justice against them.<sup>(2)</sup> It was a common saying in Bangkok that a criminal was quite safe in Siam so long as he had a claim to foreign protection.<sup>(3)</sup> Most of the trouble came from the French authorities who usually used "only one ear to listen to cases".<sup>(4)</sup> At times French missionaries intervened and interrupted the course of justice. To take some cases: in 1899 Mr. Feron, the French Vice-Consul, wrote to Prince Devawongse, the Siamese Foreign Minister, accusing the Governor of Nakornchaisi of invading with armed soldiers into the house of Bishop Ferdivel, arresting Jean U Haw (A Chinese named U Haw), and using threatening and bad language.<sup>(5)</sup>

After investigation it appeared that Jean Hui (a Chinese

(1) F.O. 628/29, Ministry of Justice, Report for the Year 125, (1906/07), Siam.

(2) C.O. 273/323, Paget-Grey, February, 1906.

(3) Ibid.

(4) NA, R5, T.13, 7/13, King Chulalongkorn-Prince Devawongse, January 15, 1900.

(5) NA, R5, T.13, 7/13, Feron-Prince Devawongse, December 23, 1899.

named Hui) had cultivated the land of U Haw while the latter was serving imprisonment. On his being released Haw asked for a share of his land but Hui refused. Haw then accused Hui of appropriating his property. Bishop Ferdivel authorised Haw to punish Hui. First, Haw's men arrested Am Dang Ya, Hui's wife, and later on the Bishop asked Hui to come to him. Instead Hui found himself being tethered with chains soon after his arrival at the Bishop's house. When Hui and his wife were released he put the case to court. The court issued an arrest warrant but the Bishop claimed that Hui had to come to him instead of seeking the court judgement. He was told, however, that the Bishop had no judicial power. Finally, the Government in Bangkok had to send a foreign lawyer to try the case.<sup>(1)</sup>

In 1904 Mr. Ponsot, the French Consul, reported to the Foreign Ministry in Bangkok that Nai Ploy (Mister Ploy) was attacked while sticking frogs at the rear of his own home and later on was arrested by the local authorities. The Consul demanded his release, but the Siamese argued that Ploy was accused of causing Nai Yim (Mister Yim) bodily harm. Initially, Ploy stated that he was in the Navy, but during cross-examination he claimed to be a French-Cambodian subject by producing a Certificat D'Inscription. However, subsequent

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(1) NA, R5, T.13, 7/13, Prince Devawongse-Prince Sommot, January 14, 1900.

investigation revealed that both Ploy and his father were Siamese and had been in the Navy for more than ten years. Ploy had a rose tattoo on the wrist indicating a condition of soldier.<sup>(1)</sup> Though the Siamese Government had full authority over Ploy, and though a flare-up was due to careless investigation of the French Consul, the Siamese had to yield to the French Government's persistence. Ploy was handed over to the French Consul.

In addition, the following are illustrations of some extraordinary abuses that occurred in the French and some other foreign courts.

In the French Court, a case arose in 1898 concerning a certain French subject who had brutally assaulted a man in the street, causing grievous bodily harm. He was found guilty by Mr. Reau, the French Consul, and sentenced to imprisonment until the Court rose. The extraordinary inadequacy of this sentence led the Siamese Inspector-General of Police to inquire whether any new facts had come to light at the trial justifying so light a sentence. The reason given by the Consul was that he did not believe the man guilty.<sup>(2)</sup>

In the British Court, the case arose in 1883 of Ali Baa, a British subject who was charged with the murder of a

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(1) NA, R5, T.13, 22/13, Prince Devawongse-Prince Sommot, February 24, 1904.

(2) NA, R5, T.13, 7/13, The Memorandum of the Inspector-General of Police.

Siamese policeman. He was handed over to the British Consul and sentenced to three years' imprisonment. The Siamese Government took exception to the sentence as a wholly inadequate one, considering the nature of the offence. In reply, W.H. Palgrave, the British Consul-General, informed that the case was confused, and the truth could not be obtained from the evidence. Three years' imprisonment was fair enough because if he had been sent to Singapore for trial<sup>(1)</sup> he would have been acquitted.<sup>(2)</sup>

In the Portuguese Court, in 1899, a Portuguese subject, a notorious receiver of stolen property, forged a large number of bank-notes. One of his servants was detected in the act of passing one of these notes and was arrested. The servant implicated his master who was brought to the Court for trial. The result of the case was that the accused was at once liberated on bail. For a time no notice was taken of the frequent requests from the Siamese police to produce the evidence with the case, but finally after some months' delay, the Consul-General wrote to the police saying they had to produce eight new witnesses. The police inquired under what

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(1) By Order-in-Council of 1876 the maximum punishment which a Consular Court could inflict was three years' imprisonment, but by Article 22 of the Order-in-Council of 1856 the defendant might be sent for trial to Singapore.

(2) F.O. 69/86, Officers of the Crown - Granville, February 7, 1883.

section of what codes it was necessary to produce them. The Consul-General replied that the rule was not to be found in any code but it was a new rule of the Portuguese Court in Siam that eight witnesses, entirely unconnected with the prosecution, had to testify to the truth of the charge. Delay followed delay, and eventually it was stated that the case had been transferred to the court at Macao, and the accused was acquitted.<sup>(1)</sup>

In the Italian Court, in 1900, two Italians were detected by the police in connection with burglary. Notwithstanding the evidence by the police the Italian Consul-General refused to issue a warrant for their arrest or to permit them to be prosecuted. The Consul made no attempt to deny the validity of the charge, but begged Mr. Lawson, Commissioner of the Police, as a "personal favour" not to press the matter, confessing that he was entirely unacquainted with any procedure respecting criminal trials.<sup>(2)</sup>

Thus the system of extraterritoriality entailed discrimination against the Siamese in favour of the alien Asians. No other country where foreigners were by Treaty excluded from

(1) C.O. 273/323, Paget's Memorandum, February 14, 1906.

(2) Ibid. This excuse is probably not unusual. W.A.R. Wood who was in a British Consular service in Siam from 1896 to 1931 recalled similar incidents which occurred in the International Courts of Siam in old days. See W.A.R. Wood, Consul in Paradise, (London, 1965), pp. 67-68.

the jurisdiction of the local Courts experienced such conditions. Even in Egypt the main distinction was between the native population and the Europeans. The same was true of Japan, Turkey, Persia - in fact, in all other countries where the system of extraterritoriality was in force.<sup>(1)</sup> In these countries, the distinction was always between the native and the foreigner of an entirely different race and an entirely different religion.

The opening up of Siam in the latter half of the nineteenth century under the leadership of King Chulalongkorn raised a nation-wide feeling among the Siamese that these unequal Treaties unduly restricted the freedom of their country. Siam had treaties with some fifteen countries, each giving its Consul the right to try its own subjects. Moreover, there was no time limit for the duration of the treaties. While Siam was embarking on the road of judicial reform in the 1890's, efforts were made to end the special legal position of foreigners.

England took the lead in helping to emancipate Siam from some of the problems of extraterritoriality. A mark of promise appeared first in the Treaty of 1874 between Siam and

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(1) C.O. 273/315, Memorandum on Extraterritoriality in Siam by Strobel. Mr. Edward Strobel, a General Adviser to the Siamese Government who took his office in 1903 bitterly voiced an outcry against the whole system of extraterritoriality. To him the system was contrary to the original intention which was based upon difference in race, customs and religion.

the British Government of India. By this treaty the judges appointed by the King of Siam were empowered, amongst other things, to hear civil cases against British Asian subjects in Chiengmai, Lampang and Lampun provided such British subjects consented to the jurisdiction of the Court. The ordinary local Courts were empowered to investigate and decide cases against British subjects who entered the Chiengmai district without passports from Burma. It was also laid down that due protection should be afforded to merchants of either contracting State in the territory of the other.<sup>(1)</sup>

But the operation of this treaty was unsatisfactory, partly on account of the ignorance and incompetence of the Siamese officials, and partly because of the absence of resident British supervision on the spot. The object of Siamese judges appeared to be to weary suitors into a compromise in order to obtain a percentage on the value of suits.<sup>(2)</sup> Mr. M'Carthy, a student interpreter in Bangkok, who toured the north in 1882 described the court situation

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(1) Vide, F.O. 628/29, Ministry of Justice's Report for the year 125 (1906/07).

(2) F.O. 69/65A. The Commissioner of the Tenasserim Division - the Officiating Secretary to the Chief Commissioner, British Burma, May 31, 1875.

there:

International Court! I was astonished that the first place I should go to was what has dubbed itself the 'International Court'. My natural question was, "What is that?" In all haste I started to make further inquiries of these rare birds. International as how? Siam seems to have constituted itself the arbiter for disputes between British and Laos subjects, with a result that not a single case has ever been settled.<sup>(1)</sup>

The passport system which was intended to secure some control over British Burmese subjects, operated to encourage the holders of those passports to put forward very high pretensions on the ground of their nationality, and in other ways to annoy and intimidate the Siamese authorities.<sup>(2)</sup> Crimes were still widespread. Not only were the Siamese guards unable to protect the British traders from robbery, but they refused co-operation in following up the dacoits or endeavouring to recover the plundered property.<sup>(3)</sup>

The Government of India, the Department immediately concerned, held that there was no certain remedy for the continued troubles and difficulties except the appointment of a British officer at a place to watch over the British

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(1) PRO 30/33/1/8, M'Carthy-Palgrave, Private, March 29, 1883.

(2) F.O. 69/94, Government of India-Viscount Cranbrook, January 28, 1880.

(3) F.O. 69/65A, Government of India-Salisbury, October 26, 1876.

interests. In fact this question was raised soon after the coming into force of the 1874 Treaty.<sup>(1)</sup> But the argument over the status and powers which such an officer should possess delayed the appointment. The Foreign Office in London proposed to give him jurisdiction to try civil suits in which British subjects, holding passports, and not consenting to the jurisdiction of the local courts, were defendants, and also to try British subjects for offences committed in Siamese territory. The India Office raised two objections, first, the difficulty of giving the requisite jurisdiction to an officer who was not under the Government of India, and who, while politically subordinate to the Consul-General in Bangkok, would in his judicial capacity be chiefly concerned with the interests of British Burmese subjects who were amenable to the Acts and orders of the Government of India; and, secondly, the difficulty of making adequate arrangements for appeals from his decisions and of enforcing the execution of decrees and sentences passed by him.

The India Office, instead, suggested two alternatives. Firstly, the transfer to the Government of India of the entire control of British diplomatic relations with Siam. Under existing circumstances in any question in the Chiengmai districts involving British interests, the reference was made to

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(1) F.O. 69/61, Edwardes-Knox, July 2, 1875.

the Consul-General in Bangkok, from him through the Foreign Secretary in London to the Secretary of State for India, and thence through the Government of India to the Chief Commissioner of British Burma, before any direct information on the subject could be obtained. The delay involved in this circuitous correspondence was doubled by the course which the reply had to take in travelling back through the same channels of communication to the source from which the complaint originated, with the usual result of an entire failure of redress. In the opinion of the India Office, if in substitution of the consular control in Bangkok through the Siamese Secretary of State for Foreign Affairs, the conduct of political relations with Siam were entrusted to the Indian Government, the difficulties in the way of the appointment at Chiengmai of an officer invested with judicial powers would be very considerably modified by the removal of many links in the chain of communication with the Siamese Government. The officer at Chiengmai would then be appointed directly by the Indian Government and invested with powers to enable him to exercise judicial jurisdiction over British subjects, and could be placed as a subordinate, in his judicial capacity, to the Chief Commissioner of British Burma.<sup>(1)</sup>

Secondly, if the maintenance of the direct connection of the British Government with Siamese affairs in Bangkok was

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(1) F.O. 69/94, India Office-Cranbrook, January 28, 1880.

indispensable, the British office at Chiengmai should exercise no jurisdiction in judicial matters. The Siamese Court might be allowed to deal with all cases both civil and criminal, in which British subjects were concerned, subject only to the right which the British Resident should possess of intervening in any case in which British interests might be injuriously affected. In the event of refusal of redress by the local authorities, the matter could be brought to the notice of the Consul-General in Bangkok, and if necessary, to that of the Chief Commissioner of British Burma. In this way the appointment of a British officer could be made without necessarily giving him judicial powers. By the implications of 1874 Treaty a British subject in Chiengmai was already exempt from the local criminal jurisdiction in regard to all offences except dacoity, and British subjects holding a passport could also object to the civil jurisdiction of the local courts. Also in the opinion of the India Office a passport system which guaranteed a British subject almost complete immunity from the local Siamese courts was opposed to good order and the convenient disposal of cases, for the British subject could not be sued or punished before the distant court of Salween or Bangkok without considerable cost and inconvenience to the parties concerned. It therefore appeared necessary to withdraw from British subjects the right to object to the jurisdiction of the local courts which they possessed and to transfer to the British representative at

Chiengmai the right to decide both in civil and criminal matters whether any case should be tried by the local authorities or not. The natural sequel of this compromise would be a few alterations in the existing provision of the 1874 Treaty.<sup>(1)</sup>

The Foreign Office agreed to open negotiations with the Siamese Government on the second basis above described and Mr. Thomas George Knox, the British Consul-General in Bangkok, was instructed to approach them.<sup>(2)</sup> The latter welcomed this favourable proposal, so much did they appreciate even a partial surrender of jurisdiction over British subjects. The scheme of abolition of extraterritoriality was always one of the fondly-cherished hopes of the Siamese Government. At the early stage, however, the Siamese Government rejected certain articles and proposed instead, firstly, to refuse to the appointed Consular officer all power of granting passports; secondly, to limit his cognisance of civil or criminal cases to those between British subjects or when the British subject was defendant only; and thirdly, to insist that extradition should be regulated not by the law in force in British India, but to the demands of the Siamese Government.<sup>(3)</sup> All these propositions were considered distinctly conducive to British

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(1) Ibid.

(2) F.O. 69/94, Oakes' Memorandum, March 27, 1878.

(3) F.O. 69/95, Palgrave-Granville, November 11, 1882.

interests by the Foreign Office and Palgrave, the new British Consul-General in Bangkok.<sup>(1)</sup>

In 1883 therefore the Treaty of 1874 was abrogated in favour of a fresh one. The latter contained the same provisions regarding the maintenance of the rights of the British subjects to work the forests and the protection of the Chiefs from the unlawful working of the forests. But the Treaties differed very materially in the matter of jurisdiction. Article VII of the 1883 Treaty stated that "the interests of all British subjects coming to Chiengmai shall be placed under the regulation and control of a British Consul or Vice-Consul, who will be appointed to reside at Chiengmai with power to exercise civil and criminal jurisdiction." By Article VIII the exercise of civil and criminal jurisdiction according to Siamese law over all British subjects, whether holding passports or not, and whether native Indian subjects or otherwise, was placed in the hands of a Siamese judge. The privilege given to British subjects of consenting to the jurisdiction of the Siamese court by the Treaty of 1874 was withdrawn. A proviso, however, was made empowering the newly-appointed British Vice-Consul to remove any case to the Consular Court to be tried by British law, if he thought proper in the interests of justice. Article IX contained a second proviso

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(1) F.O. 69/95, Palgrave-Granville, November 15, 1882.

which provided that appeals from the decision of the Siamese judge should be heard and disposed of by the Siamese authorities and the British Consul-General in Bangkok in consultation, and in cases where the defendants or accused were British subjects, the final decision on appeal should rest with the British Consul-General.<sup>(1)</sup>

Following immediately after the conclusion of the Treaty a court was established in Chiengmai, known as "the International Court" or "San Tang Pratet" (Court of Foreign Nations) in Siamese.<sup>(2)</sup> It would, however, be more correct to call it the "Anglo-Siamese Court", since the only cases tried in it were those arising in the Chiengmai Consular District between British subjects or between British and Siamese subjects. Early in 1884 Mr. E.B. Gould was appointed to be Vice-Consul at Chiengmai.<sup>(3)</sup>

The constitution of the Court was practically that of a Court 'en banc', the Judge and Vice-Consul taking an equal share in the proceedings. In ordinary matters of a more trivial nature, where the defendant was a British subject, the ultimate decision was practically given by the Vice-Consul;

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(1) See Appendix I.

(2) C.O. 273/314, Report on the Working of the International Court at Chiengmai for the year ended June 30, 1904.

(3) F.O. 69/166, Gould-Granville, February 8, 1884.

where the defendant was a Siamese subject, the final order rested with the Judge.<sup>(1)</sup> The power given by the Treaty to the Vice-Consul to transfer cases to the Consular Court gave a considerable moral effect. It acted as a check on the otherwise unlimited powers of the judge in cases involving British interests. The moral effect alone was really sufficient, so that, in practice, it was hardly found necessary to exercise the power of removal.<sup>(2)</sup> Also Mr. E.M. Satow, the British Minister in Bangkok, in his instructions to Mr. W.L. Archer, the Vice-Consul at Chiengmai in 1886, said:

The power given by Article VIII to Her Majesty's Vice-Consul of removing to his own Court a case in which a British subject is the accused or defendant, should be sparingly exercised, and then only when you are convinced on good grounds that it is desirable in the interests of justice. Whenever you find it necessary to take this step, you should at once proceed to furnish me with a full report of your reasons for its adoption.<sup>(3)</sup>

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(1) F.O. 69/168, Archer's Report, July 25, 1895.

(2) F.O. 69/168, Archer's Report, July 25, 1895.

(3) F.O. 69/166, Satow-Archer, February 1, 1886. The Treaty of 1883, although in a sense a minor instrument to the Treaty of 1856, was nevertheless of the greatest importance and probably was one of the main factors in the great preponderance of British interests in Siam in the early 1900's. It supplied the stimulus to bring other nations to the same conclusion - to raise Siam to a higher plane amongst Asian powers. The system of jurisdiction over British subjects under this Treaty became the pattern for other Powers later, although it was, of course, developed and expanded to meet some requirements. The International Court system was in 1904 applied in the north by a Treaty

After the Treaty of 1883 the area affected underwent great changes. In 1886, the whole of Upper Burma, the Shan States, and the large province of Kentung came under British rule. The immigration of Burmese, Shans and Indians into Northern Siam increased.<sup>(1)</sup> In 1884, the few Asian subjects there lived either in Chiengmai or west of that town. By 1900 they were scattered through every town of the north.

The most important change of all was the establishment between 1886 and 1896 of three British Teak Companies, and after 1896 of Danish and French firms.<sup>(2)</sup> Agencies of the British firms existed at Muang Yuom and Mehongsawn, on the Salween side, at Chiengmai, Lampang, Phre, Nan, Sawankalok, and Rahang, and around these agencies congregated large communities of British Asian subjects.<sup>(3)</sup> The Danish agency

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with the French Government to French subjects, European and Asian, and in 1905 by treaties with Denmark and Italy to Danish and Italian subjects, all of whom were Europeans, with a further modification by which appeals from judgments of that court were brought, not before the joint authorities in Bangkok in consultation as by the Treaty of 1883, but before the Siamese Court of Appeal in Bangkok.

- (1) The number of Burmese British subjects registered at the British Consulate at Chiengmai in 1884 which was no more than 50, and of Shans, some 20 or 30, amounted to some 400 Burmese, and of Shans, not less than 2,000 or 3,000 in 1902. The number of Indians was about 300. F.O. 69/246, Beckett's Memorandum, December 17, 1903.
- (2) There were The Borneo Company, the Bombay Burmah Trading Corporation, L.T. Leonowens, Ltd., the Danish East Asiatic Company and the French East Asiatic Company.
- (3) F.O. 69/162, Report on the District Court held at Rahang and Nakornsawan (1895) by J.S. Black, July 25, 1895.

was at Phre while the French Company was working near the Mekong on the banks of its tributary, the Me Khok, with headquarters at Chiengrai. British managers and assistants controlled the various agencies, and had under their control a large staff of Burmese and Shan foresters and employees.

To meet the increasing needs of this large community of British subjects, the so-called International Court system, which was confined to the Provinces of Chiengmai, Lampun and Lampang, was extended to Phre, Nan, Pichai, Sewankalok, Sukothai, Thurn, and Rahang, the whole of Northern Siam from the 17th parallel.<sup>(1)</sup> The Nan Consular establishment took the form of an Assistantship and was placed under the jurisdiction of the full Consul at Chiengmai.<sup>(2)</sup>

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(1) F.O. 69/168. Tel., Salisbury-de Bunsen, December 27, 1895.

(2) This appointment was prompted by political rather than by consular considerations. In 1893 in consequence of territorial changes the Khamus who were engaged as coolies in the teak trade in the north of Siam and who came from the left bank of the Mekong, became French subjects by the right set forth in Article VIII of the French-Siamese Treaty of 1893. Shortly after that date the French Government established Consulate at Nan and Korat. Mr. Hardouin, formerly Chancellor at Bangkok, was in charge of the French Vice-Consulate at Nan where the French subjects numbered about 300 or 400. The presence of a French Consul, the contiguity of that district to the territory acquired by the French, the possibility of troublesome questions arising between French and Siamese officials, rendered not only desirable but would be in a position to report impartially upon subjects of differences between Siamese and French officials, and give due warning of any movement or policy likely to be prejudicial to British interest.

Vide F.O. 69/168, De Bunsen-Salisbury, August 17, 1895. F.O. 69/162, General Report (Political) of a journey to Korat and Nan, 1895, J.S. Black. F.O. 69/248, T.H. Lyle's Memorandum, June 19, 1903.

The negotiations of the separate Treaties of 1874 and 1883 were in themselves a proof that both the Siamese and British Governments did not consider the 1855 Treaty suitable to the new conditions which grew up. Logically, if such was the case with respect to the northern provinces, the provisions of the 1855 Treaty could not be practicable in other parts of the country where British subjects formed a great number in comparison with the local people. The partial surrender of extraterritoriality in the north, while insisting upon its maintenance in Bangkok was necessarily an anomaly. Thus during the first ten years of the twentieth century the Siamese Government was busily engaged in talks with the British Government regarding judicial concessions throughout the Kingdom.

\* The Anglo-Siamese Secret Convention of 1897.

In 1897 England and Siam entered into an agreement by which the King of Siam engaged not to cede or alienate to any other Power any of his rights over any portion of the territories or islands lying to the south of Bangtapan. The British Government, on the other hand, engaged to support Siam in resisting any attempt by a third Power to acquire dominion or to establish its influence or protectorate in the territories or islands mentioned above. (1)

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(1) See Appendix II.

The Agreement brought satisfaction to both parties concerned. The British Government wanted to ensure that no territory between British India and the Straits Settlements would be open to foreign encroachment without her knowledge or permission. The British Foreign Office and Colonial Office both agreed that:

Whoever holds the Peninsula must to a great extent command the route to the Far East. Singapore is the turning point in the south of Asia, but half the value of Singapore would be gone if, to the north of it, a neck of the Peninsula were held by some other Power. (1)

Although Siam had, ever since the existence of Anglo-Siamese relations, claimed the greater portion of the Peninsula as a part of the Siamese dominions, her hold over these regions comprising the States of Kelantan, Trengganu, and Kedah was of the most shadowy and feeble description, and she would naturally be quite unable to resist any penetration by foreigners under the pretext of commercial enterprise. In addition, the Sultans of these States were reluctant to acknowledge Siamese right but were too weak to do anything about it. Britain was constantly threatened by the possibility that at some moment any one of these petty Rulers might be enticed into relations either directly with some foreign Government for the cession of a harbour or coaling station or by the grant of land in their States to permit the

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(1) F.O. 422/45, C.O.-F.O., February 28, 1896.

establishment of large foreign interests, leading eventually to intervention in the Peninsula by a non-British Government.

As for the Siamese, they were happy since Siamese sovereignty over the Malay States was no longer questioned.<sup>(1)</sup> In the course of negotiations the Foreign Office voiced the views of the Colonial Office as to whether the British Government should recognise definitely Siamese sovereignty and control over Kelantan, Trengganu and Kedah. It was the opinion of Lord Salisbury, the British Prime Minister and Foreign Secretary that if the Siamese claim was left vague, the protection afforded by the Convention should become equally indefinite.<sup>(2)</sup> However, before any settlement was reached, Lord Salisbury wrote another letter to Chamberlain, the Colonial Secretary, expressing his readiness to forward to the British Minister in Bangkok a draft of the Convention. He clearly stipulated his opinion that

The result of the Convention, if concluded, will necessarily be to acknowledge the

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(1) Before approaching the Siamese Government Lord Salisbury sounded M.E.W. de Bunsen, the British Consul-General in Bangkok, as to whether the Siamese Government would be inclined to enter into an engagement not to part with any of the territory which they claimed in the Malay Peninsula without the British consent. De Bunsen replied that he believed the Siamese Government would willingly accept the proposal since it was already alarmed at the speeches of Sir Cecil Clement Smith, the ex-Governor of the Straits Settlements, hinting at the expansion of the Straits Settlements in a northerly direction. F.O. 17/1293, Tels., Salisbury-de Bunsen, January 24, 1896. De Bunsen-Salisbury, January 25, 1896.

(2) F.O. 422/45, F.O.-C.O., March 14, 1896.

rights of Siam over Kelantan and Trengganu, whatever view may be held as to their validity on historical grounds.(1)

The satisfaction of both parties, however, was short-lived. As the twentieth century dawned the Convention began to be a constant source of discussion, friction and discontent between the two Governments. The clash of opinion sprang from firstly, the ambiguity of the terms of the third Article and secondly, the secrecy of the Convention.(2)

Article III of the Convention read:

His Britannic Majesty having engaged by the preceding article to support His Majesty the King of Siam in resisting any attempt by any third Power to acquire dominion or to establish influence or Protectorate in any of the territories or islands above mentioned, His Majesty the King of Siam engages not to grant, cede or let any special privilege or advantage whether as regards land or trade within the above specified limits either to the Government or to the subjects of a third Power without the written consent of the British Government.

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(1) Ibid, F.O.-C.O., March 26, 1896.

(2) Right from the very outset of the negotiations, the Foreign Office, complying with the wish of the Siamese Government, took every possible precaution to preserve the secrecy of the Convention. The Siamese wanted to keep the Convention secret in order to provide against the chance of French irritation. Also they were afraid that if it became known to the Germans, they might contend that its terms were inconsistent with the Treaty engagements of Siam towards Germany in regard to concession. Therefore even the Straits Settlements Government was merely informed that the British Government had received from the Siamese Government assurances in regard to the Malay States which they considered satisfactory.  
F.O. 17/1292. F.O. Note on de Bunsen's letter of July 15, 1896. F.O. 17/1295, Memo. Curzon-Salisbury, July 27, 1896.

By this article the real issues which the Siamese Government were concerned with were: firstly, the Siamese Government could not grant Concessions involving the alienation or cession of any territorial rights, no distinction being made between large or small concessions; secondly, the words "special privilege or advantage" were exclusive of general rights already conceded to Treaty Powers; and, lastly, the terms of the Convention if enforced would deny to other powers rights granted to them by the existing Treaties negotiated in the 1850's and 60's. This result would have been contrary to the Convention.

The freedom of action left to the Siamese Government in dealing with foreign applications presented the most complicated problem. The question arose as to whether the text of Article III implied the necessity of a written consent of the British Government for any sort of concession or whether it concerned only some particular category of agreements whose objects should be "to grant, cede or let any special privilege or advantage as regards land or trade". A private letter addressed by Archer, then the British Consul in Bangkok, to Prince Devawongse during the course of negotiations, although evidently written with the intention to secure, without any possibility of misunderstanding, a full execution of Article III did not really contradict the construction of the words "special advantage or privilege". This letter was written in reply to a note of Prince Devawongse whereby His Royal Highness

informed Archer that he was instructed to make sure before definitely adhering to the Convention, that the words "any special privilege or advantage" should not be constructed as involving any promise or engagement whereby the British Government should oblige themselves not to admit the subjects of any Treaty Power to the exercise of such rights as were conferred on them by the existing and well-known Treaties presently in force between Siam and other Powers. There were two points in Archer's reply. First, the British Government had to adhere to the words "special privilege or advantage". Second, it was not possible to draw a line between large and small concessions.<sup>(1)</sup> None of these two points had been brought into question by Prince Devawongse. Having himself proposed the words "special advantage or privilege" he never thought of amending them, and he never suggested drawing a line between large and small concessions, provided that the word "concessions" which was not in the Convention, should be considered as equivalent to "special advantage or privilege" which was in it and to which Archer wished to adhere. Moreover, there was no time left for exchanging more letters, as the wish of both parties was to sign the Convention before

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(1) F.O. 69/215, Note about the construction of Article III of the Secret Convention of 1897, February 28, 1901.

King Chulalongkorn's departure for Europe.<sup>(1)</sup> The reservation of Prince Devawongse as to the Treaty rights of other Powers remained then unanswered. So it was extremely difficult to distinguish purely commercial enterprises from concessions likely to be of political import, since a large agglomeration of foreign interest might lead a foreign Power into using large vested interests and rights as a pretext for intervention.

The prevailing concession system was open to grave danger inasmuch as the Malay Sultans still had the power to grant concessions and then the concessionaires applied to the Siamese Government for ratification.<sup>(2)</sup> The Siamese Government, whose policy was to strengthen control over and to raise revenue from all its Malay States, was dead against this. For it was difficult to deal with a fait accompli. Sir Frank Swettenham, then the Resident-General for the Federated Malay States, was right when he said,

Siamese officials will dislike and oppose a concession obtained straight from a Malay Ruler or Chief; firstly, because they

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(1) When the King's European tour of 1897 was planned a strong rumour was running round the British Consulate that the Siamese Government wished to put off the negotiations. Prince Devawongse alluded to the Railway Convention between China and Russia and thought that the Malay Convention might lead to a British Protectorate. This situation caused the Foreign Office no little anxiety. Lord Salisbury prompted Archer to press the Siamese Government to conclude the Convention before the King's departure to Europe. F.O. 69/176, Tel., Salisbury-Archer, March 23, 1897.

(2) F.O. 628/294, Paget-Lansdowne, January 25, 1905.

think it weakens their control, and, secondly, because they have no opportunity of deriving any benefit from the grant of it.<sup>(1)</sup>

Worse still, the British Government, with a policy of entirely exclusive enterprise, encouraged the Siamese Government to grant reasonable concessions to British subjects, without making any embarrassing concession to Europeans of other nationalities.<sup>(2)</sup> But the distinction between concessions to British subjects and concessions to the subjects of third Powers had not been kept sufficiently in mind. It was difficult for the Siamese to discriminate between bona fide and bogus British Companies, Syndicates or private applicants.

From the British viewpoint the undertaking that the British Government would construe the Convention in the spirit most friendly to Siam also left it open for them to consider in what cases their interests rendered it inadvisable to refuse the consent to a concession demanded by the subject of a third Power on the strength of his Treaty rights.<sup>(3)</sup> As Mr. Ralph Spencer Paget, the British Minister (1903-1909) put it,

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(1) F.O. 422/53, Swettenham-Archer, July 13, 1900.

(2) F.O. 69/215, Archer-Lansdowne, March 26, 1901.

(3) F.O. 69/215, Archer-Lansdowne, March 5, 1901.

Whenever an application comes in for a prospecting licence or mining concession for a foreigner, I am in doubt what to do as no regular rule is laid down and there are no regular tests to guide one...<sup>(1)</sup>

The power of the Sultans to grant concessions also revealed the danger to British interests. If therefore, foreign companies other than British obtained concessions directly from the Rulers of these States, they might not consider themselves bound to submit their Agreements to the Siamese Government for confirmation as so far no other Power had recognised the authority of Siam over these Malay States.<sup>(2)</sup>

Under such a confused system it was obvious that the British Government naturally preferred British enterprise to be predominant. Sir Frank Swettenham, who became the Governor of the Straits Settlements in 1901, expressed his view,

There might be objection to granting an island or land on the sea coast to foreigners if it were possible that the land might afterwards be used in any sense as a naval station.<sup>(3)</sup>

Sir John Anderson, Swettenham's successor, even went beyond this view. He considered it advisable to exclude all foreign commercial enterprise from that region. To both of them the

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(1) F.O. 69/265, Paget-Langley, Private, September, 1905.

(2) F.O. 69/236, Memorandum, January 9, 1902.

(3) F.O. 628/294, Paget-Lansdowne, January 25, 1905.

Convention should be termed a success because the large concessions which the Siamese Government had given during the Convention's life were exclusively worked by British companies or British capital.<sup>(1)</sup>

This policy of wholesale discrimination against foreigners in favour of British subjects, the Siamese Government complained, utilised the Convention as a commercial arrangement instead of being interpreted as having a purely political object, and its presentation virtually meant the closing of the door to foreigners in the Malay Peninsula.

The British Government, on the other hand, said that whatever the other interpretation of Article III might prove in other ways, it was difficult to assume that it was indeed its purpose, whose policy in other parts of the world was that of the 'open door', to reverse this policy in Siamese Malaya alone. The minute of Lord Salisbury on which the Convention was drafted showed that its object was to protect certain portions of Siam from foreign aggression, and it was clear that the idea of inserting Article III was not so much to secure trade advantages for Britain as an object in themselves, but rather to prevent foreigners from obtaining special leases of land and special trading rights as a means

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(1) By 1905 there had been 11 mining leases held within this territory by British subjects, and only 2 mining leases were held by foreign subjects other than British.

to an end, in other words, gradually thereby to establish political control in those regions. That it was so was confirmed by the correspondence that subsequently passed dealing with the difficulties interposed by Siam before accepting the Article.<sup>(1)</sup>

The other trouble of the Convention was its secrecy, because it placed the Siamese officials in an extremely embarrassing situation by obliging them to find all kinds of pretexts for delaying a reply to applications for concessions, and ending, perhaps, by their having to refuse the concession when no plausible ground existed for doing so. They simultaneously laid themselves open to remonstrance and the accusation of non-compliance with Treaty rights from other Powers. To take one example, the delay experienced in dealing with the Cerruti and Kaulfuss concessions in the early 1900's, though neither of these could be of any political importance, caused the Siamese Government no little embarrassment.<sup>(2)</sup>

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(1) F.O. 69/265, Nicholas Ball's Memorandum, October 30, 1905.

(2) The application of Mr. Kaulfuss, a German subject, for a mining concession in Kedah reached Bangkok in September, 1904. It was soon learned that the application was not acceptable to the British Government, and Kaulfuss was then informed by the Siamese Government that his application was far too large an extent of territory. He therefore modified his application by reducing the area. The objection then raised to Kaulfuss that he was a photographer and was disposed to drink. These, the Siamese said, were scarcely reasons which could be alleged by the Siamese Government for the refusal of the concession. In order to satisfy the British Government the Siamese Government had to refuse the concession absolutely without giving any reason.

The British Government was in no better position, since the secrecy of the Convention prevented it from claiming its rights to predominance in the Malayan territory as assigned by the Agreement. In spite of the troubles regarding the concessions, the British Government had to fall back on generalities or old treaties with unsatisfactory results. Its own advisers on Malayan affairs were not even formally told about the Secret Convention. To quote the Colonial Office's minutes:

There remains the difficulty as to how we are to inform Sir Frank Swettenham of all this. We cannot, under the existing understanding with the Foreign Office, tell him all about it and send him copies of the correspondence ... as this latter contains reference to the Secret Treaty about which we are to say

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Fortunately Kaulfuss who, in spite of the objectionable qualities to which attention had been called above, had a certain capacity for correct reasoning, informed the Siamese Government that he was no longer backed by German capital. There was therefore no further objection on the part of the British Government and finally the Siamese Government was informed to grant the concession to Kaulfuss. Mr. Cerruti, an Italian, once in the service of the Federated Malay States, applied for a mining concession in Kedah. The Sultan of Kedah recommended the application. Siam was willing to approve and the British Minister recommended approval but Sir John Anderson refused the concession saying that the concession was for hydraulic mining in the basin of the Muda River which constituted the northern boundary of Province Wellesley, and that, unless costly and special precautions were taken, the effect might cause disastrous floods in the neighbourhood, extending to localities within British territory. It was after some long argument from the Siamese Government that the concession was approved.

nothing to him. The position appears to me ludicrous and intolerable. We have to rely greatly on Sir Frank Swettenham for information and advice as to Malayan affairs generally and yet we conceal from him the most important factor in that policy, i.e. the Secret Treaty! The wisdom of the proceeding is still more questionable when it is taken into consideration that we know, though we pretend that we do not know, that Sir Frank Swettenham knows of the Treaty ...<sup>(1)</sup>

The difficulties surrounding the Convention increased in consequence of more constant and increasing demands for land in that territory by foreigners, especially Germans. From time to time the two Governments tried to come to some understanding as regards the question of concession. In 1905 they agreed that the Sultans should obtain the assent of the Siamese Government prior to granting any concession to applicants. One year later the British Government vested greater authority in the British Minister in Bangkok regarding the sanctions of concessions.<sup>(2)</sup> Nonetheless, the attempt came to little.

Also the suggestion to publish the Secret Convention to put an end to this distressing state was advanced as early as 1902. It was the opinion of the Foreign Office and Colonial Office that one day the Siamese Government would have to admit that opposition to the grant of concessions in the Siamese

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(1) C.O. 273/275, C.O. Minutes, March 18, 1901.

(2) F.O. 422/60, Tel. F.O.-Beckett, October 1, 1906.

Malay States was inspired by England. So it would be better not to wait until force of circumstances compelled the revelation but to make the Secret Convention public at once before the grant of a number of small concessions in these states, to which the attention of foreign capitalists was being attracted more and more every day, had given some other power a right to claim that she possessed vested interests which could not be ignored. In October, 1902, Siam signed a Convention with France regarding the settlement of existing difficulties in consequence of the Agreement between them in 1893. While waiting for ratification, the Siamese Government was approached by the British Minister as to whether it would be expedient to publish the Convention of 1897. The British view as to the advisability of publication rested upon these grounds: Article IV of the Franco-Siamese Convention which gave the French Government the right to be consulted on public works in their sphere of influence<sup>(1)</sup> was an infraction of the most-favoured-nation clause contained in Article X of the Treaty of 1856, between Siam and England. While England was

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(1) The Article reads: If in future, in the Siamese part of the basin of the Mekong, the Royal Government desire to undertake the execution of Ports, Canals, Railways (particularly railways designed to connect the Capital with any point whatever in this Basin), they will come to an understanding with the French Government in case these works cannot be executed exclusively by Siamese Personnel and with Siamese capital.

so considerate as not to protest against the Article itself, she was still of the opinion that the Secret Convention should be made public in order to enable her to make a satisfactory reply to any criticism which might be aroused in Parliament by the provisions of the Treaty with France. This, in British belief, might be effected by showing that if the French had obtained the advantages in the Mekong Valley embodied in Article IV, the British had, five years before, secured in a far more explicit form, the advantages provided for in Article III of the Secret Convention.

The King and the Siamese Government were much alarmed at the suggestion. Undoubtedly they objected to its publication. Phraya Suriya, the Siamese Minister in Paris, was instructed to explain to Lord Lansdowne the very material distinction between the terms of Article IV of the 1902 Convention and Article III of the 1897 Convention by referring to the fact that there was nothing in the words of Article IV to show that the understanding with the French Government required by that Article had necessarily to exclude foreigners from the work referred to and foreign capital from their construction. The

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Contd. from overleaf.

With regard to the use of Ports, Canals, Railways in the Siamese part of the Basin of Mekong, as well as in the remainder of the Kingdom, it is understood that no differential dues shall be established contrary to the principle of commercial equality stipulated in the Treaties signed by Siam. (F.O. 69/234. Phraya Si Sahadeb to the Marquess of Lansdowne, October 14, 1902. Enclosure 1).

terms did not in themselves amount to an infraction of the most-favoured-nation clause, which existed not only in the 1856 Treaty with England, but also in the treaties with other countries. Article III, however, on its very face, was an undoubted violation of the most-favoured-nation clause.<sup>(1)</sup>

The Siamese Government was afraid that publication might cause the irritation of the French Government on discovering that the terms of Article IV which it had proposed, and which had been emphatically rejected because they were inconsistent with the most-favoured-nation clause, had been adopted by Siam and England in the Secret Treaty more than five years earlier. A charge of duplicity and bad faith would at once be brought against the Siamese Government. If the Treaty of 1897 was published before the vote of the Chamber and the Senate upon the question of the ratification of the Convention with France, that Convention would never be ratified, and if, after the ratification, the attacks of the adversaries of the French Government would cause such a reaction in their attitude of benevolence that the relations of Siam and France would relapse into a condition more intolerable than they were before the signature of the Convention. Thus the Siamese Government surely had reason to appeal to the British Government not, by publication of the Secret Convention, to

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(1) C.O. 273/287, Phraya Suriya-Lansdowne, October 24, 1902.

render abortive her labour for almost ten years to find a solution of the difficulties pending with France, efforts which were finally on the verge of success. In view of these stated reasons the suggestion of publication was dropped.

However, the Franco-Siamese Agreement of 1902 was not ratified, and in February, 1904, Siam entered into another agreement with France by which the latter was still given the right to be consulted on public works in the eastern provinces under French influence. Two months later England and France signed the Anglo-French Entente of 1904 which was of great significance for the British situation in the Malay Peninsula. Under its terms the northern Malay States fell within the British sphere of influence.<sup>(1)</sup> In view of these two agreements the British Government thought that the secrecy of the Secret Convention was no longer necessary. In August, 1904, the question of the publication of the Convention was revived. Again it met with strong opposition from the Government of Siam.<sup>(2)</sup> Therefore in reply to a question asked in the British Parliament by Sir C. Dilke, it

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(1) British and Foreign State Papers 1903-1904, Vol. 97, pp. 53-55. For documents on the discussions leading to the entente, refer to British Documents on the Origins of the War 1898-1914, Edited by G.P. Gooch, H. Temperley and L.M. Penson, (London, 1936), Vol. 11, Chapter 1.

(2) F.O. 628/25/296, Prince Devawongse-Paget, April 18, 1904.

was stated that:

The agreements entered into between His Majesty's Government and Siam with regard to the Siamese dependencies in the Malay Peninsula are of a strictly confidential nature, and in deference to the strong wish of the Siamese Government, it is not intended to make them public.(1)

Taking all circumstances into consideration, it is obvious that the Anglo-Siamese Secret Convention presented drawbacks to both the British and Siamese Governments. The Convention, being secret, proved useless to the British. Other Powers did not know, or if they did, they pretended that they did not know, of British rights of approval of any concessions in the area south of Bangtapan. Moreover, all these powers including the Malay Sultans did not recognise Siamese suzerainty over the area. If they wanted concessions they preferred direct communications with the Malay Sultans. X The provisions of the Convention could be forceful only if it had been published. But both the publication and the secrecy of the Convention annoyed the Siamese Government. If the Convention was published the same privileges would be demanded by the French Government for the Siamese eastern provinces. Again in keeping up the secrecy the Siamese Government faced a dilemma in finding all excuses to reject concessions from some other Powers. Briefly, the Siamese

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(1) F.O. 422/66, F.O.-I.O., August 15, 1911.

deplored the Convention's existence. Therefore, the following five years after 1904 witnessed a diplomatic battle between England and Siam over the question of the Secret Convention. Each country was cautious to sacrifice the least.

Siamese suzerainty over the Northern Malay States.

The Malay States of Kedah, Perlis, Pattani and Setul became dependencies of Sukothai in the thirteenth century when Siam first made conquests in the Malay Peninsula.<sup>(1)</sup> But it was only in 1769 that Kelantan and Trengganu voluntarily came under Siamese suzerainty.<sup>(2)</sup> At times when Siam was busily engaged in wars with Burma these tributary states revolted against her, but such situations did not last for long. As soon as Siam became stronger, pressures from the Siamese court were applied and Siamese suzerainty was successfully resumed.

In her administration of these tributary states, Siam gave the Malays a free hand. She saw to it that Malays lived under their own laws, customs and rulers.<sup>(3)</sup> As tributary

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- (1) Prince Damrong Rajanubhab, Pharatchaphongsawadan Krung Rattanakosin, Ratchakan Thi 2, (Royal Chronicles of the Second Reign of the Bangkok Period), (Bangkok, 1916), pp. 311-2.  
Prince Damrong, Prachum Phongsawadan Phak Thi 3, (Collected Chronicles, Part III), (Bangkok, 1914), pp. 2-3.
- (2) Phongsawadan Chabab Pharatchahatleka, (Royal Chronicles), (Bangkok, 1952), Vol. II, part II, p. 28.
- (3) Prince Damrong - Prince Narisara Nuwattiwongse, November 14, 1935, San Somdet, (Princes' Letters), (Bangkok, 1961), Vol. VI, p. 174.

States the Malay Sultans were bound regularly to send the bunga mas, ornamental plants with leaves and flowers of gold and silver, every three years to the Siamese capital in return for Siamese protection from external threats.<sup>(1)</sup> These States were not under the direct control of Bangkok but under the principal Siamese province of Nakornsitammarat until 1791 when the governing authority was shared between Nakornsitammarat and Songkhla, another Siamese province in the Malay Peninsula. Kedah and Kelantan came under Nakornsitammarat while Pattani and Trengganu were the responsibility of the Governor of Songkhla.<sup>(2)</sup> Naturally it was in the interest of the provincial governors who were responsible to Bangkok for the good behaviour of the vassal rulers to keep as tight a control over them as possible. To take just one example, in 1844 the Governor of Songkhla failed to force the Governor of Setul to send the required gold and silver trees to Bangkok, and he therefore had to provide them out of the revenue of Songkhla and send them in Setul's name.

Divergent opinions arose as to the exact implications of

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(1) Prince Damrong, Sadaeng Banyai Phongsawadan Syam, (Lectures on the History of Siam), (Bangkok, 1949), p.23.

(2) Prince Damrong, Royal Chronicles of the Second Reign of the Bangkok Period, pp. 121-122. Formerly Kelantan was under Trengganu. After a dispute between their Sultans in 1815 it was split into two States. Perlis was separated from Kedah in 1839. Vide, Jodmai het Luang Udomsombat, (Luang Udomsombat Document), (Bangkok, 1913), pp. 14-15.

Siam's suzerainty over these Malay States. The Siamese persistently held that apart from the Bunga Mas which was a 'direct admission of suzerainty' the Sultans had acknowledged Siamese authority over the internal affairs of the States. There were times when Siam took an active part in the States' affairs as arbiter in local disputes. In Kelantan alone Siam was responsible for restoring peace on not less than three occasions between the years 1837 and 1842.<sup>(1)</sup> And in 1844 the Siamese Court was asked to settle boundary disputes between the Sultans of Setul and Perlis. From then on Setul was ordered by Siam to come under the control of Nakornsitammarat instead of under Songkhla as it had been before.<sup>(2)</sup>

New Sultans also had to announce their accession to the Siamese King and in return the King sent envoys with presents and investiture. The King virtually held the right to appoint the new Sultans. Very often he chose the man he wanted. Van Vliet, a Dutch trader in Ayudhya, reported in 1644 that

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(1) 'History of Kelantan', Tesapiban, Vol. II, (1906/07), p.16, Chao Phraya Tipakorawong, Pharatchaphongsawadan Krung Rattanskosin Ratchakan Thi 3, (Royal Chronicles of the Third Reign of the Bangkok Period). (Bangkok, 1935), pp. 145-6, Prince Damrong, Preface to Luang Udomsombat Document, pp. 431-4.

(2) Phraya Vichien Khiri, Phongsawadan Muang Songkhla, (History of Songkhla), (Bangkok, 1928), p. 38.

.... Siam was almost at war with Kedah because the son of the late Sultan came to the throne without Siamese consent. The new Sultan did not recognise Siamese suzerainty. Consequently trade in Kedah was on the verge of declination. Most people vacated the State. Finally the Sultan sent an envoy and emissaries to the Court of Siam. Everything then became normal. (1)

Evidence showed that Siam appointed the new Sultans for Kelantan, Trengganu and Kedah whenever the necessity arose. To take just two examples, in 1879 there was a dispute among the numerous relatives of the Sultan of Kelantan over the succession soon after the Sultan's death. The King of Siam sent the Governor of Trang to restore peace in the State and appointed the new Sultan. (2) In 1886 when a childless Sultan of Trengganu died Phraya Chaiyenharithronk was chosen by Bangkok to succeed him. (3)

As an overlord the Siamese King also possessed the right to punish the Sultans whenever they disobeyed an order. In 1786 King Rama I summoned the Sultan of Pattani to report to Bangkok. When the latter defied the command, punishment

- Pattani  
1830
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- (1) J. Van Vliet-Mr. Hoysen, Oct. 13, 1644, in Luang Vichitr Vadamarn, Ekasan Ruang Kwam Sampan Gkub Tangpratet, Nai Samai Ayudhya (Documents on Relations with Foreign Countries during the Ayudhya Period), (Bangkok, 1938), pp. 37-8.
- (2) Prince Damrong, Preface to Nungsu Jodmai het Lae Nirat London, (Diary during the London Trip), (Bangkok, 1918), p.31.
- (3) 'History of Trengganu', Tesapiban, Vol.I (1905/06), pp. 275-6.

followed swiftly. Siamese troops under the Kelahom (Defence Ministry) invaded Pattani and arrested the Sultan.<sup>(1)</sup> In 1821 the failure of the Sultan of Kedah to send the required Bunga Mas to Bangkok resulted in the Siamese invasion of that State.

The Sultans showed considerable respect and obedience in their relations with the Court of Siam. They often turned to Siam for help and advice. In time of peace the submission of the Bunga Mas was prompt and voluntary. In time of war the Sultans provided arms and men as required by Siam. Some Sultans were personal friends of the King. Sultan Mamad of Kedah<sup>(2)</sup> went regularly to see King Mongkut in Bangkok.

Relations between Siam and these northern Malay States became closer in the reigns of King Mongkut and King Chulalongkorn when England began to extend her control over the southern Malay States. In 1859 King Mongkut visited Pattani, the first time in history that the Siamese King had travelled so far. On this occasion the Sultans of Kelantan and Trengganu personally met the King.<sup>(3)</sup> During the reign

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(1) Royal Chronicles, Vol. II, part II, p. 270.

(2) He was appointed Sultan of Kedah during the reign of King Mongkut. Manuscript Section, National Library, Bangkok, R 4, 130, The Appointment of Officials in the Southern Provinces, 1855, undated.

(3) Prince Damrong, Prachum Phongsawadan Phak Thi 3, (Collected Chronicles, Part II), (Bangkok, 1954), p. 107.

of King Chulalongkorn, His Majesty made visits frequently to the Malay States from 1870 until the end of his reign in 1910, thus helping to strengthen the relationship between these States and Siam. Even the stubborn Sultan of Trengganu became friendly. The official accounts of these visits recorded that

.... The Sultan of Trengganu was in the King's presence showing high respect ...<sup>(1)</sup>

.... I (the King) talked to him. Then he said that he was very pleased and realised how kind I was. He assured me that he would remain loyal and true to me to the end of his life...<sup>(2)</sup>

.... Then the King sounded out the opinion of the Sultans concerning the rumour that England wanted to bring Kedah, Trengganu, Kelantan and Pattani under her control. On hearing the news the Sultans were terrified and surprised ...<sup>(3)</sup>

Until the beginning of the nineteenth century Siamese influence over these Malay States was hardly seriously disputed. In 1786, however, the question of Kedah's dependency on Siam arose after the Sultan, without Siam's permission,

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- (1) Prince Sommot Amorapan, Jodmai het Phrabat Somdet Phra Chunlachomklao Chaoyuhua Sadet Prapat Laem Malayu R.S. 109, 117, 119, 124, 128. (Records on King Chulalongkorn's Trips to the Peninsula in 1890, 1898, 1900, 1905, 1909), (Bangkok, 1923), pp.9-10. (RS 1781 = AD).
- (2) King Chulalongkorn, Rayatang Sadet Phraratcha Damnern Prapat Tang Bog Tang Ruea Rob Laem Malayu, R.S.109, (Royal Tour to the Peninsula in 1890, (Bangkok, 1932), p.334.
- (3) Prince Sommot, op. cit., p.10.

had ceded Penang to the East India Company in return for a promise of protection from the Company.<sup>(1)</sup> Though Siam did not protest against it the said promise came to nothing, as the British authorities in London persistently pursued a policy of non-intervention. In 1793, seven years after the occupation of Penang, the British Government dispatched a definite instruction to the East India Company to this effect:

No offensive and defensive alliance  
should be made with the Raja of Kedah.

The suzerainty of Siam over Kedah thus remained undisturbed. In 1826 the British Government recognised Siamese suzerainty over Pattani and Kedah, while Kelantan and Trengganu were in effect acknowledged as independent states. Article XIII ran:

The Siamese shall remain in Kedah, and take proper care of that country and of its people.... The Siamese shall levy no duty upon stock and provision .... The English engage to the Siamese that the English do not desire to take possession of Quedah, that they will not attack or disturb it, nor permit the former Government of Quedah (the ex-Sultan) or any of his followers to attack, disturb or injure in any manner the territory of Quedah, or any other territory subject to Siam.<sup>(2)</sup>

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(1) L.A. Mills, "British Malaya 1824-1867", Journal of the Malayan Branch of the Royal Asiatic Society, Vol. III, Part 2, (November, 1925), p. 35.

(2) Henry Burney, The Burney Papers, (5 Vols. Bangkok, 1910-1914), III, May to September, 1826, pp. 400-401.

And Article XII stated:

The Siamese shall not go and obstruct or interrupt in the States of Tringano and Celantan; English merchants and subjects shall have trade and intercourse in future with the same facility and freedom as they have heretofore had: and the English shall not go and molest, attack or disturb those States upon any pretence whatever.<sup>(1)</sup>

The Burney Treaty received a mixed reception from the British. The Government of India was satisfied with it, considering that the provision gave England a chance to extend British protection to Kelantan and Trengganu.<sup>(2)</sup> But Governor Fullerton and the anti-Siamese party in Penang were very much dissatisfied. They considered that Henry Burney had given in too much to Siam's "pretensions" in Kedah. Fullerton termed the mission a failure in so far as the peninsula was concerned. During 1826 and 1827 bitter attacks against Burney were widespread in the press of Penang and Singapore. Nonetheless, the Supreme Government ratified Article XII as well as the other provisions of the treaty.

The Treaty was generally accepted as a principal judgement of the independence of these Malay States until about 1882, when a difference of opinion arose between, on the one side, the

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(1) Ibid.

(2) Mills, Ibid., pp. 149-51.

authorities of the Straits Settlements, more or less supported by the Colonial Office, and on the other side the British representatives at the Siamese Court supported by the India Office and the Foreign Office.

In 1882 Sir Frederick Weld, the Governor of the Straits Settlements, with the support of Frank Swettenham, the Assistant Colonial Secretary for Native Affairs, protested that Trengganu was independent of Siam,<sup>(1)</sup> while Giffard Palgrave, the British Minister in Bangkok, upheld the view of the Siamese Government which considered Trengganu 'to be an autonomous but dependent State with the internal affairs of which it did not ordinarily interfere but over the external relations of which Siam had full control.'<sup>(2)</sup> Four years later Weld objected to the Siamese assuming the right to select the new Sultan of Trengganu, quoting Article XII of the Burney Treaty. Again he was informed by Palgrave that there would be no advantage in making any representations owing to British fears of the establishment of French influence in Siam.<sup>(3)</sup> In 1888 Sir Cecil Smith, Weld's successor, repeated the same argument. In that year he visited Trengganu and asserted that,

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(1) See Swettenham's pamphlet on the Origin and Progress of Siamese influence in the Malay Peninsula 1786-1882, Singapore 1882, enclosed in F.O. 64/82.

(2) C.O. 273/118, Palgrave-Granville, April 26, 1882.

(3) C.O. 273/275, Note on British-Siamese Relations in the Malay Peninsula. (1) The Interpretation of the Treaty of 1897. (2) The Duff Concession.

as the State had no ties with the Court of Siam, it was independent. The Sultan, he stated, had no dealings with Bangkok. The Raja Muda, who paid a visit to Singapore in 1888, said that Trengganu was independent, but being a small State, they feared Siam.<sup>(1)</sup> A year later King Chulalongkorn proposed to establish a Siamese Post Office in Trengganu but the Sultan objected and said that if stamps were to be issued they should bear his own likeness.<sup>(2)</sup> Sir Cecil Smith took the opportunity to report to Lord Knutsford, the Colonial Secretary, who in turn proposed to Lord Salisbury that Trengganu should be brought under British control but the latter turned a deaf ear.<sup>(3)</sup> In June, 1889, the following despatch was sent to Singapore:

In the present condition of Siamese relations with this and other countries, Her Majesty's Government think it most undesirable to take any action calculated unnecessarily to wound the susceptibilities of that country. They are therefore not prepared to sanction any interference with the exercise of Siamese influence over Trengganu ...<sup>(4)</sup>

In 1895, Hugh Clifford, the Resident in Pahang, paid visits to Kelantan and Trengganu and during his home leave in

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(1) C.O. 273/155, E.B. Gould-Cecil Smith, September 27, 1888.

(2) F.O. 17/1293, Memorandum, C.O., February 28, 1896.

(3) F.O. 69/136, Undated minute by Salisbury.

(4) C.O. 273/163, C.O.-Cecil Smith, June 7, 1889.

London that year reported to Chamberlain that the Malays hated the Siamese and that British influence was by far the stronger in Trengganu. The sending of the 'golden flower' from Trengganu to Siam was regarded on both sides as purely voluntary. It had never been regarded by the Malays as an admission of suzerainty.<sup>(1)</sup> But the Colonial Office could do nothing. In fact, from 1889 onwards it had to regard Article XII of the Treaty of 1826 as a stipulation against British action to take Kelantan and Trengganu directly under her protection. De Bunsen, the British Consul-General in Bangkok, also took a similar view. He believed that the golden flower was regarded by the majority of Malays as a symbol of dependence.<sup>(2)</sup>

In 1896, in Lord Salisbury's despatch to Lord Dufferin of January 15, the status of these Malay States was clearly stated:

It might be thought that because we have engaged ourselves and have received the engagement of France not under any circumstances to invade this territory that therefore we are throwing doubt upon the complete title and rights of the Siamese to the remainder of their Kingdom, or,

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(1) F.O. 69/172, Clifford's Memorandum, British Relations with the Unprotected States of Kelantan and Trengganu.

(2) F.O. 17/1293, Memorandum, C.O., February 28, 1896. The divergence of views between the Foreign Office and the Colonial Office with regard to Trengganu and Kelantan has been described in detail in Eunice Thio, "British Policy in the Malay Peninsula 1880-1909", Unpublished Ph.D. Thesis, University of London, 1956. See pages 307-342.

at all events, treating those rights with disregard. Any such interpretation would entirely misrepresent the intention with which this arrangement has been signed. We fully recognise the rights of Siam, to the full and undisturbed enjoyment, in accordance with long usage or with existing treaties, of the entire territory comprised within her dominions ...(1)

In 1897 soon after the signature of the Anglo-Siamese Secret Convention, the Foreign Office despatched the following instruction to Sir Charles Mitchell, the Governor of the Straits Settlements:

... You should ... warn him (the Resident-General of the Federated Malay States) that he must not take any action which could in any way be construed by the Siamese Government as throwing doubts on the rights of Siam in the States in question.(2)

Two years later this same recognition was confirmed by the further British-Siamese Agreement of 1899 for the delimitation of the boundary between the "States of Perak and Pahang on the one side and the Siamese province of Rahman and the Siamese dependencies of Kelantan, Kedah and Trengganu on the other."(3)

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- (1) F.O. 422/56, Sir Frank Bertie's Memorandum, September 10, 1902. The underlining is the writer's.
- (2) F.O. 422/47, Draft Despatch to Mitchell, May 5, 1897. Mitchell was forewarned by Chamberlain during the Secret Convention negotiations that "... it is essential to the object of this Treaty that Siamese sovereignty over Trengganu and Kelantan should not be questioned; otherwise there would remain a part of the Malay Peninsula which might be utilized by a foreign Power ..."  
F.O. 422/45, Chamberlain-Mitchell, December 2, 1896.
- (3) F.O. 422/45, Bertie's Memorandum, September 11, 1902. The underlining is the writer's.

Apart from clashes of opinion in British official circles, the British and Siamese Governments, from the 1860's onwards, often became involved in disagreements concerning these Siamese Malay States. Whenever the suzerainty question was put forward, disturbances arose, causing irritation and annoyance to both parties concerned. There were at least three serious incidents. First, the bombardment of Trengganu in 1862; this event occurred over the succession question between the two leading princes of Pahang, the Bendahara and Mahmud Muzaffer Shah, the ex-Sultan of Lingga. During the fighting Sultan Mahmud went to pay tribute to King Mongkut in Bangkok, and from there he went to seek refuge in Trengganu where his nephew was the Sultan. As soon as the Sultan of Trengganu heard of his uncle's arrival, he sought British help.<sup>(1)</sup> Colonel Orfeur Cavenough of the Straits Settlements protested against Siamese action and demanded the immediate return of the Sultan to Bangkok. Before any action was taken by Siam, the Governor sent two vessels to Trengganu and shelled the Trengganu fort.<sup>(2)</sup> The Siamese protested, and Sir Orfeur refused to admit that they had any concern in Trengganu; but in fact the British authorities in London condemned the Straits Settlements Government for this ruthless

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(1) Sir Frank Swettenham, British Malaya, (London, 1955), pp. 320-21.

(2) Prince Damrong, Collected Chronicles, Part II, p. 110.

act. However, the tragedy of the episode remained and the misunderstanding and conflict lingered on.

Secondly, there was the Pahang Rebellion in 1894. A riot broke out in Pahang in 1894. Uranggaya, the leader, fled to Kelantan and Trengganu. The British Government requested the Siamese Government not to allow him to stay on the grounds that he would again cause disturbance in Pahang. Remembering what had happened during the Trengganu crisis, King Chulalongkorn ordered Phraya Tipakosa, High Commissioner Of Puket, to handle the situation in Trengganu and Kelantan.<sup>(1)</sup> Phraya Tipakosa tried his utmost but a successful operation was hampered by many factors, including a shortage of men, and the geographical situation. This gave rise to much criticism from the British Government that Siam was backing the rebels.<sup>(2)</sup> Accusations were made widely in the Singapore press.<sup>(3)</sup> Sir Charles Mitchell formally protested and proposed to intervene directly in the situation by sending Clifford to Trengganu.<sup>(4)</sup> The Siamese objected. They said that they were sending an armed force to suppress the rebels and that if the Straits Settlements officials wanted to co-

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(1) F.M., The Pahang Rebellion 1894. The King's statement to Phraya Tipakosa, undated.

(2) F.M., Mitchell-Prince Devawongse, August 28, 1894.

(3) The Singapore Free Press, August 25, 1894.

(4) F.M., Mitchell-Prince Devawongse, May 24, 1895.

operate they would be pleased.<sup>(1)</sup> Instead the British sent a gunboat, the H.M.S. 'Redpole' to Trengganu in October 1895 and warned the Siamese that if the situation still remained unsettled they themselves would make a move. Fortunately, order was restored before the situation triggered off a disaster for both sides.

Thirdly, there was the Perak-Rahman Boundary question. The problem started as early as 1881 when the Sultan of Perak complained to Siam that a large piece of Perak territory had been absorbed by Rahman, a state under the protection of Siam.<sup>(2)</sup> Discussion after discussion was held between the Siamese and the Straits Settlements Governments but it was nearly twenty years before a compromise was reached. In the end, a portion of the lost province was restored to Perak by a definition of boundaries of 1899.

There were various consequences of the above incidents. First and foremost it became evident that the Straits Settlements officials had designs upon the Siamese Malay States. Moreover, the Sultans, backed by the British authorities, were turning against Siam in favour of British protection. Thus it is no exaggeration to say that the problem

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(1) F.M., A British Minister in Bangkok - Mitchell, May 24, 1895.

(2) F.M., Memorandum. Knox-Phraya Bhanuvongse, December 6, 1883. File on Perak-Rahman Boundary 1883-1891.

regarding these Siamese Malay States was one of the open wounds in Anglo-Siamese relations. The vague suzerainty of Siam over them could not be left unresolved. A definite decision had to be made as to whether they were independent or whether they came under Siam. By 1900 Britain claimed protection over the rest of the States in the Malay Peninsula. So the question of the Siamese Malay States was a factor in any negotiations between the British and Siamese Governments. In fact the King of Siam was anxious to settle this problem. When the Perak-Rahman question reached its conclusion in 1899 the King wrote:

... I cannot help expressing how pleased I am that the question has now been settled. As regards the territories, though the British are the sole gainer, it is better to end up the matter. An open wound has now been healed. (1)

In view of the existence of these three issues, the trouble of extraterritoriality, the interpretation of the Secret Convention of 1897 and the question of Siam's suzerainty over the Northern Malay States, England and Siam were not the least reluctant to come to negotiated settlements. The consequences of the problems were bitter. The judicial privileges given to the British subjects deprived the Siamese of their national pride, the Secret Convention was meaningless

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(1) F.M., The King-Prince Devawongse, November 24, 1900.

to Britain since British rights over the area which were laid down in the Convention were kept secret, and the situation in the northern Malay States did not allow the two Governments to rest. The first decade of the twentieth century witnessed the attempts of both sides to resolve these problems.

## CHAPTER II

## ANGLO-SIAMESE NEGOTIATIONS, 1900-1905.

The twentieth century opened with Siam's strenuous attempts to solve questions of extraterritoriality, which was the subject of a real grievance felt by her. By 1900, foreign subjects, mostly Asians, who enjoyed judicial rights in Siam were numerous. This situation was different from what it had been when Siam entered into treaties with foreign Powers. The contracting Powers had, in the 1850's and 1860's, intended to accord privileges under the treaties only to those members of Western races who from religious, ethical, social and moral standpoints, were different from the Siamese. It then became extremely galling to the self-respect of Siam to be deprived of jurisdiction over a large proportion of her population. To quote King Chulalongkorn's words

... the troubles of extraterritoriality ... occurred in every country where the same system was in force. Each country similarly aims at its abolition in order to place people of all nationalities in the kingdom under the same law and tribunals.<sup>(1)</sup>

In the 1890's King Chulalongkorn started judicial reforms. This involved reform of local laws and procedures to bring them to equality with those of western nations. The Ministry of Justice was established in 1892, and all the judicial

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(1) King Chulalongkorn, Introduction to the Laksana Kodmai Arya (Criminal Code), (Bangkok, 1909), p.5.

functions of the various departments, saving Naval, Military and the Palace Courts, were consolidated. Prior to this year there had been as many jurisdictions as departments. The situation was described by Prince Rabi,<sup>(1)</sup> the father of Siamese legislation, as follows:

.... the northern provincial courts were under the Interior Department (Krom Mahatthai), the southern provincial courts came under the Defence Department (Krom Kalahom), there were also some provincial courts under the Foreign Affairs Department (Krom Tha), and the capital court (Nakornban Court) in Bangkok was under the Capital Department (Krom Muang). All provincial courts ... tried both civil and criminal cases, but the court under the Krom Muang or the capital court tried only criminal cases. Civil cases were under the Central Civil Court (San Phaeng Klang) and the Kasem Civil Court (San Phaeng Kasem). These two Civil Courts were not under any department. There were also courts in Bangkok which came under the Interior Department, the Kalahom Department and the Tha Department. These courts dealt with cases sent from the provincial courts. Added to what have been said there were a court under Krom Tha to deal with foreign cases, a court of the Lands Department (Krom Na) for cases pertaining to rice-fields, and a court in the Royal

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(1) Prince Rabi of Rajaburi or Prachao Baromwongther Krom Luang Rajburi Direkrit was educated at Oxford and called to the Bar. On his return to Siam in 1895 he became the constant companion of his father, King Chulalongkorn. He was Minister of Justice from 1897 until 1910 when he resigned, owing partly to weariness of office and partly to circumstances arising from an attack made on him by a member of the Royal Family. The Prince was thoroughly English in his ideas, so much so, perhaps, that he found it difficult to reconcile himself to the ways and methods of an autocratic Government. Collected from Ruang Kong Chao Phraya Mahitorn (The Story of Chao Phraya Mahitorn), Compiled by Luang Chakrapranisisilvi-Sudh, (Bangkok, 1956).

Property Department (Krom Praklang Maha Sombat) for cases regarding taxes and Royal debts. Moreover there were courts of the Royal family, the Palace Department (Krom Wang), the Registrar's Department (Krom Phra Surasavadi) ....<sup>(1)</sup>

In spite of this complex situation, the restrictions on individual courts' arbitrary powers were often over-ridden by a powerful head of a Department. The Board in whose hands an appeal decision was supposed to lie was not strong enough to enforce any judgement affecting the Department of a strong Minister or against an influential nobleman.<sup>(2)</sup>

The abuses of this court system were made clear in the Royal Decree on the occasion of the establishing of the Ministry of Justice:

Nowadays litigation in various courts increases because people are more involved in business transactions. In one respect the courts to try cases are split up under various departments and the judges live in different places. In giving a final judgement, the judges rely entirely on the words written on paper; they cannot get any information at

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- (1) Prince Rabi, Praratchabanyat Rajburi, (Rajburi Act), (Bangkok, 1901), pp. 151-152.
- (2) Phraya Nitiatpaisan, a Minister of Justice after the Second World War commented that ... "judicial power and judicial duty were not completely separate from executive administration. The executive administrator always intervened in all court procedures. This was against the principle of legislation in which it was laid down that the duty of the jurist was only to apply laws in making any judgement. To allow the executive to interfere caused a misdirection in the trial." Phraya Nitiatpaisan, "Tamnan san" (The Story of the Court) Prawatisat Kodmai, (History of Legislation), (Bangkok, 1954), p. 261.

first hand. This situation leads to distrust between the judge and parties in a lawsuit. Or at the least it delays the procedures. Litigation accumulates at the various courts of various departments. It takes so long before each case is tried. This is a complete waste of time for people who have to earn their living. They suffer much from this method.

After considerable thought about setting these shortcomings in order so as to benefit all people throughout the kingdom, the King proclaimed the establishment of the Ministry of Justice.<sup>(1)</sup>

The change of the court system was confined at first to Bangkok only, but gradually it was applied to the whole judicial administration of the kingdom. The system of Courts was as follows: every Monthon or circle was divided into Muangs, with a district court (San Muang). Thence an appeal lay to the Circle Court (San Monthon) established in the capital of each province. A final appeal lay from the Bangkok Appeal Court to the King, who exercised his functions through the "San Dika", or Supreme Court of Appeal.

The procedure, both civil and criminal, was promulgated in 1896. The narrow grooves of Siamese law were widened by the application of the principles of English law to all cases

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(1) Ratchakitchanubeksa, (Court Gazette, Bangkok), Vol. XIX, p.200.

in which the Siamese law was silent or its meaning uncertain.<sup>(1)</sup> In 1897, on becoming Minister of Justice,<sup>(2)</sup> Prince Rabi edited and published Siam's ancient laws in two volumes. The decisions of the Supreme Court of Appeal were also published, and formed Law Reports from which a considerable amount of Judge-made law, adapted to modern conditions were gathered. Judicial Commissions were appointed in 1896 with three purposes: to dispose, first, of unfinished cases still pending; second, of cases not yet tried at all; and third, of cases in which all the documents had been lost or destroyed.<sup>(3)</sup> Several European Legal Advisers were engaged from time to time to assist the judicial administration; for example, Dr. Rolin Jacquemynes, a Belgian; Richard Kirkpatrick, an Englishman; Dr. Tokichi Masao, a Japanese; and Dr. George Padoux, a Frenchman.<sup>(4)</sup> In 1900 there were nine foreigners employed as Legal Advisers or Assistant Legal

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- (1) Ancient Siamese law texts suffered very severely from the sack of Ayudhya by the Burmese in 1767. At the beginning of the Bangkok period in 1782 only a ninth or tenth of the State legislation in use in the Ayudhya period survived. In 1805 in the reign of King Rama I, the existing laws were collected and re-written, and became the basis of justice. Nevertheless, the "Three Seals Law" of 1805 (Kodmai Tra Sam Duang) could hardly be considered perfect.
- (2) The first two Ministers of Justice were Prince Svasti (1892-1894) and Krom Luang Pichitprichakorn (1894-1897).
- (3) Court Gazette, Vol. XXV, p. 210.
- (4) Ruang Kong Chao Phraya Mahitorn, pp. 64-67.

Advisers by the Ministry of Justice.

In addition to the actual expansion of her legislation, Siam required the development of a class, upright, able and educated, from which judicial officers might be drawn. Much was done by the institution of a Law School, inaugurated in 1897 by Prince Rabi.<sup>(1)</sup>

Once embarked on the new road of judicial progress, Siam aimed at the complete abolition of extraterritorial rights over foreign subjects. She turned first to England whom she could "always rely on ... as a support".<sup>(2)</sup> Her timing coincided with a new phase of British policy in the Malay Peninsula. Lord Salisbury had been Foreign Secretary as well as Prime Minister until October, 1900, when he surrendered the Foreign Office to Lord Lansdowne, who did not share the Prime Minister's prejudice against an expansion of British influence in the Siamese Malay States. It should be remembered that it was in this part of the world that disagreements between the British Foreign Office and the Colonial Office flared up during the latter half of the nineteenth century. The Colonial

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(1) Court Gazette, Vol. XXVIII, p. 102. The idea of establishing a Law School first was aired in 1888 when Rolin Jacquemyns, the first General Adviser to the Siamese Government, suggested the idea to the King. But the work was delayed due to the lack of a suitable organiser. Ruang Kong Chao Phraya Mahitorn, p. 51.

(2) F.O. 422/56, Archer-Lansdowne, September 29, 1902.

Office always deprecated any sign of concession to Siam while the Foreign Office's policy was to be friendly with her. It knew that its Government had no wish to see the valley of the Mekong or the provinces to the south annexed to the French sphere of influence. Thus the maintenance of Siam as a strong, united and independent Power was of paramount importance in comparison with the extension of British influence over the Malay States intervening between Province Wellesley and Lower Burma. However, from the 1800's onward, Straits Settlements Governors like Sir Frederick Weld, Sir Cecil Smith, Sir Frank Swettenham and other Malayan officials favoured placing the four Siamese tributary States of Kedah, Kelantan, Trengganu and Perlis under British protection. But whenever they over-stepped their Government's policy, they were quickly rebuked.

However, international rivalry and tension in the Far East at the turn of the twentieth century made the danger of foreign intervention in the Malay Peninsula more real than before. Germany secured Kiaochow from China; Russia occupied Port Arthur. Britain, France, Russia and Germany obtained special privileges for the construction of railways and mining rights over huge areas in China. The occupation of the Philippines in 1898 brought the United States to a front line in the Far East where hitherto she had played but a small part except for her initiative in opening up Japan.

Possible competition in the Peninsula came from the Germans who were "every day making their influence felt in Siam."<sup>(1)</sup> In the twentieth century Germany was looking for naval bases in order to extend her empire and trade. It was rumoured in 1900 that a well-known German mercantile firm, Behn Meyer and Company, had asked the Sultan of Kedah for the lease of the Langkawi Islands which lay off the coast of Kedah on the western side of the Malay Peninsula and about sixty miles north-west of Penang, to serve as a coaling station and entrepot for the ever-increasing trade to Siam and the East.<sup>(2)</sup> The authorities in Whitehall became alarmed. It had long been decided to leave Penang without defence on the grounds that no foreign Power possessed a base in these waters and the Bay of Bengal was always regarded as a "British lake."

Worse still, the Sultans of the Siamese Malay States appeared to regard themselves as free to administer their Governments independently, and to grant concessions to persons of any nationality. Rumours swept Whitehall in 1901 that an American had applied to the Sultan of Trengganu for all mining rights in that State. And earlier the Sultan had granted a concession of Redan Island to a Singapore Malay by whom it

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(1) Standard (Singapore), December 10, 1890.

(2) London and China Express, 29 December, 1899. Republished in The Bangkok Times, January 25, 1900.

was offered for sale.<sup>(1)</sup> The situation would lead to serious danger unless steps were taken to stop it.

As regards the Siamese Government, these uncontrolled concessions weakened its control over these States. The Sultans seemed to ignore Siam gradually and to turn to others for help. The most important case was the Duff Concession in Kelantan which created irritations and misunderstanding between the British and Siamese Governments during the first years of the new century.

#### The Duff Development Company in Kelantan.

Mr. R.W. Duff, who was for many years in the Straits Settlements service and who, when in charge of the operations for suppressing the rebellion in Pahang in 1894-95 had entered Kelantan and Trengganu in pursuit of rebels, was impressed with the signs of mineral wealth in these unopened states. On his retirement in 1900, he formed a syndicate to prospect the two states for minerals, and to acquire, if the prospecting proved successful, a grant or concession of a mineral area for mining purposes. This syndicate was registered with a preliminary capital of £10,000 being composed of members of a large commercial house of high repute connected with the Far East.<sup>(2)</sup>

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(1) F.O. 69/232, Lansdowne-Tower, January 19, 1902.

(2) F.O. 69/224, Duff Syndicate to F.O., April 24, 1900.

In April, 1900, the syndicate sent Duff to Bangkok to obtain a letter of recommendation from the Siamese Government to the Sultan of Kelantan and Trengganu.<sup>(1)</sup> On his arrival, Duff sounded out Mr. Scott, the Siamese Director of Mines, as to whether he would be able to procure from the Siamese Government an exclusive prospecting licence in these states. Scott, who "refused to run his head against a brick wall", frankly stated that such a licence could not be granted because there were many existing rights in those two states which had to be settled before Siam could grant new ones.<sup>(2)</sup> However, by virtue of Article XII of the Burney Treaty of 1826, which granted British subjects freedom of trade in Kelantan, Prince Damrong, the Minister of Interior, had to permit Duff to travel throughout Kelantan and Trengganu provided that he was accompanied by a Siamese mining engineer.

In Kelantan, Duff noticed that some gold mines were already held by Chinese, under sanction from the Sultan, which the Siamese Commissioner in Kelantan was powerless to veto. Moreover, the engineer who travelled with him tried every possible means to obstruct Duff from mineral prospecting.<sup>(3)</sup> Duff then sought the assistance of the Foreign

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(1) F.O. 69/224, C.O.-F.O., May 19, 1900.

(2) F.O. 69/224. Report on certain rights acquired by the Duff Syndicate Limited in the State of Kelantan.

(3) F.O. 69/224, Duff's Report on his visit to Siam, undated.

Office in London.

After consulting Mr. George Greville, the British Minister in Bangkok who was on leave, and the Colonial Office, the British Vice-Consul in Bangkok, Mr. C.E.W. Stringer, was instructed to afford Duff all assistance but to advise him to confine his request for prospecting to specified districts instead of the whole area of the two states, which, in Greville's opinion, the Siamese Government would be almost certain to refuse.(1)

Duff's demand for a concession in Kelantan met with a point blank refusal from the Siamese Government. He was informed by the latter that England had already recognised Siamese land rights and rights of alienation of land in Kelantan and Trengganu. The Siamese Government was not prepared to admit foreign capitalists in these two states. Recently it had vetoed a proposed German lease of Langkawi Islands, north of Penang. If Duff was able to get a concession the example might quickly be utilised by Russians, French or Germans.(2)

Having no alternative, Duff handled the affair single-handed. He entered into negotiations with the Sultan which resulted in a partnership deed being drawn up between the

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(1) F.O. 69/224, Tel. Salisbury-Stringer, May 22, 1900.

(2) F.O. 69/224, Duff's Report on his visit to Siam, undated.

two of them by which Duff acquired the whole of mineral, trading and other rights over an area of 2,000 square miles, estimated at almost one-third of the total area of Kelantan.<sup>(1)</sup>

The syndicate considered the Agreement thoroughly valid and thought that it was unnecessary to apply to Siam for any confirmation. The Sultan of Kelantan also repudiated the right of the Siamese Government to interfere, and threatened to cancel any Agreement ratified by Siam.<sup>(2)</sup> Consequently, Duff demanded an authority from the British Government to let him prospect in Kelantan. But his Government could not consent on the grounds that England had acknowledged the suzerainty of Siam over Kelantan. So no title granted to a British subject by the Sultan was valid unless ratified by the Siamese King. In August, 1900, the British Minister in Bangkok received an order from the Foreign Office to the effect that

no grant of land by the Sultan of Kelantan to which the Siamese Government objected should receive your support and your support of Duff's Syndicate should take the form of endeavouring to obtain the confirmation of<sup>(3)</sup> the Siamese Government of any such grant.

In the view of the Siamese Government it was impossible

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(1) NA, R5, 3/197, An Agreement between the Sultan of Kelantan and Mr. Robert William Duff, October 10, 1900. The total area of Kelantan is 5,331 square miles.

(2) F.O. 69/224, Duff Syndicate - F.O. May 17, 1901.

(3) F.O. 69/224, F.O.-Stringer, August 25, 1900.

to ratify the Agreement. In his address to the Council of Ministers the King outlined his policy regarding the Siamese Malay States as follows:

... First, during the past few years our Government has noticed that more foreigners have wanted mineral prospects in the Siamese Malay States, especially in Kelantan. Some have come to Bangkok to apply for permission. Some have gone directly to the states. Some have sent their agents and misled the Sultans or offered bribes to tempt them to grant permission for prospecting.

Second, our Government is aware of what has occurred, and on consideration feels that mining and commerce in these Malay States must inevitably be opened up to foreigners in the future, because an exclusionist commercial policy is not only useless to our country but can also be positively injurious when powerful foreign nations come to bother us, seeking to force us to open up commerce, as can be seen in China, for example. Therefore, the best strategy for a small country like Siam can only be to open ourselves to commerce with foreign countries.

Third, to open the country for trade, especially in a Malay State like Kelantan, our Government is undertaking a considerable responsibility. The Malays in these provinces are uncivilised and irresponsible, and the Sultans are obtuse... If the Siamese Government takes no steps to secure the situation and allows foreigners to settle and trade in the area, when any disturbance occurs either with the natives or with the Sultans ... the foreign Government may hold our Government responsible...

Fourth, ... it is impossible for our Government to accept agreements which are signed independently between those foreigners and the Sultans because various grave consequences may ensue. At the least the Sultans are slow-witted. They have no sense of contract... Our policy is to govern these

States through understanding and avoid damaging the interests of the British Government ... Therefore, we have to take drastic actions upon foreigners. All those who seek profits in these States must come to us in Bangkok and not enter into agreements with Sultans, as it is understood that these Sultans regard all Europeans as the "Whites", and they do not differentiate between their nationalities....

Fifth, it is laid down both in the existing treaties between Siam and other Powers and in Siamese law that permission from the Siamese Government is required before foreigners possess landed property or have the right to deal with it in the Siamese provinces. It is obvious that the Agreements which they make with the Sultans are illegal. Recently, orders were given to the Sultans not to conclude Agreements of any kind with the foreigners. If the foreigners come to ask for anything whatsoever the Sultans must refer them to us ...

Sixth, the High Commissioner of Monthon Nakornsitammarat is in charge of the Siamese Eastern Malay States and has been instructed to look after the general situation of Kelantan ... and to appoint a permanent Commissioner there ...

Seventh, the new Mining Law recently came into force, and officials from the Mineral Department have been appointed for these provinces. This action reveals our sincere intention to open these States to those who make valid application.

With regard to Mr. Duff's case we would like to make our policy clear, as follows:

Eighth, it has long been and continues to be our intention to grant Mr. Duff a mineral concession in Kelantan in accordance with the Treaty and the Mining Law.

Ninth, however, we find it impossible to ratify the Agreement between the Sultan and Duff, partly because the boundary and wording mentioned in the Agreement are not clear and partly because the concession is too excessive. But our most important objection is that, if we ratify such contracts which foreigners conclude with the Sultans, it will be serving an example which in future, other foreigners, who are not British, may promise offerings to the Sultan and make him sign agreements of this nature. Then they will come to force us to ratify the Agreement by citing the example of the privileges granted to Duff... (1)

The rigid intentions of the British and Siamese Governments convinced the Syndicate that if it persisted to refuse to apply for Siamese ratification it would be tantamount to opposing the action of the Home Authorities. Duff then accepted Siamese confirmation of the Agreement if Siam would not interfere with the internal administration of Kelantan. (2) He proposed that the Concession agreement be modified on one of three ways:

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(1) NA, R5, 24/3, King Chulalongkorn-Council of Ministers, June 26, 1901. In July, 1901, the King said to Swettenham: "You know Mr. Duff and that he says he has a concession from the Rajah of Kelantan, an immense concession of many square miles. He declines to deal with us in the matter; what am I to do with him? ... But he will not have anything to do with us. How can we deal with him, and how can I let the Malay Rajahs give concessions like this....?" F.O. 69/222, Swettenham's notes on conversation with the King of Siam and Prince Damrong, his brother. July 19, 1901.

(2) F.O. 69/224, Archer-Lensdowne, August 29, 1901.

Either (1) the lessee to make no assignment or sub-lease except to British subjects or to a Company registered in England or in a British Colony;

Or (2) the lessee should hold grants solely for commercial purposes, and not assign or sub-let more than one-third of the area to a Company not registered in England or a British Colony;

Or (3) a combination of the above two.<sup>(1)</sup>

Whitehall seriously considered these conditions.<sup>(2)</sup> The Colonial Office and the Foreign Office suggested to the Siamese Government that the concession should provide for Siamese confirmation of any sub-lease or transfer on the demand of the British Government who should be immediately informed on receipt by the Siamese Government of any application for the confirmation of a transfer.

The Siamese raised objections. They pointed to Article 7 of the Agreement between the Sultan of Kelantan and the

(1) F.O. 69/224, Archer-Lansdowne, September 25, 1901.

(2) The Colonial Office suggested that Sir Frank Swettenham should be instructed to visit Kelantan with or without Duff to arrange with the Sultan for the possible modifications of the conditions for the concession as could reasonably be accepted by the Sultan and Duff and be confirmed by the Siamese Government. But Prince Devawongse objected, saying there were a series of articles in the Straits Settlements press hinting of British designs upon the Siamese Malay States. The visit would be heartily disliked by the Siamese. The Prince accused Duff of taking everything for his own benefit. In fact the Siamese Government was not entirely opposed to Duff's application. It would have been only too pleased to grant him a concession had it not been a large one. C.O. 273/274, C.O.-F.O., September 2, 1901. NA, R5, 3/197, 24/5354, Prince Devawongse-King Chulalongkorn, September 8, 1901.

Syndicate, which stated that the consent of the Sultan was necessary for any lease, and pleaded that an embarrassing position would be created by the publication of a condition binding them as to leases to other than British subjects. The terms of the confirmation should follow the wording of the Agreement. If this were acceptable to the British Government, the Siamese Foreign Minister was prepared to exchange unpublished notes with Reginald Tower, the new British Minister in Bangkok, declaring that, if requested by the British Government, Siam would not withhold her consent from any transfer or sub-lease.<sup>(1)</sup>

While the two Governments were exchanging their views Duff secretly proposed to the Foreign Office that he was willing to give an undertaking to the British Government not to part with the concession or any of the rights conferred by it to any but a British subject.<sup>(2)</sup>

The Foreign Office, of course, was satisfied. Tower was at once instructed to ask the Siamese to authorise the Siamese Legation in London by telegraph to ratify the concession.<sup>(3)</sup> But the Siamese Government still remained firm in its insistence that the words "Government of His Majesty the King of

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(1) F.O. 69/275, Tower-Lansdowne, January 8, 1902.

(2) C.O. 273/285, C.O.-F.O., January 24, 1902.

(3) F.O. 69/275, F.O.-Tower, February 19, 1902.

Siam" be substituted for the words "Raja of Kelantan" at the end of clause 7 of the concession Agreement between the Sultan and Duff.<sup>(1)</sup> If the Sultan still had rights to lease or sub-lease the concession the ratification of the Siamese Government would be meaningless.

Two months passed. The appointment of Kelantan and Trengganu Advisers was moving into a crisis.<sup>(2)</sup> The demand from England became stronger. Siam came to realise that the Duff matter should be settled as quickly as possible. The delay might lead the Straits Settlements officials to the idea that Siam wanted to exclude British trade from the Malay States. They might take the situation as an excuse to get Kelantan and Trengganu.<sup>(3)</sup> Moreover, Duff had already agreed to the terms of Clause 7 of the Concession Agreement.<sup>(4)</sup>

In May, 1902, the Siamese Government complied on the following conditions: firstly, it agreed to ratify the concession unconditionally. Secondly, there was an understanding between the two Governments that whenever the Syndicate might have occasion to execute a transfer or sub-lease they should first satisfy the Foreign Office in London

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(1) NA, R5, 3/197, Luang Ratanabanyati-Lansdowne, March 3, 1902

(2) See the details under the sub-heading 'The Appointment of Advisers in Kelantan and Trengganu' in this Chapter.

(3) NA, R5, 3/197, 608/8117, Prince Damrong-Prince Devawongse, November 27, 1901.

(4) F.O. 69/275, Duff-Luang Ratanabanyati, March 6, 1902.

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that the sub-lessee was altogether fit to be entrusted with the enterprise. Thirdly, the Foreign Office, on being so satisfied, should advise the Siamese Government before the latter ratified the sub-lease. And lastly, in order that the Syndicate might have reasonable certainty that there would be no difficulty or delay, the British Government would inform the Directors confidentially that it was in a position, after thoroughly discussing the matter with the Siamese Government, to state that the latter would not withhold its approval of any sub-lease or transfer, where the above conditions had been completely fulfilled.<sup>(1)</sup>

*What happens on a sub-lease?*  
*A*

At the height of the Duff crisis Sir Frank Swettenham became Governor of the Straits Settlements in 1901. He had always been an ardent advocate of a forward policy in the Malay Peninsula. With his Governorship the policy of expansion came to the fore. There were two reasons behind the scenes: first, the petitions of the Sultans of Sai, Legoh and Pattani to Swettenham in 1901 complaining against the tightening of Siamese control and asking for British advice;<sup>(2)</sup> and second, the question of concessions in the Siamese Malay States which would lead to grave complications. The Duff affair clearly revealed a non-existence of any kind of agreement between the

*Sai's petition - the Pattani affair?*

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(1) F.O. 69/275, Lansdowne-Tower, May 12, 1902.  
 (2) F.O. 422/56, Tel. Swettenham-Chamberlain, January 17, 1902.

Did Duff think to see  
him before and

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Siamese Government and the Sultans, - the Siamese loose control over these States, the Sultans' hatred towards Siam and the possibility of the "third Power" interference. In particular, the concession granted to Duff by the Sultan of Kelantan made it crystal clear that neither the Sultans nor other European Powers recognised the authority of Siam over the area.

Who did  
not  
know  
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#### The Appointment of Advisers in Kelantan and Trengganu.

Immediately after taking office as a British Minister in Bangkok in 1902, Tower pointed out to Prince Devawongse, the Siamese Foreign Minister, the immediate danger of the situation in the Siamese Malay States and asked what steps he intended to take to obviate its likely outcome. The British Government wanted Siam to accept Sir Frank Swettenham's assistance in concluding treaties with Pattani, Kelantan and Trengganu and to place at the Siamese Government's disposal some experienced British officers to act as Siamese representatives in the States. (1)

Such was the beginning of a most controversial series of diplomatic discussions between the two Governments which lasted for almost twelve months. This episode was finally viewed by

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(1) F.O. 69/232, Memorandum of the interview between Prince Devawongse and Tower, January 9, 1902.

Paget, Tower's successor, as follows:

... The Siamese Government should be blamed for their ... supineness, prevarication, and tortuous methods ... (they) were unable to connect or more probably wished to be blind to the connection between cause and effect ... Their attitude ... was purely childish, and their extreme sensitivity makes diplomatic intercourse both unpleasant and difficult.<sup>(1)</sup>

An equally curt comment came from King Chulalongkorn:

In our long association with England, never before have we experienced such bad treatment. No other British representatives looked down upon us in the same manner as did Mr. Tower and Mr. Paget, the British Ministers. True, they are not warlike like those Frenchmen, but they are ruthless, threatening, and want everything to satisfy themselves. I am depressed and fed up. The whole affair has become even worse than dealing with France....<sup>(2)</sup>

Talks in Bangkok opened in an unfriendly atmosphere.

The King and his ministers at home and abroad were bitterly opposed to the "good intentions" of the British Government. Prince Devawongse, though admitting Siam's shortcomings in Trengganu and Kelantan, was opposed to British Advisers in the Malay States.<sup>(3)</sup> Once Siam accepted a measure of foreign control over her actions she ceased to be master of her own destiny. The Prince always believed that the Siamese had

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(1) F.O. 405/171, Annual Report for the year 1906 by Paget.

(2) NA, R5, File 2, No.60. King Chulalongkorn-Phraya Suriya, Siamese Minister in Paris, March 17, 1903.

(3) F.O. 69/232, Tel. Tower-Lansdowne, January 10, 1902.

a right to look after their own affairs, even though in certain respects outsiders might manage them better. Prince Damrong,<sup>(1)</sup> the most responsible actor on the scene, expressed no fear. He referred to the events in 1901 when, in the light of the Straits Settlements press rumours that Siamese administrative control over the Malay States was scandalous, Phraya Si Sahadeb, the Vice-Minister of Interior, was sent on a tour of the Siamese Malay States and obtained assurances of submission from the Sultans.<sup>(2)</sup> In London, the problem was also discussed between Luang Ratanabanyati, the Siamese Charge d'Affairs, and Lord Lansdowne. Though the Siamese

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(1) Although nothing could add to the Prince's widely-praised abilities as a statesman, historian, diplomat and scholar, the writer finds it necessary to quote Paget's tribute to His Royal Highness. Paget wrote:

"At the time of my arrival in Siam in 1902 Prince Damrong was, and had been for some years past, - with the exception of course of King Chulalongkorn - the most outstanding and important figure in the administration of his country.

Nominally filling the Office of Minister of Interior, his influence and activities extended nevertheless to every important question, whether of Internal or Foreign Policy..

... in the light of the complicated political situations as I witnessed and all the events that transpired during my seven years' stay in Siam, I am of opinion that but for King Chulalongkorn's wisdom, backed by Prince Damrong's perspicacity, energy and grip on the country, the independence of Siam might have been seriously threatened by the interests of her more powerful neighbours...."

Dedication to Prince Damrong of Siam 1947, (Bangkok, 1962), pp. 1-3.

(2) NA, R5, 3/197, Tel. Damrong-Si Sahadeb, October 19, 1901.

minister had listened with great interest, he remained studiously non-committal, saying that there was nothing to worry about since Siam had lately effected great improvements in the administration of these States to which new Commissioners had been appointed.<sup>(1)</sup> On the part of the King, His Majesty expressed a fear of French retaliation in the Eastern territories if he were to employ British officers in the Malay States.<sup>(2)</sup>

The question presented even greater difficulty of adjustment after a curt talk in Singapore in February between the King and Sir Frank Swettenham, the man whom the British Government seriously asked to play the honest broker between Siam and Kelantan, Trengganu and Pattani.<sup>(3)</sup> Swettenham was supposed to inform the King of the British Government's views on the general situation in the northern states and give some advice. But news of the King's visit reached Singapore so swiftly and unexpectedly that Swettenham had no time for a well prepared scheme. Ten days before the crucial talks

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(1) NA, R5, 3/197, Memorandum of the Interview between Luang Ratanabanyati and Lord Lansdowne, London, February 11, 1902

(2) F.O. 69/232, Tel. Tower-Lansdowne, January 29, 1902.

(3) In fact, Sir Frank Swettenham wanted to come to Bangkok but King Chulalongkorn thought that such an invitation would be sure to provoke much gossip and possibly trouble from French quarters. His Majesty, therefore, determined on a personal journey to Singapore ostensibly to accompany Prince Nagara Svarga travelling to Europe. F.O. 69/232, Tel. Tower-Lansdowne, February 8, 1902. F.O. 69/227, Tower-Lansdowne, February 8, 1902. C.O. 273/286, Swettenham-Chamberlain, February 3, 1902.

began, telegrams from Swettenham poured into the Colonial Office asking for special instructions.<sup>(1)</sup> But Chamberlain decided to leave the matter entirely to Swettenham. Thus it gave the Governor an opportunity to voice the hopes of his Colony in advocating action in disregard of Siamese authority creating an altogether unfriendly diplomatic atmosphere.

Swettenham gave the King three alternatives - first, to give up Kelantan and Trengganu altogether; second, to employ Englishmen there, or, third, to reach agreement with the Sultans of Kelantan and Trengganu defining the relations of their states to Siam and securing the Sultans the right to manage the internal affairs of their own states in return for their recognition of the right of Siam to control their external relations.<sup>(2)</sup>

As might have been imagined, the King was much disappointed at the tenor of Swettenham's advice by the pressure put upon him as to the territorial cession. If it were

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(1) One of the telegrams read:

"King of Siam leaves Bangkok 20 inst. to confer with me. Have you any special instructions?"

Another one followed:

"Will you approve of my endeavouring to obtain for Britain, by public or secret Treaty, all islands south of 7th degree north latitude, including Langkawi and Redang Island?"

F.O. 422/56, Swettenham-Chamberlain, February 14, 1902.  
Swettenham-Chamberlain, February 22, 1902.

(2) F.O. 69/228, Tower-Lansdowne, March 8, 1902.

accepted a similar move would be made by the French on the eastern frontier of Siam which would practically reduce the Siamese Kingdom to the limits of the Anglo-French Agreement of 1896; viz, the Menam Valley. Disheartened and alarmed, the King hurried back to Bangkok before anything had been agreed upon.<sup>(1)</sup> Prince Devawongse noted:

His Majesty is credited with having said that he believed Sir Frank Swettenham was his sincere friend, and that he had been glad to confer with him, at the instance of His Majesty's Government, but that he now sees Sir Frank in a different light.<sup>(2)</sup>

Then he criticised Swettenham:

... In fact Sir Frank Swettenham lacked diplomatic prudence. With the British Government's support he went to extremes with a view to getting everything he wanted ... Now we have reasons to hit the British Government back. The question of territorial cession never came up in the talks either in London or in Bangkok. The British Foreign Office convinced us that Sir Frank Swettenham, as an experienced hand, would make a successful intermediary. But now even when His Majesty proposed to appoint an English man in Kelantan and

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(1) Queen Sukumal Marasi who accompanied the King on the trip, described the situation in a letter to her son, Prince Nagara that: "His Majesty lost his temper since his discussion with the Governor of Singapore reached a deadlock. He became angry even with those who got seasick. He did not have a word with me for two days' running." Queen Sukumal Marasi-Prince Nagara, March 8, 1902

Phraratchahatleka Phrabat Somdet Phra Chunla-Chomklao Chaoyuhua Lae Lai Phrahat Somdet Phra Pitucha Chao Sukumal Marasi Phra Akarajathewi. (Letters of King Chulalongkorn and Queen Marasi), (Bangkok, 1950).

(2) F.O. 800/142, Lansdowne Private Papers, Tower-Lansdowne, March 10, 1902.

Trengganu he rejected it as being ineffective. On the contrary he suggested that Siam should cede to England these two states, not to mention a demand for other territory. If this advice was adopted it would be in complete antithesis to the British pledge to respect Siamese integrity and would bring an immediate crisis to Siam... How could we regard England as our real friend! (1)

On the King's return it became the task of Tower to restore negotiations to their proper channel. The simplest solution was to uphold the Foreign Office's former attitude of bolstering up Siamese sovereignty, or at least protection, over Kelantan and Trengganu rather than taking drastic measures which would lead to the extension of British protection over them.<sup>(2)</sup> Tower proposed that British officers be appointed in the Siamese Malay States as residents or advisers in some capacity.

By this time the King and his ministers became convinced that the British had designs on Kelantan and Trengganu. They saw that before it was too late they should make a compromise. Thus the Siamese Government was reconciled to the appointment

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(1) NA, R5, 3/197, Prince Devawongse-The King, March 4, 1902. Later Phraya Suriya complained to Sir E. Monson, the British Minister in Paris, about Swettenham's hostility to Siam. He said it would be better on every account for England to make a formal proposal to the Siamese Government for the acquisition of these territories if she required them, so Siam would then know where she stood. F.O. 69/234, Monson-Lansdowne, July 16, 1902.

(2) F.O. 800/142, Tower-Barrington, February 13, 1902.

of officers on the condition that these officers should be attached to the Siamese Ministry of Interior. It also proposed to take steps towards securing arrangements with the Sultans of Kelantan and Trengganu for future relations between their states and Siam.<sup>(1)</sup>

Five offices, the Siamese Foreign Ministry, the British Foreign Office, the Colonial Office, the Straits Settlements Government and the Siamese Legation in Paris, were engaged in the negotiations. The talks started in Bangkok, transferred to London in June, 1902, when Tower became ill, were interrupted and afterwards resumed by the Siamese Minister in Paris, and finally taken up by Phraya Si Sahadeb in London in September, 1902. All negotiations had to avoid touching upon the susceptibilities of the Siamese King and great care had to be taken to conciliate the Sultans and to accommodate Swettenham's temperament. As a result, the issues became very involved and fresh points cropped up continually.

One of the troubles was a visit of the Sultan of Kelantan

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(1) F.O. 69/228, Tower-Lansdowne, March 24, 1902.

F.O. 69/226, Lansdowne-Tower, April 9, 1902.

The Siamese asked that Pattani should be excluded from the discussion because the state was well under the control of Siam. The arrest of Abdul Kadel, the Sultan of Pattani, by Phraya Si Sahadeb on February 20, 1902, on the grounds of gross disobedience proved the existence of some sort of Siamese authority. Traditionally, the matter of Pattani was directly related to the Siamese King, so it should be kept apart from the negotiations. The Foreign Office in London agreed.

to Singapore in May, 1902. When the Sultan heard that an agreement was being prepared between his state and Siam, he became very much alarmed. Moreover, Siam's action towards the Sultan of Pattani inspired distrust in him. On May 15, he proceeded to Singapore seeking British protection.<sup>(1)</sup>

His whole month's stay in Singapore, together with elaborate receptions, irritated the Siamese Court officials, who considered that Swettenham had deliberately insulted them.<sup>(2)</sup>

With a request from the Sultan pledging the British Government to take Kelantan under British protection, Swettenham's desire to turn the Siamese Malay States into British Malaya reached its climax. To him the time had come for England to abandon the present negotiations, to break the British treaty engagement with Siam, to take the Malay States and to give France a free hand in the Valley of the Mekong.<sup>(3)</sup>

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(1) F.O. 69/236, Swettenham-Chamberlain, 16 May, 1902.

(2) Phraya Prasiddhi, the Siamese Charge d'Affairs in London, complained to Lord Lansdowne that the occasion of the Sultan's visit was taken advantage of by Swettenham to show him honour of a kind to which his rank and position in Kelantan by no means entitled him. For example, on his arrival in Singapore the Sultan was received by a guard of honour, and by salutes from guns. The same ceremony was observed on his departure and, moreover, the Straits Settlements Government's yacht "Sea Belle" was placed at his disposal to take him back to Kelantan and fifty Sikhs accompanied him on the voyage back, equipped with arms and ammunition. F.O. 422/56, Phraya Prasiddhi-Lansdowne, July 8, 1902.

(3) F.O. 422/56, Swettenham-C.O., June 5, 1902.

Despatch after despatch from Swettenham flowed into the Colonial Office pressing it to accept Kelantan's independence.

He wrote:

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British interests are in danger ... In every transaction, hitherto Siam has gained, Britain never ... I know the British do not want them, they want us ... At this moment our influence in the Peninsula is predominant and our prestige great ....

I cannot suppose that His Majesty's Government desired to enlarge the area of the Siamese dominions for the benefit of humanity, because of all Eastern people, the Siamese are the most contemptible, the most unreliable and the most corrupt. They are cruel and lazy, unjust and untruthful and they are not even courageous. Indeed I have looked in vain for any good characteristics.<sup>(1)</sup>

One could hardly wish for a clearer statement of the expansionistic and anti-Siamese feeling prevalent in the Straits Settlements; feelings, however, which were not completely shared by the Foreign Office.<sup>(2)</sup> In June, the Sultan was simply told that the British Government could not help.

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(1) F.O. 422/56, Swettenham-C.O., June 11, 1902.

(2) The Foreign Office completely ignored Swettenham's request. Sir Francis L. Bertie, the Assistant Under-Secretary of State for Foreign Affairs, commented, "A foolish telegram. It seems quite impossible to get Sir Frank Swettenham to realise the position." Lansdowne urged the Colonial Office to uphold their main principle, that of respecting Siamese sovereignty over Kelantan. The Colonial Office gave way. F.O.422/56, Memorandum by Sir Frank Bertie, September 10, 1902.

The poor Sultan left Singapore in despair.<sup>(1)</sup>

The word defining the exact status of Trengganu and Kelantan also became a cause of tension. The Siamese Government claimed the states to be under the "sovereignty" of the King of Siam, referring to Lord Salisbury's despatch to Lord Dufferin in 1896, in which the Prime Minister wrote that England would

recognise the rights of Siam, to the full and undisturbed enjoyment, in accordance with long usage or with existing treaties, of the entire territory comprised within her dominions ...<sup>(2)</sup>

But Chamberlain and the Foreign Office preferred the word "dependencies" which was deliberately used for Kelantan and Trengganu in the Perak Boundary Agreement of 1899.<sup>(3)</sup>

There was also a question of foreign trade. In July, 1902, Swettenham informed Chamberlain that the Siamese Government had asked the Sultan of Kelantan to agree to the suggestion that all imports and exports between Siam and Kelantan should be free of duty.<sup>(4)</sup> The British Minister in Bangkok

(1) The Siamese believed that Swettenham did make an effort in vain to conclude a separate agreement with the Sultan. Thus their hatred towards the Governor grew.

(2) See Chapter I, pp. 58-59.

(3) F.O. 422/56, Memo by Sir Frank Bertie, September 11, 1902.

(4) F.O. 69/238, Swettenham-Chamberlain, 29 August, 1902. The first regular Siamese steamer to Kelantan only began to run in 1899. The Sultan collected an import tax of 3 per cent.

made a protest to Prince Devawongse who completely denied knowledge of the rumour.

Next came the Siamese demand for the control of the Telegraph, Railway and Postal Departments in these two states. The Foreign Office contended, however, that this was part of the internal administration.

The highlight of the controversy was the question of advisers. From the start there existed mutual understanding. The Siamese Government agreed that the advisers should be Englishmen and, in return, Lord Lansdowne undertook that the actual appointment should be exclusively Siamese. In the first Siamese draft agreement it was stated that there would be an exchange of notes between the British Minister and Prince Devawongse, and it was stipulated that the "Residents" should be of British nationality, nominated by the Siamese Government but they could not be removed without the consent of the British Minister in Bangkok.<sup>(1)</sup> However, Swettenham, whose uppermost idea was to render the position of such Residents as secure as possible from Siamese interference, did not consent to a Resident being appointed by Siam without reference to the British officials.<sup>(2)</sup> In his opinion, if the British Government did not retain a say in this matter

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(1) F.O. 69/229, Tower-Lansdowne, April 24, 1902.

(2) F.O. 69/229, Tower-Lansdowne, May 6, 1902.

it might have men appointed who, though English, were more Siamese than the Siamese themselves. Swettenham wrote to Charles Lucas, Assistant Under-Secretary of the Colonial Office:

British interests will not be best served if they are represented at Bangkok by people who are notoriously pro-Siamese. As for Rivett-Carnac, he is paid £4,000 a year by the Siamese. Mr. Black, the Consul, I hear, is also going to join them as he cannot resist Siamese gold.<sup>(1)</sup>

Lord Lansdowne concurred. He added:

The mere fact that the Adviser is to be an Englishman gives us absolutely no security that he is fit for the post, and it stands to reason that we must be better judges of our fellow countrymen than the Siamese Government, and that our field of selection must be wider than theirs.<sup>(2)</sup>

The Siamese reaction to the demand was cold. All the negotiations took a turn for the worse when Prince Devawongse abruptly told the British Minister that the Siamese had never contemplated the idea of appointing British officers. Prince Damrong also declared that Siam would rather lose Kelantan and Trengganu than give a written assurance that the Residents should be of British nationality.<sup>(3)</sup> In great disappointment,

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(1) F.O. 69/238, Memorandum by Lucas, September 12-13, 1902. Rivett-Carnac was the Adviser to the Siamese Ministry of Finance.

(2) F.O. 69/238, Private, Lansdowne-Verney, September 24, 1902.

(3) F.O. 69/229, Tower-Lansdowne, May 25, 1902.

Tower telegraphed immediately to Lord Lansdowne:

At what time the present pretension germinated in their brains, I am as yet unable to form a conjecture ... Should the King endorse Prince Devawongse's contention, all negotiations would have to be altered. It would be necessary for His Majesty's Government to assume a definite policy towards the Rajas of Kelantan and Trengganu "to protect" in the words of Sir Frank Swettenham, "our own interests and theirs."<sup>(1)</sup>

Indignation in the Foreign Office reached a fever-pitch.

Lord Lansdowne cabled back to Tower:

It is useless for you to waste your time in interviews with the Minister for Foreign Affairs, or for me to waste mine in interviews with the Siamese Minister, if so little dependence is to be placed on their statements.<sup>(2)</sup>

Four days later definite instructions came from the Foreign Office ordering Tower to abandon the talks until it was clearly recognised that officers of British nationality would be appointed as Residents in Trengganu and Kelantan.<sup>(3)</sup> In the event, the King agreed, but the word "adviser" was to be used instead of "Resident". The Siamese wanted to avoid the use of the word which was a British term for the British officers in the protected states of Malaya.<sup>(4)</sup>

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(1) F.O. 69/232, Lansdowne-Tower, May 19, 1902.

(2) F.O. 69/232, Lansdowne-Tower, May 19, 1902.

(3) F.O. 69/229, Record of Conversation between Tower and Prince Devawongse in Tower's letter to Lansdowne, May 23, 1902.

(4) F.O. 69/229, Beckett's memorandum on Lansdowne's views, June 18, 1902.

That was in May, 1902, and throughout the following four months the battle dragged on over the concurrence of the British Government in the selection and removal of the Advisers.<sup>(1)</sup>

The delay worried the Whitehall officials. At the end of May the Foreign Office received a telegram from Tower intimating that the French Minister in Bangkok had sent a note to the Siamese Government demanding the exclusion of foreign rivals' capital from the Mekong Valley.<sup>(2)</sup> There were also fears lest Siam should throw herself into the arms of Germany. From 1891 onwards German influence in Siam had been growing, more especially so with the construction and administrative control of the railways in the hands of Germans.<sup>(3)</sup>

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- (1) Rivett-Carnac wrote a letter to warn Paget that, ".... There are certain things that the King will consent to, and certain things which ... he will never consent to ... I feel sure that the King will never so far abdicate his rights in this respect as to leave the nomination entirely in the hands of the British Government or bind himself only to select men from a list prepared by the British Government." F.O. 69/229, Tower-Lansdowne, May 6, 1902.
- (2) F.O. 69/229, Tower-Lansdowne, May 25, 1902.
- (3) German interests in Siam originated in 1891 with the appointment of Herr Bethge as Director-General of railways. Germans in Siam at the time numbered not more than fifty, and German commercial interests were represented by one firm of rice-millers and general importers. With the construction and administrative control of the railways in the hands of Germans, German interests grew apace. From 1891 to 1909, the number of Germans swelled from 50 to 200, due almost entirely to the ever-increasing German personnel employed on the railways.

And in the commercial field, German shipping assumed the pride of place previously held by England.

August approached. Prince Devawongse boldly announced the reasons of the Siamese Government for not rushing into the agreement. These reasons bore upon the future policy of France in respect of Siam. Negotiations with a hope of reaching a permanent settlement between Siam and France were then being held in Paris. Thus, if the French Government became aware that the Siamese Government had concluded a separate agreement with the British Government regarding a portion of Siamese territory, the effect might imperil the solution of so vital a question.<sup>(1)</sup>

Three days afterwards Lord Lansdowne presented an ultimatum to the Siamese Government demanding a reply before the end of September. If nothing was settled by then, the British should regard themselves at liberty to withdraw the proposal and should look for a solution in another direction. They would probably make an arrangement directly with the Malay Sultans.<sup>(2)</sup> Such a contention was evidently indicated by an instruction to Swettenham to visit Kelantan and Trengganu in August, 1902.<sup>(3)</sup>

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(1) F.O. 422/56, Archer-Lansdowne, August 26, 1902.

(2) F.O. 69/226, Lansdowne-Archer, August 19, 1902.

(3) F.O. 422/56, Bertie's note on Archer-Lansdowne, August 26, 1902.

The Siamese Government yielded to the demand. It sent Phraya Si Sahadeb, the cleverest Siamese official, in Swettenham's opinion,<sup>(1)</sup> as a special envoy to London. But a complete settlement was delayed as a result of Swettenham's unwanted presence in Kelantan and Trengganu. Phraya Si protested strongly to Lord Lansdowne that Swettenham's act constituted a breach of Article XII of the 1826 Treaty which bound England not to "go and molest, attack or disturb" the states of Kelantan and Trengganu "on any pretence whatever". He complained:

To send the Governor of Singapore into the Siamese Malay States without consulting the Siamese Government was an infringement of the whole spirit, pinpoint an intention of the Secret Treaty of 1897. How strange and incomprehensible it appeared that the present time should be selected for such an act as this.<sup>(2)</sup>

Then came a challenging reply from Sir Francis Bertie:

Western and Oriental ideas of time differed. The Siamese Government might think that they were proceeding with due expedition, but we considered they were delaying so much that we might force to do direct.<sup>(3)</sup>

On October 6, 1902, the Agreement was signed.<sup>(4)</sup> The

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(1) F.O. 69/237, Private, Swettenham-Lucas, July 10, 1902.

(2) F.O. 422/56, Phraya Si Sahadeb-Lansdowne, September 8, 1902.

(3) F.O. 422/56, Memorandum by Sir Frank Bertie, September 8, 1902.

(4) F.O. 69/232, Lansdowne-Archer, October 7, 1902.

British Government recognised the States of Kelantan and Trengganu as dependencies of Siam. The Sultans were prohibited from having any political relations with any foreign Powers except through the Government of Siam. The King of Siam had the right to nominate officers to be Advisers and Assistant Advisers in the States to act as his Representatives, but the Sultan was to pay their salaries. Whenever the gross annual revenue of the State exceeded 100,000 dollars, 10 per cent of that revenue should be paid to the King of Siam, and if the gross income fell below 100,000 dollars, the usual Bunga Mas should continue to be sent. The Siamese Government was forbidden to interfere with the internal administration of these States in any other way than as stated in the Agreement.

Immediately after the signature in London, Sir Frank Swettenham, with the copies of the Agreement, rushed to Kelantan and Trengganu to obtain the signatures of both Sultans on the Agreement.<sup>(1)</sup> Singlehanded, he persuaded the Sultan of Kelantan to sign the English and Malay versions of the Agreement

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(1) C.O. 273/287, Chamberlain-Swettenham, October 13, 1902.  
F.O. 69/239, Swettenham-Chamberlain, October 14, 1902.

but the Sultan of Trengganu refused.<sup>(1)</sup> Swettenham then carried off the copies to Singapore while continuing to bombard the Sultan of Trengganu with private messages pressing him to sign the Agreement. The stubborn Sultan remained on his ground and sent two messengers to Bangkok to inquire the views of the Siamese Government.<sup>(2)</sup> In May, 1903, the Siamese Court sent Phraya Kocha, the Siamese Commissioner in Kelantan, to explain the matter to the Sultan. The attempt was abortive. The Sultan ignored any kind of agreement which had been made behind his back. He flatly refused to sign and never did.

The action of Swettenham created a bad impression among the Siamese who had already expressed their opinion in London that the parties to the Agreement ought to sign together. Thus they refused to sign the Agreement obtained by Swettenham. Instead Phraya Sukhum, Siamese High Commissioner of Nakornsitammarat, was sent to Kelantan. His visit resulted

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(1) In his report to Chamberlain Swettenham relayed the conversation which he had had with the two Sultans. The points raised by the Sultan and Chiefs of Kelantan were like this: Would the Adviser be a British officer? Would they henceforth fly only the Kelantan flag? Was the Sultan secure in his position, and would his descendants succeed him as had always been the custom? Swettenham said 'yes' to all these questions. The Sultan of Trengganu, on the other hand, totally denied his subordination to Siam and asked for the real reason behind this move of the British Government. F.O. 422/56, Swettenham-Chamberlain, October 19 and 20, 1902

(2) F.M., Copy 7838, Khun Nikornkanprakit's report to Prince Damrong, October 17, 1902. F.O. 422/56, Swettenham-Chamberlain, November 19, 1902.

in the signature of the Sultan in the other two versions, Siamese and Malay, of the Agreement.<sup>(1)</sup> The question was which copy of the Agreement should be accepted. After a long discussion the two copies were compared in Bangkok in January, 1903, in the presence of Ralph Paget, the new British Minister; H.W. Thompson, the Assistant Adviser to Kelantan; T.H. Lyle, the British Vice-Consul; W.A. Graham, the Adviser to Kelantan; Phraya Si, and Phraya Kocha. It appeared that the Malay texts were practically identical. However, the Swettenham version bore two signatures, those of the Sultan and the Raja Muda of Kelantan while the Siamese copy had only the Sultan's seal, with the words "Rajah of Kelantan" below it. The Siamese explained that it was not the custom of the Sultan to sign.<sup>(2)</sup> The English and Siamese versions sometimes differed and words were omitted. Paget pressed the Siamese to sign the English version but they raised various objections. In the end, the question was settled by an exchange of notes explaining the differences which existed between the two versions.<sup>(3)</sup>

The selection of advisers posed another exhausting problem. These questions evolved themselves into a complicated issue owing chiefly to the Siamese distrust of Swettenham. The

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(1) F.M., Copy 9652, Tel. Phraya Sukhum-Prince Damrong, November 21, 1902.

(2) F.O. 422/57, Paget-Lansdowne, January 29, 1903.

(3) F.O. 422/57, Paget-Lansdowne, July 16, 1903.

Agreement vested the Siamese Government with the right of appointing both Advisers and Assistant Advisers. Although these officials were to be Englishmen they were to be persons in the Siamese service or be favourably known to both Governments. However, there was a general understanding between the Foreign Office and the Colonial Office that they should speak Malay and should have administrative experience among the Malays. Therefore, when the Siamese Government proposed Mr. Scott, the Siamese Mining-Director, and Mr. Trotter, of the Siamese Police, as Adviser and Assistant Adviser to Kelantan the British Government rejected them on the grounds that none of these candidates fulfilled its requirements.<sup>(1)</sup> Instead, Paget was instructed to propose Mr. D.G. Campbell, a Secretary to the Resident in Selangor, as Adviser to Kelantan.<sup>(2)</sup> For more than ten weeks, although during that time the Siamese Government named several other candidates, the British Government endeavoured by representations both to the Government in Bangkok and to the Siamese Minister in London to induce the Siamese Government to accept Campbell. The British asked the Siamese to give way inasmuch as they had helped them to obtain an acknowledgement of suzerainty from

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(1) F.O. 422/56, Archer-Lansdowne, 31 October, 1902.

(2) The names of Adviser and Assistant Adviser in Trengganu should be left until the Sultan signed the Agreement. Campbell was recommended by Swettenham. He entered service of Selangor in 1883 and had acted as Resident of that State and of Negri Sembilan.

the Sultan.<sup>(1)</sup> They suggested Swettenham's visit to Bangkok to insist on selecting Campbell since there was no one else in their favour<sup>(2)</sup> and they even threatened to advise the Sultan not to recognise any Siamese official sent to him unless it was with the concurrence of Swettenham. This alarming tone could not soften Siamese resistance. Apart from Campbell being unknown to them the Siamese made it clear that they would never consent to appoint any of Swettenham's men. If Campbell was selected he would, naturally, take his orders from Singapore rather than from Bangkok and such an appointment would be regarded everywhere, and especially in France, as equivalent to a British annexation of the Sultan's territory.<sup>(3)</sup> In the meantime rumours reached Bangkok that Campbell was about to leave for Singapore. There were fears in the Siamese Court circles lest the Straits Settlements

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(1) F.O. 422/57, Paget-Lansdowne, January 9, 1903.

(2) NA, R5, File 1, No.60. Conversation between Phraya Pipatkosa and Paget, January 15, 1903.

(3) NA, R5, File 1. Report on the interview between the Siamese Minister, Phraya Visuti Kosa and Sir Thomas Sanderson, February 3, 1903. In fact, Paget was considerate in this matter. In his private letter to Campbell of the Foreign Office, he wrote: "... I felt from the very first that trying to force Campbell on the Siamese Government ... was scarcely justifiable. I wrote in this sense to Sir Frank Swettenham some time ago, but he seemed to think it absolutely necessary to insist on Campbell and that if we did not do so the Agreement would prove a farce."  
cf., F.O. 69/245, Private, Paget-Campbell, April 10, 1903.

Government secretly persuade the Sultan to accept Campbell. The King ordered Phraya Sukhum to take steps to safeguard against Swettenham's interference in Kelantan and Trengganu.<sup>(1)</sup> His Majesty lamented to Prince Devawongse that differences should arise over a small matter like the selection of Advisers. He wrote:

I am upset and perturbed. Small points are being magnified out of all proportion as happened in Burma.<sup>(2)</sup>

The King comforted himself with his belief that Swettenham would not easily win the confidence of the Sultan of Kelantan. In his private letter to the Siamese Minister in Paris the King expressed the view that:

We need not have worried because the Malays, like other nationalities, hate foreign interference. It is a big bluff when the British said that the Malays support them. In fact the Malays do not respect the British for they know full well how heavy-handed (literally) the British are. If the Malays seek British help it is because Great Britain is a great Power. The Malays adored Mr. Duff simply because they were supplied with ready cash. But soon after they received the money, they wanted to cancel the concession.<sup>(3)</sup>

The King and Prince Devawongse took different views towards the selection. The Prince believed in the principle

- (1) NA, R5, File 1, No.60, Tel. Phraya Si Sahadeb-Phraya Sukhum, February 20, 1903.
- (2) NA, R5, File 2, King Chulalongkorn-Prince Devawongse, January 15, 1903.
- (3) NA, R5, File 2, No.60, King Chulalongkorn-Phraya Suriya, March 17, 1903.

of forcing a Siamese candidate upon the British Government. But the King thought that it would be a matter of luck if the Siamese could find a person favourable to the British. But if they could not choose the right one they had better inform the British straightaway. He said:

To give the States to the British without getting anything in return was fatal to the prestige of the nation. Be frank in case we cannot cope with the situation and give the British an opportunity with our eyes open. (1)

March wore on, and the Siamese had still resisted and refused to yield. Reluctantly the British Government offered a compromise by meeting the Siamese halfway. It agreed to accept Graham, (2) who was the latest Siamese nominee, as Adviser to Kelantan provided that Thompson, a District officer at Guantan, Pahang, recommended by Hugh Clifford, was appointed as Assistant Adviser. (3) Probably such a bargain was due to the fact that the Foreign Office officials were tired of Swettenham's suggestion to select only his own subordinate. Once Sir Francis Bertie remarked:

I cannot admit that no one is to be accepted unless he is a nominee of Sir Frank Swettenham. (4)

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(1) NA, R5, File 1, No.60, King Chulalongkorn-Prince Devawongse, January 19, 1903.

(2) Graham was then Assistant to the Ministry of Agriculture in Bangkok. Prior to this he had been in the Shan States and had been charged with the management of the Kachin tribes and acquitted himself very creditably. He was an expert in agriculture and spoke Siamese, Malay, Burmese, and Hindustani. F.O. 69/229, List of Englishmen in Siamese Employment, Tower-Lansdowne, May 26, 1902.

(3) F.O. 422/57, Lansdowne-Paget, March 2, 1903.

(4) F.O. 69/239, Bertie-Lansdowne, Private, December 10, 1902.

The suggestion was adopted but the Siamese Government asked Thompson to stay in Bangkok for a certain time on his way to Kelantan, in order to become personally known to the members of the Siamese Government and to learn in detail the duties he was expected to perform in his capacity.<sup>(1)</sup>

Graham took office in 1904 and various steps were then taken to develop social services in Kelantan.<sup>(2)</sup> Subsequently, however, his appointment could not, from the Siamese viewpoint, be considered a success. Graham showed himself lacking in tact, patience, judgement and breadth of thought, the characteristics most essential for the post. Since his arrival, there had been constant conflicts between him and the Duff Development Company who possessed many administrative rights, much influence with the Sultan, and had played a prominent

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(1) NA, R5, File 1, No.60, Prince Devawongse-Phraya Visuti Kosa, March 3, 1903. In order to do the Sultan a favour Luang Thammarattutatorn, a Siamese agent in Kelantan, voiced His Highness' opinion as to whether he wanted a Siamese or an Englishman as Adviser and whether he preferred an Englishman from the Siamese Government to the one from the Straits Settlements. In reply, the Sultan said he could not care less which nationality the man belonged to or from where the person came from so long as he was a good man. But if he was really given a chance to choose he would choose no one, as he wanted no adviser. Vide NA, R5, File 2, No.60. Prince Damrong-Prince Sommot Amorapan, (The King's Secretary), March 24, 1903.

(2) FM, 331/5857, Si Sahadeb-Pipatkosa, August 19, 1904.

part in the affairs of the State. With the support of the British Government and the Sultan on Duff's side, Siamese prestige gradually disappeared. On the other hand there was a cry for British protection. The personal relations between Prince Damrong and the British officials in Bangkok also deteriorated as a result of verbal duels over the behaviour of Graham.<sup>(1)</sup>

The waning of Siamese influence in Kelantan and Trengganu came at a time that marked the waxing of British political influence in that area. In 1904 the northern Malay States fell within the British sphere of influence under the terms of the Anglo-French Entente of April 8, 1904. The

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(1) In 1905, when Mr. W.R.D. Beckett, the British Consul, suggested the substitution of a more tactful and less antagonistic official for Graham, he met with a strong protest from Prince Damrong, who was always ready to shield Graham. The Prince said:

"Is it Graham's dismissal that you want? Very well, I say that if Graham is dismissed, I will resign my office of Minister of the Interior."

And in a letter to the Sultan of Kelantan he wrote:

"I am surprised to hear of your disagreement with Graham. I have always been in close touch with the affairs of the State. Everything shows a marked improvement. Even the revenue increases. There seems to be no discontentedness. You did not explain clearly about your difference of opinion with Graham. Have you discussed it with Graham? Presently the King is away from Bangkok. You had better think carefully. If there are disagreements as regards religion or customs which cannot be settled, then you and Graham should present the matter to His Majesty for consultation."

Treaty stipulated that:

France shall recognise the influence of Great Britain in the Siamese possessions on the west of the Basin of the Menam, including those in the Malay Peninsula and the adjacent islands; and that Great Britain shall, on the other hand, recognise the influence of France in the Siamese possessions on the east and south-east of the Basin of the Menam including adjacent islands. (1)

The Government of Siam became suspicious of British intentions. Undoubtedly, the 1904 Entente Cordiale removed British fears of thirty years standing that a forward policy in the north of Malaya would lead France to grab Siam and exclude British commerce.

Siam turned her intention to Kedah and Perlis, the two remaining Malay states where she possessed loose and undefined relations. Although in practice the Sultans had to refer important issues to Bangkok, they were at liberty to grant tentative concessions to persons of any nationality which would place Siam in an embarrassing situation should she subsequently offer any objections. In 1904 the Siamese Government viewed with disfavour the case of a German, Mr. Kaulfuss, who was endeavouring to extract from the Sultan of Kedah a concession for a mining area near the Kedah-Rahman border. (2)

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(1) British and Foreign State Papers 1903-1904, Vol. 97, pp. 53-55.

(2) F.O. 422/58, Beckett-Lansdowne, October 29, 1904.

At this time an Italian, Mr. Cerruti, acting for Dutch and German firms applied in vain for a similar concession.<sup>(1)</sup>

Late in 1904 the same Sultan refused to accept Mr. Heal, an officer of the Mining Department, whom Prince Damrong proposed to send to report on the mining possibilities of the state.<sup>(2)</sup>

The Siamese Government thus had no machinery by which to control the Sultans' actions. These prevailing conditions could not long continue without leading to serious difficulty. Before England took advantage of this situation the Siamese Government wished to appoint Advisers, with duties similar to those of the Kelantan Adviser, in Kedah and Perlis. The opportunity to do so came early in 1905 when the Sultan of Kedah approached the government in Bangkok for a loan.

#### Advisers in Kedah and Perlis, 1905

For a decade Kedah had been in a state of mal-administration and financial chaos. This was due to the serious illness of the ruler, Abdul Hamid Halim Shah, his neglect of the affairs of state, and lavish expenditure of the royal income. The already bad financial situation became worse with the extravagant wedding celebrations of the Sultan's five children which began in June, 1904, and continued for three

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(1) C.O. 273/314, Paget-Lucas, January 25, 1905.

(2) F.O. 422/58, Beckett-Lansdowne, October 29, 1904.

months. The occasion ended in disaster for the State as the cost of the whole celebration exceeded 125,000 dollars.<sup>(1)</sup> When the Siamese Government sent her financial adviser, Mr. W.F. Williamson, to Kedah to investigate the State's finance in March, 1905, the debt had risen from 700,000 to 2,800,000 dollars in one year.<sup>(2)</sup> The total debt of the State was estimated at 2,785,604 dollars.<sup>(3)</sup> In sheer desperation, the Raja Muda (the heir to the throne) proceeded to Bangkok with a letter from the Sultan stating the critical financial condition of Kedah and apparently asking for a loan of 2,000,000 dollars and the appointment of an Adviser.<sup>(4)</sup>

Siam now had solid reasons to strengthen her hold on Kedah. She informed the Raja Muda that the loan would be granted on the condition that Kedah accept the services of a Financial Adviser to reorganise the finances of the state and that in view of the Sultan's ill-health the State Council of not more than five members, of whom the Financial Adviser would be one, should be established. The Council would be

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(1) Syed Mohammad and M.G. Knowles, "The Three Million Dollars Wedding", Malaya in History, IV, 2, (July, 1958), pp. 10 et seq.

(2) F.O. 422/59, Paget-Lansdowne, Tel. March 14, 1905. The revenue of the State was about 800,000 dollars a year.

(3) Ibid. Williamson's Memorandum respecting Kedah's affairs, April 16, 1905.

(4) George W. Maxwell, The Annual Report of the British Adviser to the Kedah Government for the Year 1909-1910. (Kuala Lumpur, 1910), p. 9.

responsible for the efficient administration of the State in the face of the Sultan's indisposition.<sup>(1)</sup> The Raja Muda and the Royal family agreed to the above proposal as shown in their addresses to Siam, though there were suspicions among the anti-Siamese in the Straits Settlements that they wrote under the dictation of Bangkok.

The British reaction to Siam's proposed appointment of an Adviser to Kedah was one of dismay. From the very start, Mr. W.R.D. Beckett, the British Consul in Bangkok, was instructed by the Foreign Office to do all he could to discourage such an idea.<sup>(2)</sup> Mr. Barnes, Secretary for Chinese Affairs in the Straits Settlements, hurriedly suggested to Sir John Anderson, the Governor of the Straits Settlements, to appoint an Adviser to the Sultan of Kedah and to advance a loan to the State.<sup>(3)</sup> But the loudest opposition came from the Governor himself. He made out that:

I do not anticipate that any better results would accrue ... It would be as disastrous to the interests of Kedah as to British interests in the Peninsula.<sup>(4)</sup>

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(1) F.O. 422/59, Paget-Lansdowne, March 31, 1905.

(2) F.O. 422/58, F.O.-C.O., December 27, 1904.

(3) F.O. 422/59, Barnes' Memorandum, January 21, 1905.

(4) F.O. 422/59, Anderson-C.O., November 30, 1904.

It was an attempt on the part of Siam to encroach on the independence of Kedah. Though the administration might be lax and the court costly and extravagant, the people would prefer paying more for their Sultan and his Court ....<sup>(1)</sup>

However, the Foreign Office adopted a different vein. It thought that it was impossible to oppose the proposal if the Siamese Government insisted on sending an Adviser to reside in Kedah. By this time the Siamese had shown their courtesy by consulting the Foreign Office about the matter and expressed their readiness to accept an Indian official.<sup>(2)</sup> In Lord Lansdowne's view, even if the appointment was exclusively Siamese, it was equally difficult to negative the scheme. Thus it was more advisable to take the advantage of the situation by asking for British consent to the appointment and removal of the Adviser.<sup>(3)</sup>

Still Sir John Anderson saw no reason to modify the views. He maintained that Kedah was well able to manage its own affairs and Siamese interference was unnecessary.<sup>(4)</sup> Paget, who once said, "I am no such admirer of the Siamese and their methods that I would wish to support them through thick

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(1) F.O. 628/294, Paget-Lansdowne, January 25, 1905.

(2) F.O. 422/59, Paget-Lansdowne, Tel. March 28, 1905.

(3) F.O. 69/264, F.O. Memorandum on Paget's letter of January 25, 1905.

(4) C.O. 273/311, Anderson-Lyttleton, February 16, 1905.

and thin ...", was annoyed and complained:

The Siamese seem to me to have every argument on their side and I think we should cut a sorry figure if we put any difficulties in their way ...

It is a great pity that Singapore and Siam should get on so badly, but the fact is that Singapore can never see any good in Siamese intentions and is ever ready to find fault with Siamese methods, officials and in fact everything Siamese.(1)

Anderson has, I fear, taken the Siamese 'en grippe'. He can see no good in them and loses no opportunity of abusing them and thwarting them whenever possible. Sir Frank Swettenham was very much down on them as you know, but then Sir Frank Swettenham's attacks were mostly justified by facts, while Anderson's at times appear to be groundless.(2)

A matter of immediate concern was whether the British Government should insist on raising its disapproval of the appointment of an Adviser or it should give the Siamese Government a free hand in the arrangement. To prevent the appointment seemed unreasonable. Both the Foreign Office and the British Minister in Bangkok firmly believed that having abundantly recognised Kedah as a dependency of Siam and after insisting on the institution of the same system in Kelantan it was hard to justify opposition to Siam's spontaneous offer. Moreover, the Financial Adviser of the Siamese Government and the Director of the Department of Mines, after their

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(1) F.O. 69/264, Private letter, Paget-Campbell, February 20, 1905.

(2) F.O. 628/26/294, Private, Paget-Langley, February 7, 1905.

investigations in the Malay States, confirmed that Kedah found it necessary to secure the appointment of an Adviser on Economy and the Sultan was willing to receive one. Finally Sir John Anderson gave way but he imposed more conditions. First, the Government of Kedah would be left in the hands of the local authority; second, the Adviser would be removed once the debt had been repaid, and third, the Adviser and his Assistant would be of British nationality, appointed and removed only by British consent. It was clear in the last condition that the Colonial Office officials aimed at selecting their man as an Adviser. They feared that the presence of a British Adviser selected by the Siamese Government might lead to constant jealousy and friction with officials of the Straits Settlements as in the case of Graham in Kelantan.<sup>(1)</sup>

By this time the Siamese were convinced that the Straits Settlements Government wished to encroach upon and absorb the Siamese Malay States. In the minds of the Siamese, their own resistance, which was woven into the Kelantan and Trengganu crisis, could not stop the appointment of a British Adviser there. Instead it had caused smouldering irritation with the British Government. Unmistakably, Kelantan in 1902 had been a dress-rehearsal for Kedah three years later. The Siamese, therefore, agreed to the first and second conditions but they

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(1) F.O. 422/59, Lansdowne-Paget, Tel., June 17, 1905.

decidedly deprecated the desire of the British Government to control the selection of the Adviser by insisting that the appointment had no political significance, and was merely a business precaution adopted to secure the Siamese Government against loss in making a loan.<sup>(1)</sup> Prince Damrong thought that Siam, having required no other loan security from Kedah, was solely dependent on the honesty and ability of the Adviser she sent.<sup>(2)</sup> What she could do was to notify the British Legation in Bangkok of all important steps contemplated. This should be a sufficient safeguard for the British Government to have an opportunity to intervene in case of the Adviser selected being in the British view undesirable.

On June 16, 1905, the Siamese-Kedah loan Agreement for 2,600,000 dollars was signed. The only conditions imposed were that Kedah should accept the advice of the Financial Adviser to be appointed by Siam, and that the budget should be communicated to Bangkok. None of the State revenues had been mortgaged as security.<sup>(3)</sup> Paget commented:

The question of Kedah advisership will not give much more trouble. I cannot see why it would. It is so curious that the Colonial Office and Singapore do not realise that we put ourselves in a very false position and

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(1) F.O. 69/269, F.O.-C.C., June 24, 1905.

(2) F.O. 422/59, Paget-Lansdowne, July 20, 1905.

(3) The Straits Times, August 19, 1910.

lose dignity by raising opposition in these questions where we have not got right and justice on our side.<sup>(1)</sup>

Shortly after the signature of the Agreement, the Siamese Financial Adviser proceeded to Kedah to pay the arrears of salary to Government officials and to report on the general financial condition of the State.<sup>(2)</sup> He left Kedah in September. In the same month, Mr. G.C. Hart, formerly of the Indian service, became Financial Adviser to Kedah. As stated in Article VI of the Agreement his duty was explicitly confined to "all matters relating to Finance". However, in British eyes, the Adviser played a more important role than giving financial advice despite Prince Damrong's assurance of the Siamese policy to interfere as little as possible with the existing regime in Kedah.<sup>(3)</sup>

To counter-balance the increase of Siamese influence in Kedah, Britain urgently revived a proposal for the appointment of British Consular Officers to be stationed there.<sup>(4)</sup> Now

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(1) F.O. 69/264, Private, Paget-Langley, July 18, 1905.

(2) C.O. 273/315, Paget-Lansdowne, June 21, 1905.

(3) F.O. 628/26/294, Private, Paget-Campbell, June 29, 1905.

(4) F.O. 422/59, Lansdowne-Paget, June 17, 1905, C.O.-F.O. June 14, 1905. The idea of appointing officers with roving commissions to watch and report on events in the Siamese Malay States, to advise the Siamese in their dealings with the Malays and to assist British enterprise was first raised in 1886 when Satow, the British Minister in Bangkok, suggested the appointment of British permanent Consuls to

with Siam consolidating her suzerain rights, Britain found it essential to establish a Consulate in Kedah to watch over British interests. Moreover, the State was well within her influence as defined in the Entente of 1904. Accordingly, on December 23, 1905, Mr. Meadows Frost, who had been in the Federated Malay States service since 1898, was appointed

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Contd. from overleaf

reside in Puket on the west coast and in Songkhla on the east coast. Though Sir Frederick Weld, the Governor of the Straits Settlements, was in favour, the idea was not put into practice because the situation in the Siamese Malay States was not pressing. In 1892, the duty of the British Resident Councillor in Penang was extended to cover the western Malay States but there was still no Consul for the eastern coast because: "the Siamese and Malay provinces on the east coast of the Peninsula should, I (Satow) think, remain part of the district of His Majesty's Consul at Bangkok, as they lie within easy reach of this place." In 1901 the scheme of a permanent Consul was revived by Swettenham who thought that as the Resident Councillor in Penang had not sufficient time to devote to the duty it was desirable to appoint a Consular officer for Kedah. Anyhow, he strongly opposed the Consular appointment in Songkhla lest it would lead to similar appointment by other Powers. Unfortunately, when the suggestion reached the Colonial Office in the end of 1901, the question of Kelantan and Trengganu intervened and put a stop to the discussion.

After the Agreement of 1902 had been concluded, the discussion of the Consular arrangement was re-opened when Paget, the British Minister, urged the desirability of creating Consulates in Kedah and Songkhla. Again, when the Colonial Office, the Foreign Office and the Straits Settlements Government were exchanging their views, there was a rumour concerning the Siamese proposal to put in an Adviser in Kedah. The British Government thus quickly abandoned the plan in order not to encourage the Adviser scheme.

As collected from, C.O. 273/277, Stubbs' report, October 8, 1901, and F.O. 69/248, Paget-Lansdowne, August 12, 1903, and September 19, 1903.

British Consul in Kedah with the following instructions:

You will be subordinate to His Majesty's Minister at Bangkok but you will send copies of your despatches to him and the High Commissioner of the Federated Malay States, with whom you will correspond direct on local questions affecting the Straits Settlements and the Federated Malay States.

The Kedah Consular jurisdiction included Perlis, Setul, Trang, Puket and Tongkah.

In 1905, Perlis accepted a similar agreement with Siam. The amount of debt which the country had contracted together with the emptiness of the Public Treasury forced the Sultan of Perlis to apply to the Siamese for a loan and for a European Adviser to aid him in putting the finances in order. Mr. Duke, who had formerly been in the British Shan States service, was appointed from Bangkok as an adviser to the Sultan.<sup>(1)</sup>

In analysing the overall negotiations regarding the Siamese Malay States, the appointment of Advisers, though they were men in the Siamese service, marked the Siamese acceptance of the limits of their own control over this area. The Siamese had to allow for a considerable degree of British influence. At that time British influence in other parts of the Malay Peninsula was at its height. The Siamese Government

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(1) Meadows Frost, The Annual Report of the British Adviser to the Perlis Government for the year 1909-1910. (Kuala Lumpur, 1910), p. 1.

realised that the time would soon come for these Siamese Malay States to join the British Empire. Thompson, an Assistant-Adviser in Kelantan, favoured Britain, while the British Consul in Kedah strongly protected British interests in that State and also in Perlis. Though no Adviser was appointed in Trengganu, the Sultan was a man of strong character who yielded not an inch to Siamese control. Hence Siamese power in this part of Malaya was coming to an end.

While the Siamese and British Governments were engaged in the affairs of the Malay States, the problem of extra-territoriality was not overlooked. By 1900 the result of Siam's attempts to put an end to the judicial privileges of foreign subjects was still unsatisfactory. The only Power that had made some concessions was England. By the Chiangmai Treaty of 1883 she had agreed to submit her subjects in the north to Siamese jurisdiction.<sup>(1)</sup> And by the 1899 Agreement an arrangement had been made for the registration of British

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(1) The chief towns concerned were Chiangmai, Lampoon, Thurn, Phre, Nan and Utaradit, which, according to the Siamese administrative system, fell within the Circle (Monthon) of Payab; Pichai, Sawankalok and Sukotai within Monthon Pitsanulok, and Rahang within Monthon Nakonsawan.

subjects throughout Siam.<sup>(1)</sup> Nonetheless, major difficulties over extraterritoriality remained. The Treaty of 1883 was not only confined to the northern provinces but also gave unchallengeable rights to the British Consuls to transfer the cases to their own courts. The 1899 Agreement, though it appeared promising in theory, created complex problems in practice because it was not easy to decide the nationality of individuals when Siam's population included so many Asians. So the Siamese Government moved on with its plan to free itself from judicial ties. The new movement, which was concentrated in the northern area, was to withdraw the right of transfer of the Consul in order to give the Siamese Court complete judicial power over all British subjects.

Negotiations regarding the Revision of the  
Chiengmai Treaty of 1883, 1902-1905.

The changed situation in the north in the 1890's was one of the factors which caused Siam to give attention to strengthening her judicial power. It should be noted that the Government of Siam began to take steps to consolidate its hold over, and to centralise its administration in, the north

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(1) This Agreement laid down the classes of persons entitled to registration as British subjects, and the procedure to be followed in case of a question arising as to the right of an individual to hold a British certificate. See Appendix III.

from the 1890's onwards. Prior to this the King of Siam had lacked any real authority in this area. The chief reason for the change arose from the seizure by France in 1893 of all territory lying to the east of the Mekong, and notably the occupation by the French of Luang Prabang, which aroused fear of further aggression and encroachment on Siam's northern and eastern frontiers. In 1896 the Siamese Government, with the assistance of a Forestry officer from Burma, introduced measures to preserve the teak forests of the north.<sup>(1)</sup> This move proved of the greatest assistance in extending Siamese influence. In a few years control of all forests and forest concerns slipped out of the hands of local owners and chiefs and they were brought under the direction of the Bangkok Government.<sup>(2)</sup>

In addition, Siamese officials were gradually being

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- (1) Mr. Herbert Slade was recommended by the Government of India to the Siamese authorities as a man thoroughly fitted by long experience to take the post of Conservator of Forests. F.O. 69/211, Private, Verney-Bertie, March 18, 1900.
- (2) Forest operation in the north prior to the operation of the Treaties of 1874 and 1883 was conducted in two ways. In the western states, Chiangmai, Lampang and Lampon, leases of forests were granted by the Chows or hereditary princes, while in the eastern states, Phre and Nan, where it was not the general custom to grant leases, purchases either of isolated parcels of logs, or of outturn for a period, were made direct from Chows or from persons holding permits from them. British subjects had dealt in timber before 1874, being covered by the general provision for free commerce contained in Article V of the Treaty of 1826 and Article VIII of 1855. One important British firm in Bangkok, the Borneo Company, had worked forests in Chiangmai as far back as 1864. F.O. 69/212, Memorandum on Bombay-Burmah Trading Corporation Limited - and the Siamese Government.

appointed to the more influential posts in all the chief towns. The Treasury was reorganised by a European official from Bangkok and attempts were made to transmit the taxes to Bangkok instead of allowing the local authorities to pocket most of the revenue themselves.<sup>(1)</sup> The local courts at Chiangmai and Lampang were also taken over by the Ministry of Justice at Bangkok and the Chows who formerly exercised both executive and judicial functions were replaced in their judicial responsibilities by Siamese judges. The system of local government was altered to correspond with that of Bangkok. The Siamese High Commissioner endeavoured to work through the Chows as much as possible. The Chows resisted all these encroachments on their ancient privileges with a kind of passive animosity, but always yielded to a little pressure. The transfer of the control of the teak forests, of course, stripped them at one blow of much of their power and prestige. Though they still received a fair share of the royalty on timber, they much preferred the old method of bribery and corruption.

Up to the time (1898-1902) when the administration and forests were taken over by the Siamese central authorities, the British community in the north, comprising Burmese and Shans, employed permanently in teak operations and engaged in the transit trade, had little cause to complain of their

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(1) F.O. 69/208, Black-Stringer, May 1, 1900.

position. Subsequently, however, they began to feel the effects of forest restrictions and Siamese "reforms", especially the measures taken by Siamese officials to prevent the acquisition of land by foreign settlers. These measures were made necessary by the desire of British subjects (mostly Asians) to hold land outside the limits set by the Anglo-Siamese Treaty of 1855 which allowed foreigners to hold land only within the limit of 24 hours' journey by boat from Bangkok.<sup>(1)</sup> This discontent found expression in July and August, 1902, in a movement known as "the Shan rising".<sup>(2)</sup>

The trial of the Shan Rising case, which involved mainly British Asian subjects, presented a difficult task, due chiefly to the right of the Consul to transfer the cases to his own court. The situation prompted Prince Devawongse to propose to Archer, the British Consul in Bangkok, to strike out the clause in the Chiangmai Treaty of 1883, by which the

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(1) F.O. 69/250, Langley's Memorandum, February 4, 1903.

(2) A small band of Shans attacked Phre, and massacred some twenty Siamese officials stationed there. A few days later a similar raid was made upon Lampang and, though it was repulsed, the Siamese troops fled to Chiangmai. For the time being, administration and government were completely suspended, and the Lao contributed to the general confusion by murdering all Siamese officials to be found in the outlying districts. Vide F.O. 628/21/279, 628/21/280, "The Shan Rising in July", August, 1902.

British Consul had power to remove cases to his own court<sup>(1)</sup> in return for a clause giving to British subjects the right to hold landed property in the territory covered by the Treaty of 1883.<sup>(2)</sup> British Asian subjects would be deprived of the rights of extraterritoriality still remaining to them, and the Siamese would have full interests of limited jurisdiction. The main reasons advanced in favour of this surrender were, firstly, that during its existence the provisions of the clause had seldom been involved and, secondly, its surrender was a small matter, and might be offered as a 'quid pro quo' for the right to hold land, since appeal to Bangkok still afforded a safeguard against ultimate injustice and acted as a check on

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(1) Article VIII of the 1883 Treaty contained two provisions affecting British subjects, who, under the terms of this treaty came within the jurisdiction of the International Court of Chiangmai. The first of these provisions gave the British Consul or Vice-Consul the power pending a trial in which a British subject was defendant or accused, or in which both parties were British subjects, to transfer the case, at any time before judgement, to the Consular Court. The second of these provisions enabled the Consul or Vice-Consul to require that any British subject, undergoing a sentence of imprisonment, should be removed to the Consular prison, there to complete the remainder of his sentence. See also Chapter I.

(2) F.O. 69/256, Prince Damrong-Lansdowne, June 6, 1904.



leniency of British Consuls in not availing themselves more often of the removal clause was criticised. The opportunity frequently arose for the Consul to exercise his right to withdraw cases and try them in the Consular Court according to English law, but this right was rarely exercised. Moreover the number of British subjects and their interests in Northern Siam had so greatly increased that a Treaty which was at its best a make-shift in 1883, had by the beginning of the twentieth century, become an intolerable burden.(1) Naturally, the British subjects chafed at being under Siamese jurisdiction especially when such a severe differentiation as that imposed by Article VIII was made between British subjects in the north and those in the south of Siam. In Bangkok the presence of European advisers and European officials constituted a wholesome check on the vagaries of Siamese officialdom. In Chiengmai there was not a single European adviser and only one or two European officials in minor positions.(2)

The British officers in Bangkok found themselves on the horns of a dilemma. They had to choose between abolishing the

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(1) F.O. 69/246, The humble petitions of the British subjects in Northern Siam, Inclosure 2 in Paget's letter to Lansdowne, December 17, 1903.

(2) C.O. 273/314, Stringer's Report on the Working of the International Court at Chiengmai for the year ended June 30, 1904.

International Court system altogether or surrendering the removal clause. The first alternative seemed hardly fair and probably impolitic. The abandonment of extraterritorial jurisdiction was a graceful concession which the Siamese Government would appreciate. The latter was doubtless most anxious to retain the rights granted by the Treaty of 1883.

The mere suggestion of its abrogation would meet with ill-will and obstruction from Siam. Thus they were left with the second alternative and this gave rise to two questions; firstly, how far and in what respects would the bargain be advantageous to British subjects? And secondly, to what extent would the proposal find favour with the British subjects?

Differences of opinion concerning the issue arose among British negotiators. Archer all along favoured the idea of surrendering the removal clause, since during some eighteen months of International Court jurisdiction the Consul had found it necessary to exercise the right to withdraw cases on three occasions only.<sup>(1)</sup> The acquisition of residential rights, on the other hand, had been one of the fondly-cherished

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(1) F.O. 628/21/274, Beckett's Memorandum on the Chiengmai International Court system, February 11, 1902.  
F.O. 628/22/278, Stringer's Memorandum on the suggested alternative in the Chiengmai Treaty, August 26, 1902.  
C.O. 273/314, Report on the Working of the International Court at Chiengmai for the year ended June 30, 1904.  
F.O. 69/168, Report by Vice-Consul Archer on the International Court at Chiengmai, July 25, 1895.  
F.O. 69/231, Beckett-Archer, October 5, 1902.

hopes of British subjects. Although in practice the Siamese Government did not exercise strict control of the British subjects regarding landed property, and though a large number of British subjects permanently settled in the north, the Siamese Government refused to admit their ownership in any formal or judicial proceeding.<sup>(1)</sup>

Beckett, then the Consul in Chiengmai, was concerned as to the inadequacy of the 'quid pro quo'. In his view, the right of withdrawal of cases exercised a most salutary influence over the Siamese judges. Its non-operation would render the relations between the latter and the British Consul difficult while "adding very considerably to the prestige of Siam in the eyes of other nations."<sup>(2)</sup> In return for the deletion of this clause, some general redrafting of the Treaty ought to be feasible to render it more applicable to the conditions. He proposed, firstly, that British subjects should obtain their title-deeds, not through the British Consul as provided in Article IV of the 1855 Treaty, but directly from the local authorities, and that in any event the application should be disposed of without reference to Bangkok. Secondly, the Judge of the International Court, whilst formally presiding over the Court, should, both as

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(1) F.O. 628/278, Archer-Lansdowne, August 23, 1902.

(2) F.O. 69/231, Beckett-Archer, October 5, 1902.

regards the actual administration of justice and the varied duties connected with the Registrar's Department of the Court, be controlled and advised by a British Adviser with a legal training, approved by the British Government.<sup>(1)</sup>

Paget demanded even more. He thought that the bargain to strike out the removal clause was one-sided. Its likely effects might be a greater laxity in the proceedings of the International Court, a large increase in the number of Appeals to Bangkok, more frequent disagreement between the British and Siamese authorities regarding cases on Appeal, a more frequent necessity for the arbitrary exercise of the right of final decision, and great discontent among British subjects in the north of Siam, to whom the question of jurisdiction was of far greater importance than a public acknowledgement of their right to hold land. Moreover, once it was admitted that British subjects in the north were liable to the jurisdiction of a Siamese Court, uncontrolled except by appeal to the British and Siamese authorities in Bangkok, it would not be easy to refuse, with any semblance of logic, if a request were made to bring all British subjects all over Siam under Siamese Courts.<sup>(2)</sup> As he put it:

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(1) F.O. 69/231, Beckett-Archer, October 5, 1902.

(2) F.O. 69/246, Paget-Lansdowne, December 17, 1903.

The Siamese would look upon this negotiation as the thin end of the wedge towards putting forward a request later for the total abolition of our jurisdiction in Siam.<sup>(1)</sup>

Thus, more stringent conditions should be required to close the bargain. In addition to Beckett's demand for the presence of an Adviser at the International Court, he asked that this Adviser should be British, selected and approved by the British Consulate with the power of control over the court. No proceedings against a British subject should be held without his presence.<sup>(2)</sup>

In view of these divided opinions Paget reported the matter to the Foreign Office asking for a guidance on the detailed scheme. Unfortunately Whitehall provided no cut-and-dried principles on the issue. In reply Paget was simply instructed to enter into negotiations concerning an agreement modifying the Treaty of 1883. There were no specific instructions as to the policy.<sup>(3)</sup>

During some two years between 1903 and 1904, spasmodic negotiations took place in Bangkok. One proposal or another was discussed, but without success. The situation which arose was briefly as follows: the Siamese Government considered the 1883 Treaty out of date and required a completely

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(1) F.O. 69/246, Paget-Langley, Private, August 4, 1903.

(2) F.O. 69/246, Paget-Lansdowne, December 17, 1903.

(3) F.O. 69/244, Lansdowne-Paget, February 27, 1903.

revised version instead of a supplementary Agreement, while Paget was not authorised to make such a revision.<sup>(1)</sup>

In April, 1904, however, these negotiations were abandoned since the Foreign Office, after further consultations with the India Office, came to the conclusion that there would be danger in surrendering the safeguard furnished by the "removal clause".<sup>(2)</sup> The 'quid pro quo' offered by the Siamese Government, which consisted merely of the right to hold land, was meagre as compared with the important concession she wanted from England. The Foreign Office, the India Office and the Colonial Office all agreed that in

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(1) F.O. 69/246, Paget-Lansdowne, August 4, 1903.

(2) F.O. 422/58, Lansdowne-Paget, April 12, 1904. There were two events leading to this caution. First, the Nai Som case, and second, the newly signed Franco-Siamese Treaty of 1904. In 1902, there was a complaint concerning the unjust proceedings in the International Court against a Mr. Som, an employee of the Borneo Company Limited. There was a difference of opinion between the British Consul and the Judge. The Consul had not removed the case to his own Court on the understanding that pending appeal the accused should be allowed freedom and the judgement should be suspended. On the other hand, the Judge insisted that should he refuse to agree the Consul was powerless to prevent the judgement being put into effect. This case excited much local feeling. It was an example of the grievous wrong that might have been done to a British subject had the removal clause been withdrawn. The Franco-Siamese Treaty of 1904 contained an Article by which French subjects were placed, in regard to jurisdiction, in an almost identical position to that of British subjects. Thus, British subjects would have cause for complaint if, at the very moment when a new Treaty was concluded with France, the right to remove cases into the British Consular Court were surrendered.  
Vide F.O. 69/253, Lansdowne-Paget, April 28, 1904.

general British subjects in the north of Siam would far rather forgo the privilege of holding land than forgo the protection afforded them by the removal clause and the appeal to their own authorities in Bangkok.<sup>(1)</sup> As matters then stood, British subjects, with the changed conditions and commercial development of some forty years after the Treaty of 1855, had spread far beyond the original limits assigned by Treaty and enjoyed with the tacit approval of the Siamese Government residential rights free from almost all restriction. Though the Siamese Government did not officially recognise the title of foreigners to their land, the fact remained that land was acquired and houses were built and rented, and residential rights freely exercised by British subjects.<sup>(2)</sup>

However, at the end of 1904 the India Office changed its ideas again. It was still anxious for the abolition of the restrictions with regard to holding land and suggested to the Foreign Office that if it was impossible to substantiate a claim under the most-favoured-nation Article of the 1855 Treaty, it would be better to demand a general revision, not only of the Agreement of 1883, but also of that of 1856, with a view to getting rid of the objectionable provisions with regard to the holding of land by British subjects.<sup>(3)</sup>

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(1) C.O. 273/315, C.O. Minutes, October 27, 1905.

(2) F.O. 69/255, Beckett-Lansdowne, November 17, 1904.

(3) F.O. 422/58, Lansdowne-Paget, April 12, 1904.

Accordingly, Beckett, who was in charge of the British Consulate during Paget's annual leave, was instructed to sound out the Siamese Government unofficially.

The time coincided with the arrival of Mr. Edward Strobel, an American who was appointed General Adviser to the Siamese Government. Beckett clearly looked to the newcomer, instead of to Prince Devawongse, for consultation. The Prince, the author of the original proposal, seemed likely to feel considerable personal pique at the rejection of his proposal. Naturally, he would view any further negotiations in an unfavourable light. The only course open in dealing with the Prince was to demand the tenure of land by British subjects as a right under the most-favoured-nation clause and also by prescription. This would irritate the Government of Siam and tend to create "the loss of face" which was the dread of the Siamese.<sup>(1)</sup> But Beckett's estimation of Strobel was unfortunate. The talks between the two in no way facilitated a solution of the difficulty. In fact, the new General Adviser was quick to avail himself of various arguments in the

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(1) F.O. 69/255, Beckett-Lansdowne, November 17, 1904.

furtherance of Siamese aims. (1)

After various talks with Strobel, Beckett informed Lord Lansdowne that negotiations could be opened if the British Government was willing to withdraw the operation of the removal clause of Article VIII of the 1883 Treaty in respect of all actions arising in connection with the land for which the British subjects would obtain the right of possession, and if British European subjects were excluded from the sphere of the International Court except in the land cases. Strobel stressed that the Siamese Government had no wish to assert jurisdiction over Europeans. Its only object was to secure the submission of British Asian subjects to the Siamese Courts because extraterritoriality originated from difference in race, customs and religion, and existed because social and legal conditions in Siam were incompatible with European ideas and customs. Extraterritoriality should not, therefore,

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(1) C.O. 273/315, Paget-Lansdowne, September 22, 1905. Beckett, during many discussions with Strobel, tried to claim residential rights for British subjects in the north under the most-favoured-nation clause of the 1855 Treaty. But Strobel candidly pointed out that, though the Siamese Government did not enforce the provisions of that clause as stringently as they might do, there was no ground for maintaining that those provisions had lapsed. What was allowed as a concession to foreigners could hardly be claimed as a right. If such claims were made it would be his duty to advise the Siamese Government to contest them strongly, and to enforce their Treaty rights more strictly in future in order to induce the foreign Powers to adopt a more conciliatory attitude towards proposals for the abolition of extraterritoriality. Vide F.O. 69/255, Beckett-Lansdowne, November 17, 1904.

rightly be applicable in Siam to Asians, to whom it would be no hardship to be under Siamese jurisdiction.<sup>(1)</sup>

The officials at Whitehall strongly objected to the distinction between British and Asian subjects. Davidson of the Foreign Office remarked:

It is a very great mistake at this period of the world's civilisation and at this point of our own imperial development to create, or assent to the creation of, fresh artificial discriminations based on race or colour ... of Her Majesty's subjects.<sup>(1)</sup>  
<sup>(2)</sup>

The India Office also pointed to grave constitutional objections. In fact such formal discrimination was not an absolute necessity because in practice if a white man were brought before the International Court in a criminal case the Consul would at once exercise his power of removal, and in civil cases he would normally take the same course.<sup>(3)</sup>

The Foreign Office then dropped the question of racial discrimination. In May, 1905, Paget was instructed to propose to the Siamese Government that in return for the abolition in the Chiangmai Consular district of the restriction imposed

(1) F.O. 69/255, Beckett-Lansdowne, November 17, 1904.

(2) F.O. 69/255, Davidson's Memorandum on Beckett's letter, November 17, 1904.

(3) F.O. 69/255, F.O. Note on Beckett's letter of November 17, 1904. F.O. 69/269, I.C.-F.O., May 3, 1905. F.O. 69/265, F.O. Note on Paget's letter of September 22, 1905.

upon British subjects in Siam in regard to the tenure of land, the operation of the removal clause of Article VIII of the Treaty of 1883 should be withdrawn with respect to all actions arising in connection with titles to land.<sup>(1)</sup>

It was not until October, 1905, that discussions started. All along, Strobel, who conducted the policy of the Siamese Government and who seemed at first to view the proposition favourably, as Beckett reported to Lansdowne, in no way committed himself to a compromise. He laid great stress upon the fact that the British proposal did not give the Siamese anything approaching what they wanted.<sup>(2)</sup> His chief aim was that all British Asian subjects should be subject to the Siamese tribunals in all cases and not only in land cases. Legally speaking, the Siamese law should govern actions concerning all land throughout the whole of Siam. The British concession, therefore, did not give any 'quid pro quo' to Siam in return for the concession to British subjects of the right to hold land.<sup>(3)</sup> The British Government offered to strengthen Siamese jurisdiction over land by renouncing the

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F.O. 69/263, Lansdowne-Paget, May 18, 1905.

(2) F.O. 69/265, F.O. Memorandum on Paget's letter to Lansdowne, September 22, 1905.

(3) About this time Strobel opened discussions on the subject of land with M. Boissonas, the French Charge d'Affaires, and informed the latter of his discussions with Beckett. Boissonas once came to see Beckett to inquire as to Beckett's views on the subject. Vide F.O. 69/255, Beckett-Lansdowne, November 17, 1904.

removal clause in land cases, but the Siamese Government believed that they had already sufficient jurisdiction over land. If British subjects were to hold land they wanted jurisdiction over them in person. The occupant of the land, whether a Siamese or a British Asian subject should be placed upon precisely the same footing. Strobel pointed out that neither he nor the Siamese Government discriminated between white and coloured British subjects but that such an arrangement was the true principle on which extraterritoriality was based.<sup>(1)</sup> The Siamese Government would give way on the land question only if it received a 'quid pro quo' in the form of an extension of Siamese jurisdiction over Asian foreigners.<sup>(2)</sup>

To quote Strobel's argument:

The results of extraterritoriality produce problems which are difficult enough even when the foreign population is a fluctuating and transitory one; but those difficulties would be immensely increased if the foreign subjects became permanently attached to the soil. If they could buy land and settle on it there would be a large population within the State, but not of the State.<sup>(3)</sup>

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(1) C.O. 273/315, Paget-Lansdowne, September 22, 1905.

(2) F.O. 371/133, F.O. Memorandum, July 24, 1906.

(3) C.O. 273/315. Memorandum on Extraterritoriality in Siam by Strobel, September 11, 1905. This statement rested on one of two hypotheses; either Strobel did not recognise the title of foreigners to their land, or he was ignorant of the fact that many foreign subjects were then holding land in the north of Siam. In his private conversation with Beckett in November 1904, he clearly showed that he could not grasp the exact situation in that area. To

Subsequent talks between Strobel and Paget did not help to achieve a better understanding. Strobel's persistence was not weakened by other possible bargains suggested by Paget, such as the passing of a regulation concerning the compulsory sale of land by British subjects if it was required for public purposes, the imposition of certain taxes upon British subjects to put them on an equal footing with Siamese subjects, or an extension of the International Court system.<sup>(1)</sup> The Siamese Government preferred to stand by its former suggestion that British Asian subjects should be placed under Siamese jurisdiction. The point was whether the British Government would agree to such submission, or, failing that, agree to a geographical distinction, and enter upon some arrangement whereby certain classes of Asians who visited Siam more than others, such as Indians, Burmese, Shans and natives of the Straits Settlements, would have the right to hold land, and would be

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quote Beckett's report on the talk: "I therefore asked Mr. Strobel why it was that the Government (Siamese) ... had for several years past allowed the East Asiatic Company (Limited), a Danish firm, to hold leases and work forests in the Phre district, thus placing the subjects of a Power which had no Treaty rights in the north on an equality with British subjects. Mr. Strobel expressed the greatest astonishment at hearing that Danish subjects enjoyed such privileges, which, if it were really the case, was manifestly improper. He said he would at once inquire of Phraya Si Sahadeb, the Vice-Minister of the Interior, who happened to be in the next room at the time ...."  
F.O. 69/255, Beckett-Lansdowne, November 17, 1904.

(1) C.O. 273/315, Memorandum on Extraterritoriality in Siam by Strobel, September 11, 1905.

subject to the Siamese Courts alone. Other Asians who wanted to acquire land would have to be included within this class which would make them subject to Siamese jurisdiction. In the case of white British subjects special arrangements might be made in each individual case.<sup>(1)</sup> But the British Government considered this idea to be an accentuated form of discrimination between white and British Asian subjects.

By the end of 1905 Paget became disheartened. He proposed to the Foreign Office that they let the matter drop. In a private note to Langley Paget wrote:

We shall have to offer a good deal more than we have done hitherto if we really wish to obtain the right for British subjects to hold land.<sup>(2)</sup>

Sir Edward Grey, the British Foreign Secretary, agreed. Hence the question was dropped until a favourable opportunity arose for pushing further claims.<sup>(3)</sup>

Taking into consideration the complex process of these negotiations it is clearly noticeable that the two parties were equally matched. The British, believing that the Siamese Government desperately needed the abolition of extraterritoriality, tried to strike the best bargain. The Siamese

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(1) C.O. 273/315, Paget-Lansdowne, October 27, 1905.

(2) F.O. 69/265, Paget-Langley, Private, October 2, 1905.

(3) F.O. 371/131, Paget-Grey, January 12, 1906.

Government, on the other hand, looked upon the restriction against foreigners holding land as the last trump-card she had in hand to obtain a mitigation or abolition of extra-territoriality. Were this card easily given up, it would be tantamount to surrendering all hopes. Not surprisingly, the negotiations ended in failure.

## CHAPTER III

## THE MALAY PENINSULA RAILWAY

and

## THE FRANCO-SIAMESE TREATY OF 1907

By the end of 1905 all Anglo-Siamese negotiations had reached a deadlock. These negotiations, centring on extraterritoriality, had started as early as 1902, and as they proceeded, embraced within their scope a large number of matters demanding attention, until at the beginning of 1906, they had resolved themselves into two main divisions; first, a modification of extraterritorial jurisdiction so as to include both Europeans and Asians, and secondly, a re-adjustment of political relations in the Malay Peninsula.

However, the situation was not hopeless. As the latter half of 1906 approached these two countries opened a new line of discussion. This time its focus was the problem of constructing the Malay Peninsula Railway. The talks, though unpromising at the start, gradually showed optimistic signs that the difficulty of the judicial problem would not be left unresolved. Before the railway matter could be brought to a satisfactory conclusion it inevitably had to be linked up with talks regarding extraterritoriality; and in a short time, discussions over jurisdiction could be revived on a more friendly basis after the two Governments' second thoughts.

The Malay Peninsula Railway Negotiations, 1906-1907.

At the end of the nineteenth century, the Siamese Government started to embark on an extensive programme of railways to connect Bangkok with the provinces in the north, east and south-west. Having realised the benefits which would result, both financially and administratively, it wanted to push the railways southwards as quickly as possible into the provinces and dependencies of the Peninsula. At that time communication between Bangkok and those states was carried on by the sea route alone. To reach the further states, such as Kelantan and Trengganu, entailed a journey by steamer of some four or five days, while the journey to Kedah and Puket probably took some eight to ten days with transshipment at Singapore and Penang. This situation no doubt rendered these Malay States less valuable to Siam politically and economically.

The construction of a line to the southward from Bangkok down the east coast of the Malay Peninsula was periodically among the projects mooted by the Siamese Government. Indeed an earnest of the project is to be found in some eighty miles of railway to Petchaburi, opened in 1901, but it was only in 1905 that any scheme for connecting the Malay States to Bangkok by rail came under serious consideration.

In June 1906, Prince Damrong, accompanied by an English engineer, Mr. Gittins, a Secretary and Expert Adviser to the Minister of Public Works, and Phraya Sukhum, High Commissioner

of Nakhonsitamarat, paid a visit to the Siamese Malay States. On their return to Bangkok Gittins drew up a report strongly urging the construction of a trunk line connecting Trang, a port in the province of Phuket on the west coast, with Bangkok by way of Patalung, Nakhonsitamarat, Bandon, Bangtapan and Petchaburi. The approximate length was 530 miles involving a total cost of 44,000,000 baht or some £3,000,000.<sup>(1)</sup>

This proposal, strongly supported by Prince Damrong, received the Siamese Government's approval. The final agreement of the Ministers was as follows:

- (1) ... the construction of the Malay Peninsula Railway is subject to a closer administrative control than the Railway in Chiangmai. The situation in the Malay Peninsula is critical. It is closer to foreign Powers than any other Siamese territory. Thus the building of the Malay Peninsula Railway is a considerable investment. It may be of great benefit as well as of great loss.... It is not enough to consider only its construction....
- (2) Our Siamese Malay States are rich in minerals and the land is fertile. The British have long desired to gain them but they have not yet had an opportunity....
- (3) Now the situation has changed a great deal. Communications have improved. More foreigners come to seek their fortunes in this virgin land. Those who are lucky become millionaires. Thus other individuals and nations are becoming more ambitious.

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(1) NA, R5, No. 7/224, Mr. Gittins' report on the Siamese Peninsula Railway.

(4) Now it is clear that ... mining in the British Malay States is not developing because mineral resources are running out. But quantities still remain in our Siamese Malay States. More foreigners come to prospect minerals in Siam. What should be the Government's response? If we decide on a closed door policy and refuse them, other Governments may intervene and force us to open the door. They may even pursue a dangerous strategy. But if we open the door, giving concessions to all, soon our Malay States will be full of foreigners ... After careful consideration we think that the best policy is to open the country to foreigners for commerce. But we have to safeguard our administrative power by:

1. Developing the Siamese Malay States to convince the British that we are taking this step for the sake of the states' development ....
2. Building railways as soon as possible to connect the Siamese Malay States with Bangkok in order to ensure sound administration. (1)

An immediate start on the construction of the line was also urged by Gittins because:

1. Politically, the delay in opening these railways is tantamount to a late opening of the southern portion of Siam. The Straits Settlements press may criticise and finally the Straits officials may intervene ... The Sultan's integrity is also in doubt. If our Government hastens communications with these states ... the situation will become more secure.
2. The longer construction is delayed, the more risk there will be for Siam ...
3. Certain surveys had been made by the Straits Settlements Government in Siamese territories, Kelantan for example. So we should construct the railways as soon as possible. (2)

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(1) NA, R5, No. 7/224, The opinion of the Ministers about the Malay Peninsula Railway.

(2) NA, R5, No. 7/224, Mr. Gittins' opinion about the Malay Peninsula Railway.

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As to the construction work, the Siamese Government decided to grant no contracts to any private companies or individuals whether foreigners or natives. At first Prince Damrong wanted to start the construction with a small but most beneficial section, probably the southern section. But after the 1906 survey he was inclined to change the scheme. Politically the opening up of the southern provinces meant foreign immigration into the country. To guard against it the railway should be started at Petchaburi and should proceed southward. And owing to a slim budget the expense should be reduced to the minimum.<sup>(1)</sup>

Unfortunately before the plan was put into practice political troubles threatened to delay indefinitely the project of constructing the railway. The crux of the whole problem was the infiltration of German political influence in Siam since the Siamese Royal Railway Department which would be responsible for the construction of the proposed line was dominated by Germans.

Less than a month after Prince Damrong's return from his Malay States tour, the British Government received a warning concerning the proposed railway from Beckett to the effect that British interests in the Malay Peninsula would be prejudiced if Germans were allowed to obtain a footing, whether

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(1) NA, R5, No. 7/224, Report, meeting of Council of Ministers, September 5, 1897.

financial or administrative.<sup>(1)</sup> Sir Edward Grey immediately instructed Beckett to intimate unofficially to Mr. J.I. Westengard, the Acting General Adviser to the Siamese Government, the British objection to the construction of the proposed line being left in the hands of German engineers, even though they were officials of the Siamese Railway Department. The British Government wished to obtain a formal undertaking that the survey and construction should be entrusted only to British engineers under the management and control of a separate Railway Department headed by a Siamese or British Director-General responsible to the Minister of Public Works. This Department should be called the Southern Railway Department, as opposed to the Northern Railway Department then in German hands.<sup>(2)</sup> In preferring this request reference was

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(1) Standard, January 9, 1907. Prior to this Beckett, on his own initiative, had hinted to Westengard that the British Government would be displeased if German advantage and influence were allowed to extend to the Malay Peninsula by the absorption of Malay Peninsula lines. If the German-dominated Railway Department were to control the Malay Peninsula system, a very large influx of German employees into the Peninsula would of course ensue, with the natural corollary of increased German political influence there. In his long report Beckett informed Sir Edward Grey that Gittins shared this opinion. Gittins confessed to Beckett that though he felt unable, in his position of expert adviser, to make any proposal against the survey or construction of the railway line by the Siamese Royal Railway Department, he entirely agreed with Beckett that every possible effort should be made to prevent such a consequence resulting. F.O. 422/60, Beckett-Grey, August 9, 1906.

(2) F.O. 422/60, Telegram, Grey-Beckett, August 18, 1906.

made to Clause 7 of the 1904 Franco-Siamese Treaty, which provided for the exclusion of foreign officials and capital in the French sphere of influence. If such was the case, the British Government was entitled to expect similar treatment in its sphere of influence. Further, the request was in accordance with the spirit of the 1897 Secret Convention.<sup>(1)</sup> Siam, by the Convention, had recognised the privileged position of England in that portion of the Malay Peninsula lying south of Bangtapan.<sup>(2)</sup> The preponderant influence of England in the territories situated to the west of the basin of the Menam was again admitted by France in the Anglo-French Entente of 1904.

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(1) F.O. 371/131, Telegrams, Grey-Beckett, August 19, 1906 and Beckett-Grey, August 13, 1906.

(2) To support British rights over the southern portion of Siam the Colonial Office suggested the desirability of publishing the Secret Convention of 1897. But the Siamese Government still adhered to its objection to the publication by referring to fears of similar French demands regarding the territories lying within the basin of the Mekong. Also the Foreign Office did not favour its publication. In its view the British Government could, at any time, under the 1897 Convention and without the publication of that instrument, prevent the acquisition by Germany of large interests in the Malay Peninsula by imposing its veto if the number or extent of German concessions in that region were becoming dangerously large. Sir Edward Grey did not think that in such an event the Siamese need experience any difficulty in frankly informing the German Government that numerous concessions already granted to them in the region precluded the Siamese from considering any further application from Germans. However, the whole matter was left in the hands of Strobel for discussion with Sir Edward Grey, when he passed through London in January, 1901. C.O. 273/323, Tel. Grey-Beckett, Sept. 28, 1906. C.O. 273/312, Campbell-Fiddles, January 9, 1906.

This communication received a purely negative response from various Siamese officials. While expressing their full appreciation of the reasons for the British Government's desire for the line to be constructed by British engineers, and giving their assurance that they would willingly and openly conform to British wishes in this respect, these officials maintained that the exclusion of other nationalities in favour of the British in the Siamese Railway Department appeared unjustifiable. The German officials were, for the time being, officials of the Siamese Government and their exclusion from any connection whatever with this railway would cause friction not only with the German Director-General, but also with the German Government, thus placing the Siamese Government in a serious dilemma. The Germans had obtained control of the Railway Department by engineering skill rather than by diplomatic action, and although they endeavoured, as was natural, to extend their influence over the Department as much as possible, they had never gone so far as to suggest the exclusion of all other nationalities. Several British engineers were still employed in the Royal Railway Department.<sup>(1)</sup> It was a one-nationality Department that the Siamese Government had hitherto been at pains to avoid in the case, for instance, of the Post and Telegraph Department. This endeavour had apparently met with the approval of the British

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(1) NA, R5, No. 7/224, Phraya Sukhum-The King, September 17, 1907.

Government. The communication was surprising also in that it hinted at the exclusion of all foreign subjects except the British from the enjoyment of commercial privileges in the peninsula. The theory of exclusive commercial rights had been put forward in the case of Mining Concessions, but the Siamese Government had always resisted it as being dangerous and difficult in practice, and likely to lead it into difficulties with other Powers.<sup>(1)</sup> As regards French action, the Siamese Government had agreed to Article VII of the 1904 Convention merely because it knew full well the remote possibility of railway extension in the East, and in practice it would never become operative.<sup>(2)</sup>

However, in order to get a clearer insight into the

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(1) F.O. 422/60, Beckett-Grey, September 12, 1906.

(2) Presumably, the feeling of surprise which was evinced in the Siamese minds was associated with, if not created by, a feeling of suspicion towards the Government of the Straits Settlements. The Siamese were quick to remember what appeared to them the uncompromising attitude of that Government in the matter of concessions to non-British subjects in the Siamese Malay States. Though the British tried to convince them that it was not their object to restrict or exclude the commercial privileges and rights of other nationalities in the Peninsula but to exert their influence and make it paramount, the Siamese still suspected that the present suggestion regarding the exclusion of all but British and Siamese in the work of railway construction was part of a larger scheme of commercial and political absorption emanating from the Colonial Government. F.O. 371/330 Memorandum on the Proposal of the Siamese Government to construct a Railway in the Siamese Malay Peninsula, and the suggested publication of the Secret Convention with Siam of 1897, December 31, 1906.

general situation, the Siamese Vice-Minister of the Interior and Westengard visited the Siamese Malay States in October by way of Songkhla.<sup>(1)</sup> Before the visit took place, the Colonial Office, at the suggestion of the Foreign Office, had written to Sir John Anderson stressing Westengard's Singapore visit as an excellent chance for a friendly discussion of the matter relating to the proposed railway, so that the lingering suspicion still entertained by the Siamese towards the authorities of the Straits Settlements might be removed or at least materially diminished.<sup>(2)</sup> Unfortunately Sir John Anderson did not discuss the railway question with Westengard since the latter did not give him an opportunity. All he could do was to state the readiness of the British Government to give any possible assistance towards the development of the Northern Malay States.<sup>(3)</sup>

For the time being it was agreed that the matter should be left in abeyance pending the discussion between Sir Edward Grey and Strobel, the General Adviser to the Siamese Government, on the latter's return from the United States through London to Siam in two or three months' time and that

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(1) F.O. 422/60, Beckett-Grey, September 11, 1906.

(2) C.O. 273/323, C.O.-Anderson, September 21, 1906.

(3) C.O. 273/333, Anderson-Elgin, January 11, 1907.

no steps would be taken contrary to the wishes of the British Government as indicated by Beckett.<sup>(1)</sup>

Another serious difficulty which arose in connection with this negotiation was that of finance. The estimated sum required for the construction of the whole length of railway was some 51,000,000 baht, or £3,000,000 to £4,000,000. Various methods of finding the necessary funds were seriously considered by the Siamese. Firstly, the Government proposed to raise a loan of £3,000,000 from foreign banks. If this failed, Prince Damrong urged either a special loan or a separate appropriation from the Government funds. At the latter two alternatives, the Minister of Finance demurred, on the grounds that the Exchequer could not bear the strain. There was also a scheme for construction with the assistance of a private company. At this stage proposals to build the railway were made by the representatives of two British firms, Mr. Duff and Mr. Leonowens. The object of both was to provide some scheme which, while it was compatible with the views of the British Government, whose aid was invoked, would grant a large measure of control to the Siamese Government, who would by this means be in a position to avoid causing offence to Germany or loss of prestige to itself.<sup>(2)</sup>

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(1) F.O. 422/60, Beckett-Grey, October 11, 1906.

(2) F.O. 422/60, Tel. Beckett-Grey, October 31, 1906.

The chief features of the proposals were:

1. Interest at 5 per cent to be guaranteed by the Siamese Government who would have a first charge on the property.
2. Completion of railway and its branches or extensions within a period to be fixed.
3. Option of purchase by the Siamese Government at some date to be fixed after construction was completed.
4. Administration and control to be vested in a Director-General of Siamese nationality who should be subject to a Board composed of one-third nominees of the Siamese Government or the Director-General and two-thirds nominees of the bond-holders.
5. Should either Government so desire, appointed officials would allot amounts not exceeding 30 per cent of the total share capital in shares to each Government. They were also ready to make such alterations or new provisions as the British Government or the Siamese Government might deem desirable.<sup>(1)</sup>

In the event, neither firm could guarantee their financial ability to carry through the enterprise. Consequently, the whole matter had to remain in abeyance.

In November, 1906, Beckett learned from the Hong Kong and Shanghai Bank that Siam required a loan of £2,000,000 for railway construction and that a German contributor to the loan

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(1) Ibid.

could not be excluded.<sup>(1)</sup> He telegraphed to Sir Edward Grey for advice. In reply, Grey instructed him not to take any action. If Germany secured a part of the general railway loan<sup>(2)</sup> in conjunction with France and England, her association with the Malay Railway would be remote, and hardly dangerous to British interests. If the whole loan were German, or if it were for the Malay Peninsula line only then there would be ground for objection. The Foreign Office, in fact, put more emphasis on the problem of how to prevent its construction by the German engineers of the Siamese Railway Department than on the method of financing the line.<sup>(3)</sup> It pointed out specific cases in China which reflected the fact that the extension of political influence was often affected by and directly connected with the personnel of an important trunk railway

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(1) The loan was subsequently negotiated and taken up in the following proportions:

In London	£1,000,000
France	1,000,000
Germany	750,000
Denmark	250,000

F.O. 422/60, Beckett-Grey, November 7, 1906.

(2) The sum which the Siamese Government calculated was needed to meet expenditure on railway construction during the years 1906-1909 was some 52,000,000 baht or about £3,500,000, of which 25,000,000 baht would be devoted to Malay Peninsula Railway, 15,000,000 baht to Northern Railway, 9,000,000 baht to Bangkok-Patriue Railway and 2,000,000 baht to the Nakornchaisi-Supan Railway.  
NA. R5, Phraya Suriya's Statement, November 23, 1906.

(3) F.O. 422/60, Tel. Grey-Beckett, November 8, 1906.

line. The situation became more serious when Beckett urgently reported to London that Siam insisted upon building the railway under the control and administration of her German-dominated Railway Department. Thus German aspirations would be realised. Such action would render impossible the proposals for the construction of the railway which Duff and Leonowens put forward, proposals in which speed and economy and the maintenance of British interests were the objective. Worse still, there would be no purpose in Sir Edward Grey's discussion with Strobel. In Beckett's opinion the Foreign Office had to intimate clearly to the Siamese Government, before the tempting loan was accepted, whether it wanted no control by the German Railway Department or whether it wanted - and this was the keystone of the situation - the employment of British engineers.<sup>(1)</sup> Charles Lucas, the Assistant Under-Secretary of the Colonial Office, supported his view. To quote his remark:

... For a great many years past we have vainly tried to get the Foreign Office to take a strong line with Siam. They have always refused and the position is about as bad as bad can be... The Foreign Office always pleaded the danger of French encroachment which went on steadily until the French had pretty well all they wanted. Now the Germans are getting a footing through the Railway Department and the immediate question is whether the lines linking up with our States are to be made by German engineers.<sup>(2)</sup>

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(1) F.O. 422/60, Tel. Beckett-Grey, December 6, 1906.

(2) C.O. 273/333, C.O. Note on F.O.-C.O., February 2, 1907.

In any case, anxiety in Whitehall died down to some extent when Sir Edward Grey was assured by the Hong Kong and Shanghai Bank that the Siamese Government had not communicated with the Bank's office regarding the loan. Beckett was then instructed to try his best to delay consideration of the loan until it was discussed in London with Strobel.<sup>(1)</sup> But if a decision was imminent, he was authorised to state -

If the Siamese Government, in opposition to our wishes, entrust the control of the Malay Peninsula Railway to the German Railway Department, thereby ignoring the special interests which our geographical position gives us in that region, we should regard this proceeding as detrimental to British interests, and as a breach of the spirit of the Agreement of 1897, which practically recognised the justice of our claim to a preponderant position in the Peninsula....<sup>(2)</sup>

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(1) F.O. 422/60, Tel. Grey-Beckett, December 8, 1906.

(2) Ibid.

When the Hong Kong and Shanghai Bank signed a loan contract of £3,000,000 with the Siamese Government Beckett urgently ascertained whether or not this sum included funds for the construction of the Malay Railway. If it did, the amount required for this purpose should be eliminated and dealt with by a separate loan, and no decision in regard to the latter should be taken till Sir Edward Grey had an opportunity to discuss the question with Strobel. If, however, a definite assurance that the construction of the Malay line would not be entrusted to the Siamese Railway Department were given, the British Government would not object to its inclusion in the loan at present under negotiation. In reply, the Siamese Government agreed that this loan would not be used for Southern railway. F.O. 422/60, Tel. Grey-Beckett, December 11, 1906.

A possible solution of the whole problem depended entirely on the talk between Strobel and Sir Edward Grey in London. Beckett was well prepared not to yield an inch. A week before the discussion took place he had suggested to the Foreign Office the removal of the section of the completed line extending from Bangkok to Petchaburi from mainly German control with a view to completely severing from the Royal Railway Department the entire western system of the railway.<sup>(1)</sup>

The long-awaited talk was held on January 16 in London. Unfortunately it did not shed any light on the scheme since Strobel was apparently unacquainted with the details of what had been discussed in Bangkok. He did not express a definite opinion as to how the railway should be constructed. What he did was to oppose the construction of the whole line en bloc, on the grounds that Siam could not afford it.<sup>(2)</sup> He also renewed the objection raised by the Siamese Government to the publication of the Secret Convention of 1897.

Back in Bangkok a considerable amount of discussion regarding the construction and control of the railway, the two controversial points, took place during January, February and March, 1907. As always, the Siamese Government insisted that

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(1) F.O. 422/61, Tel. Beckett-Grey, January 16, 1907.

(2) F.O. 422/61, Tel. Grey-Beckett, January 19, 1907.

the control should be left in the hands of the Royal Railway Department. At this stage, the railway duel moved into another phase when Beckett proposed that the railway construction should be excluded from control of the German-dominated Railway Department as a solution to the existing problem between England and Siam; this problem concerned a modification of jurisdiction on the Chiangmai Treaty of 1883 basis in the Malay Peninsula and the interpretation of the Agreement of 1897 in a political and not a commercial sense as wanted by the Siamese Government.<sup>(1)</sup> Discussions on these issues lasted for months but the word 'compromise' did not exist in either Governments' vocabulary.

As regards the legal problem, jurisdiction in the Malay Peninsula was complicated by the question of the status in Siam of natives of the Federated Malay States and Johore. By the Registration Agreement of 1899 the Siamese Government recognised the extraterritorial rights of

All persons of Asiatic descent born within the Queen's dominions or naturalised within the United Kingdom, or born within the territory of any Prince or State 'in India' under the suzerainty or in alliance with the Queen.

In accordance with a strict interpretation of this clause, natives of the Federated Malay States and Johore were not included. About the year 1900 the question as to whether

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(1) F.O. 422/61, Beckett-Grey, December 19, 1906.

they should be entitled to such registration was submitted for the consideration of the British Law Officers but it was decided that they were not so entitled. The question was then completely left out until Beckett called the attention of the authorities in London to it in 1905. Then it was agreed by the Foreign Office and the Colonial Office that natives of the Federated Malay States and Johore should be equally entitled to registration with British Indian subjects.<sup>(1)</sup>

The British Government proposed to add after the word "Queen" the words "or born or naturalised in the States of Perak, Selangor, Negri, Sembilan, Pahang, and the state and territory of Johore."<sup>(2)</sup>

The request was snubbed by the Siamese Government. In an official note from Prince Devawongse to Paget, the British Minister who returned from home leave, the Prince stated his regret that the British Government should contemplate an extension of extraterritoriality to a further class of people at a time when the Siamese Government thought it could cherish hopes of a curtailment of the extraterritorial system. He also added observations which had from time to time been made in earlier correspondence on the subject of a partial surrender of British jurisdiction in return for British

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(1) F.O. 372/29, C.O.-F.O., December 30, 1905.

(2) F.O. 371/131, Grey-Paget, January 23, 1906.

subjects acquiring the right to hold land; for the treaties under which foreign Powers acquired extraterritoriality in Siam were made at a time when the subjects of those Powers in Siam were exclusively of European race and when the administration of justice was in an undeveloped state. But by the beginning of the twentieth century there were thousands of foreign Asian subjects whose inclusion was never envisaged by the early Treaties and whose enjoyment of extraterritorial rights was accidental. On the other hand, the administration of justice in Siam was much improved and could offer reasonable guarantees against oppression and injustice.<sup>(1)</sup> If Siam had to recognise the registration of natives of the Federated Malay States and Johore, she would lay herself open to claims by other Powers to register the subjects of states under their protection. For example, the Japanese authorities would claim jurisdiction over Koreans in Siam. In support of his contention, the Prince referred to the case of the Cambodians and the long discussions which had taken place between France and Siam before the latter, in order to secure the 1904 Convention, was compelled to admit that Cambodians in her country should be placed under French jurisdiction.

Prince Devawongse made a counter-proposal for the establishment of an International Court for the Siamese Malay

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(1) F.O. 628/27/309, Paget-Grey, March 27, 1906.

Provinces<sup>(1)</sup> with a European Adviser; appeals to lie to the Siamese Appeal Court in Bangkok, in which two Europeans should always sit; and in return for these additional safeguards the powers of the Consul to withdraw cases and submit them to his own court to be surrendered.<sup>(2)</sup>

No matter how much the British officials wished to control the Malay Peninsula Railway they could not accept it as a bargaining point for the establishment of the International Court in the Siamese Malay States. Such a contention would harm both British interests and the principle of Malay nationality, which the British Government tried its best to maintain in these States. For political reasons, the Straits Settlements Government was entirely opposed to any step which would strengthen the hold of Siam on that part of the Peninsula.<sup>(3)</sup>

The questions of an International Court in the Malay States and the registration of natives of the Federated Malay States and Johore were then left in abeyance in the hope that they might form the basis of a more comprehensive bargain in future.

As regards the interpretation of the Secret Convention,

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(1) The Siamese Malay States comprised a portion of the west coast of the Peninsula included within the jurisdiction of the British Consul for Kedah, namely, the States of Kedah, Perlis and Setul, and the purely Siamese province of Puket.

(2) F.O. 372/29, F.O.-C.O., October 15, 1906.

(3) F.O. 372/29, F.O. Note on Paget-Grey, March 27, 1907.  
F.O. 422/61, Grey-Paget, February 27, 1907.

the two Governments always experienced difficulty in the Malay Peninsula. The power of veto by the British Government was for some time made the means of blocking all concessions to foreigners. The inexpediency of this attitude was pointed out by Paget and Beckett and the Foreign Office in London supported their views in correspondence with the Colonial Office. As a result Paget was instructed to arrive at some understanding with the Siamese Government for checking concessions. The arrangement arrived at did not satisfy Strobel who wished the British Government to surrender its veto in regard to concessions unless they fell within certain categories. Another attempt was then made to vest greater authority in the British Minister regarding the granting of concessions. But all these efforts ended in deadlock.

Therefore, by March 1907, the only firm assurance of the Siamese Government concerning the railway could be summed up in this way:

With regard to the Malay Peninsula Railway, whether in the matter of construction by German engineers or control by the Royal Railway Department, the Siamese Government did not either intend or wish to oppose the desire of His Majesty's Government

Beckett was annoyed and blamed the Siamese for bringing in Germany as a supporter against the pressure of England and France. He complained:

... The Siamese led by Prince Devawongse are not behaving straightforwardly ... They have given no sign as yet of being willing to listen to our intimation as to the employment of British engineers on the proposed Peninsula Railway. It is extraordinary that the Siamese can never accept a situation with a good grace, and even when they know they will in the end have to yield, they yield with such reluctance that the only impression left is one of pain on both sides.(1)

However, later in April 1907, the attitude of both sides appeared to have changed. Relations between the British and Siamese Governments improved. Strobel proposed an agreement on a non-political and business basis with the Federated Malay States Government for the construction of the railway. Briefly, the Federated Malay States Government would advance the necessary capital, approximately £4,000,000, at a conspicuously low rate of interest between  $3\frac{1}{2}$  and 4 per cent to the Siamese Government. In consideration of its advancing this money, the Federated Malay States Government would be able to make whatever stipulations it wanted regarding the personnel to be engaged in construction and control. Each section of the railway when completed would have to be handed to the Siamese Government who would have virtual control after

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(1) F.O. 628/27/309, Private, Beckett-Langley, February 4, 1907

construction.<sup>(1)</sup> The proposal was submitted direct to Sir John Anderson, to whom it appeared to be acceptable in principle.<sup>(2)</sup> The line of railway through Johore which was being constructed by the Federated Malay States would probably be finished within a year and would provide a complete connection between Singapore and the northernmost limits of the Federated Malay States. That Government also wished to extend the line northward, through the Siamese Malay States, along the eastern and western coasts of the Peninsula. In addition, by means of an agreement concerning the construction and loan, England could secure control and many other objectives and advantages.

From now on the matter was the subject of direct communication with the Federated Malay States Government and there appeared little likelihood that any private company, such as Duff or Leonowens, would be granted the contract to build this railway.

From April until July, 1907, the Siamese Government tried to solve problems of detail regarding the railway construction.

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(1) C.O. 273/333, High Commissioner of the Federated Malay States - Elgin, April 8, 1907.

This idea was in fact a carbon-copy of Prince Devawongse's proposal which was drawn up to allow the extension of the Federated Malay States railway system into Siamese territories when the Bukit Matajam Kulim (Prai-Taping line) extension was proposed in 1904.

(2) C.O. 273/333, High Commissioner of the Federated Malay States-Elgin, April 8, 1907.

The main issue was whether a separate Department was needed. Strobel saw no necessity for one. Once the construction was placed in the hands of British engineers there would be no reason for it. He feared that if in future railways were built in the direction of the Mekong Valley France would likewise claim the need for a separate control of such railways. After all, Strobel could not see why, if the construction were left to British engineers, the British Government should not be satisfied to leave the control under the Royal Railway Department.<sup>(1)</sup>

The British saw the situation differently. They strongly pointed out that as the Malay Peninsula Railway was being constructed to join on to the Federated Malay States' Railways, a German Director-General would scarcely be conducive to harmonious working.

Proposals, counter-proposals and more counter-proposals of this nature went on for months without a sign of a final settlement. On many occasions, the negotiations were nearly dissolved until Siam proposed a transfer of her rights over Kedah, Kelantan, Trengganu and Perlis to England in July, 1907. From then on the Railway question was regarded as a considerable *quid pro quo*. Finally the long drawn out discussions resulted in a compromise between the two Governments in a separate Railway Agreement of 1909.

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(1) F.O. 422/61, Paget-Grey, April 15, 1901.

### The Franco-Siamese Treaty of 1907.

An important factor which brought a solution to the railway talks in 1909 was the Franco-Siamese Treaty of 1907 by which France agreed to bring French Asian subjects in Siam under Siamese jurisdiction in return for Siamese cession of Battambang, Siemreap and Sisophon. This idea of territorial and judicial sacrifices revived Anglo-Siamese negotiations regarding extraterritoriality which had broken off in 1905. Consequently, the railway talks which had then been on the rocks, became involved as part of a promising bargain.

The Treaty of 1907 was the conclusion of long-term discussions between France and Siam. It should be noted that during nearly half of the nineteenth century Siamese relations with the French were in a constant state of disagreement, and periodically the situation became acute. Doubtless Siamese procrastination and evasion were to some extent responsible for this, but on the other hand Siamese hatred and mistrust of France were due to the aggression and hectoring tone of the French Colonial Party, and also to the unsympathetic attitude of French diplomatic and Consular officials.

After the crisis of the Menam River in 1893 relations between these two countries went steadily from bad to worse. Siam suffered a serious blow from the stipulations of the 1893 Convention. By 1900, Chantaboon had been occupied by

French troops for seven years without signs of evacuation, although Siam contended that every condition imposed by the Convention had been fulfilled with the utmost fidelity. The neutral 25 kilometre zone which had been established along the Mekong had become a place of lawlessness and disorder. The French assumed more and more authority over the zone while the Siamese officials who were held responsible for all that happened there were forbidden to enter it. Moreover the exceptional cordiality between the French and Russian Legations aroused anxiety in Siamese official circles.<sup>(1)</sup> Rumours circulated in Bangkok that Russia was trying to gain territory, probably Pulo Condore, on the French Indo-Chinese coast, from France, and some Danish officers, who were prospecting at Koh Chang (Chang Island) were working in the interests of Russia. Mr. Rolin-Jacquemyns, the first General Adviser to the Siamese Government, expressed his opinion to Mr. Inagaki, the Japanese Minister, that there was nothing to prevent a secret arrangement between France and Russia for the cession of some port, such as Chantaboon, or

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(1) Phraya Phipat Kosa, the Siamese Under Secretary of State, told Tower, the British Minister, at the end of 1901, that M. Olarowsky, the Russian Minister, had told Prince Devawongse that Siam would have to reckon with a 'hostile Russia', unless speedy terms of settlement were made with France to the latter's satisfaction. The Siamese Government telegraphed to its Minister in St. Petersburg, asking the Russian Government for a reply. The latter denied. F.O. 69/227, Tower-Lansdowne, January 26, 1902.

some island on the east coast of the Gulf of Siam.<sup>(1)</sup>

However, the bitterest friction concerned jurisdiction and the registration of French subjects in Siam. The controversy derived first from the difference in the interpretation of Article IV of the 1893 Convention, and secondly X the presumptuous view held and acted upon by the French Consuls that subjects of countries which had no treaty with Siam should fall under French protection. The fourth Article dealt with the handing-over to France by Siam of the French Annamite and Laotian subjects of the right bank of the Mekong who came originally from the left bank. Siam also had to allow former inhabitants of the left bank who lived in Siam to return home if they so wished.<sup>(2)</sup> But nothing was said of persons who chose to stay in Siam. Naturally, a French silence led the Siamese to the conclusion that these people were to remain Siamese subjects. The French Government, on the other hand, construed Article IV as giving it jurisdiction over the children and even grandchildren of persons who came

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(1) F.O. 69/208, Archer-Lansdowne, November 29, 1900.

(2) Article IV read:

The Siamese Government shall hand over to the French Minister at Bangkok or the French frontier authorities all the French Annamite and Laotian subjects of the left bank (of the Mekong) as well as the Cambodians detained under any pretext whatever. They shall set no obstacle in the way of the return to the left bank of the former inhabitants of the district.

to the right bank and who wished to remain there. The Siamese Government, while allowing all persons belonging to the left bank to return if they wished, maintained that the Article could not turn those who wanted to remain in Siam into French subjects or protected persons. The French insisted on their interpretation and any person who was willing to pay a small fee and was ready to affirm that his ancestors came from the left bank could get his registration paper without further proof being asked.<sup>(1)</sup> In regard to the registration of foreigners of countries who had no treaty with Siam, a large number of Chinese and Japanese became French subjects.<sup>(2)</sup> In 1901, the French officials in Siam admitted

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- (1) Between 1813 and 1900 cases of disputed nationality arose. The Siamese arrested and tried in the face of French protests, a number of persons of remote Cambodian ancestry, furnished with French certificates of registration. There were two important cases. First, the Kadir case: Mr. Kadir, a French subject, was accused of homicide and arrested by the Siamese police. The French Minister protested against his arrest but the Siamese Government refused to release him and he remained in prison without trial. The second case was that of Mr. Mohamed Sillah, the ringleader of a party of French proteges who attacked some Siamese subjects owing to a dispute about some land close to Bangkok. He was arrested on a charge of murder. His father was born in Cambodia but settled in Siam in 1832. The son obtained a French certificate in 1894. The French demanded his release. Vide F.O.69/262, Morrison's Memorandum, October 1, 1897. F.O. 69/178, F.O. Memorandum, undated.
- (2) F.O. 69/159, De Bunsen-F.O., September 17, 1895. In 1895 the French Minister in Bangkok took the Japanese subjects in Siam under his protection at the request of the Japanese Government. It was not until 1898 when a Treaty between Siam and Japan was signed that jurisdiction over Japanese subjects was given to Japanese Consular authorities.

that by their process of registration, continued during several years, the French Consulate enjoyed protection over several thousand Asians.<sup>(1)</sup>

These continuing differences called for a better understanding. Siam was most anxious to put a stop to the French aggressive policy and she was prepared to make even large sacrifices to that end. Fortunately the keen rivalry between France and England, her territorial neighbours, offered Siam a good chance. These two colonising Powers, each being afraid of Siam falling into the other's protection, made efforts towards coming to a better understanding with Siam. The latter, likewise, gained an advantage in opening negotiations with France and England simultaneously in the hope that the two rivals would beat each other in offering a more beneficial bargain.

The registration question first became the subject of discussion between the French and Siamese Governments during King Chulalongkorn's tour of Paris in 1897, when talks on the same subject were in progress between Britain and Siam. But no settlement was reached. M. Hanotaux, the French Foreign Minister, was uncompromising while the King was indifferent towards bettering relations with France. The French Minister maintained that his Government would settle

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(1) The Times, (Bangkok), December 19, 1901.

the difference with Siam only if the latter ceded Battambang and Angkor to France. Unfortunately, such a condition could not be accepted.<sup>(1)</sup>

In 1899 the registration problem over British subjects in Siam was settled but the Siamese-French deadlock remained. Three times within three years (1899-1901) the negotiations in Bangkok between the French and Siamese authorities nearly reached agreement. In April, 1899, M. Doumer, the Governor-General of Indo-China, an administrator of remarkable ability, when in Bangkok virtually agreed upon the terms of settlement.<sup>(2)</sup> Briefly, the Siamese propositions involved two points: the re-organisation of the registration

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(1) Vide F.O. 69/178, Interview between Phraya Suriya, Charge d'Affaires of Siam, accompanied by M. Cor. d'Orelli, and M. Hanotaux at the French Foreign Office on January 20, 1897. F.O. 69/178, Interview between Phraya Suriya and Hanotaux at the French Foreign Office, January 25, 1897.

(2) In March, 1899, Phraya Si Sahadeb paid a friendly visit to M. Doumer in Saigon. After their talk, they decided that it would be better for the Governor to go to Bangkok and get in touch personally with the Court. On April 16, 1899, Doumer arrived in Bangkok. Siam Free Press, March 21, 1899. The Straits Times, January 26, 1902.

scheme<sup>(1)</sup> and the evacuation of French troops from Chantaboon. France, on the other hand, asked for an extension of her territory across the Mekong, for certain commercial privileges in the Mekong Valley, and for the employment of Frenchmen in the Siamese Government service.

At the end of 1899 M. DeFrance, a French Minister possessing an exceptional knowledge of the situation, almost concluded an arrangement when negotiations were suspended.<sup>(2)</sup> In 1901 M. Klobukowski, the new Minister, again suggested the same basis for settlement of the differences. However no favourable proposition could break the ice. And the discussion was dropped only to be raised again.

The negotiations would have been settled had the question touching on Chantaboon not intervened. Indeed, the French Consuls considered all the other arrangements as fulfilling

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(1) The Siamese proposed to draw up a registration scheme on the same basis as the Anglo-Siamese Agreement of 1899, accepting the following as French protected persons: first, all French citizens by birth or by naturalisation; second, all persons born in French Colonies or in French protected States; third, all persons including children born on the left bank of the Mekong and brought to the right bank against their will; and lastly, all persons actually registered as subjects of foreign States having no Treaty with Siam whose names were agreed on by France and Siam. F.O. 69/196, Greville-F.O., 24 April, 1899. F.O. 69/218, Archer-F.O., September 30, 1901. F.O. 69/206, Amended Draft Convention pending questions between Siam and France. Enclosure I in Stringer-Salisbury, February 13, 1900.

(2) F.O. 69/206, Stringer-Salisbury, February 13, 1900. F.O. 69/209, Stringer-Salisbury, March 1, 1900.

their requirements, but the evacuation of Chantaboon remained the real stumbling-block.<sup>(1)</sup> As the French Authorities were apparently waiting for the Siamese Government to propose or suggest some quid pro quo for the evacuation, the Siamese were awaiting the evacuation before making concessions. At the end of 1901, Prince Devawongse and Rolin-Jacquemyns proposed to transfer the discussions to Paris in view of the threatening attitude of most of the French negotiators in Bangkok.<sup>(2)</sup>

In August 1902, when the tension of Kelantan-Trengganu crisis highlighted the Anglo-Siamese negotiations, Phraya Si Sahadeb was sent as a special envoy to London. On his way he stopped in Paris for talks with the French Government.<sup>(3)</sup> The time chosen was opportune. Doumer's impending return to France in order to enter political life and his desire to achieve a triumph in the Far East for French Colonial policy to use as an electoral card, prompted the French Government to expedite a settlement with Siam.<sup>(4)</sup> On October 7, 1902.

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(1) Archer wrote to Lansdowne that Klobukowski evidently looked upon Prince Devawongse as the real obstacle to satisfactory negotiations but in Archer's opinion the real difficulty was the King's antipathy for the French nation and suspicion of their methods. F.O. 69/217, Archer-Lansdowne, December 16, 1901.

(2) C.O. 273/275, C.O. Memorandum, September 27, 1901. F.O. 69/217, Archer-Lansdowne, December 16, 1901.

(3) Temps, August 2, 1902.

(4) F.O. 69/227, Tower-Lansdowne, January 23, 1902.

one day after the Agreement between Siam and England on Kelantan and Trengganu had been agreed upon, a new Convention was signed by which, among other stipulations, Siam ceded a considerable portion of territory to France in return for the evacuation of Chantaboon.<sup>(1)</sup> Undoubtedly, the two Governments meant to put a stop to all troublesome questions by this Convention, but its terms were strongly opposed by the Colonial Party, and the Treaty failed to secure ratification.<sup>(2)</sup>

Negotiations were, however, resumed in Paris in May, 1903, for the additional Convention to render the 1902 Convention acceptable to the Chambers. France demanded the complete abolition of Siamese suzerainty on the right bank of the Mekong. The protection question was to be settled by admitting Cambodians to the same privileges in Siam as other local people born within the French possessions. French Consular Agents with full power of jurisdiction were to be established at Siemreap and Sisophon. To this end Article V of the

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(1) F.O. 69/247, Documents Diplomatiques, Affaires de Siam 1893-1902, Delcasse's letters circulated to Foreign Consuls, October 7, 1902.

(2) While awaiting ratification France put forward fresh demands with which the Siamese Government was unable to comply. These requests implied the construction of railway lines in Ubol and Nongkhai by the French and the appointment of Frenchmen to Siamese high offices, such as the post of Financial Adviser and Director of Customs which were occupied by Englishmen. (Mr. Rivett-Carnac and Mr. Ambrose respectively). F.O. 422/57, Paget-Lansdowne, May 1, 1902. F.O. 69/245, Paget-Lansdowne, May 1, 1903. F.O. 422/57, Lansdowne-Paget, March 27, 1903.

1867 Siamese-French Treaty providing for the exercise of Siamese jurisdiction over Cambodians residing in Siam was to be revoked.

In reply, Phraya Suriya, the Siamese Minister in Paris, refused practically every French demand. Meanwhile Delcasse threatened to break off the negotiations unless Siam took up a more reasonable attitude. He even refused to discuss isolated articles but pressed for a definite answer of the whole treaty from the Siamese Government.<sup>(1)</sup>

With the assistance of Strobel, who stopped in Paris in November 1903, on his way to Bangkok to take the place of Rolin-Jacquemyns as Adviser to the Siamese Government, the negotiations were conducted on a more friendly basis. Strobel knew full well the necessity of finding a solution to the ever-growing pressure on the eastern frontier, and thought that Siam had to be prepared to make a few concessions. He saw no objection to the French claim to exercise jurisdiction over the Cambodians in Siam. As regards the question of the land concessions on the right bank of the Mekong, he expressed the view that, so long as it was clearly stipulated that the concessions were only to be employed for commercial as distinct from military purposes, the French demand amounted to little more than a reassertion of the provision concerning

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(1) F.O. 422/57, Monson-Lansdowne, September 14, 1903.

the reservation of certain spaces on the river bank which was already contained in Article VI of the non-ratified 1902 Convention.<sup>(1)</sup>

At this stage Phraya Suriya was left by the Siamese Government without sufficient instructions as to how far he was authorised to meet French demands. In spite of his many urgent telegrams there was no definite reply from Prince Devawongse whose position as Foreign Minister in Bangkok was seriously shaken. The final settlement was delayed until Strobel took up office in January 1904. With his diplomatic experience as Secretary to the United States' Legation in Madrid and as American Minister at Santiago added to his competent authority on internal questions, Strobel did not waste much time in convincing the King and his Ministers that a refusal to the French additional Convention would only result in demands of greater severity in the years to come.

On February 13, 1904, the Franco-Siamese Treaty was signed. By this Treaty arrangements were made regarding the registration of French-protected persons in Siam on practically the same lines as the Anglo-Siamese Agreement of 1899.<sup>(2)</sup>

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(1) F.O. 69/246, Paget-Lansdowne, November 18, 1903.

(2) The Siamese Government accepted the French list of protected persons after revision by the French authorities on the condition that they should be at liberty to comment on fraudulent and erroneous registrations. It was estimated in 1904 that by this arrangement France made valid her claim to some 8,000 proteges, approximately classified as follows: 750 Chinese, 2,000 Laotians, 2,000 Cambodians, 3,000 Annamites. Vide F.O. 69/254, Paget-Lansdowne, February 9, 1904.

The International Court system was applied in the north to French, European and Asian subjects. The trial of cases was based on the 1883 Chiengmai Treaty. But there was one difference. The appeals from the International Court were to be heard by the Siamese Court of Appeal in Bangkok, and not by a joint Court as in Article IX of the English Treaty. There was an understanding, however, that one of the judges on Appeal should be a European.<sup>(1)</sup> Other stipulations of the Treaty were that France agreed to evacuate Chantaboon,<sup>(2)</sup> but, on the other hand, Siam was obliged to cede Krat with the adjacent islands and the territory along the sea coast south-east of Krat to France.

After this Treaty, however, the French Government still showed restlessness and a wish to effect some fresh arrangement regarding the provinces of Battambang, Siemreap and Sisophon, the provinces under Siamese suzerainty. It was not until Strobel's trip through Paris on his return to Bangkok from leave of absence in February 1907, that some hints were thrown

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(1) F.O. 69/256, Paget-Lansdowne, February 24, 1904. In March and April 1905, Conventions were concluded with Denmark and Italy respectively on the lines of the French Convention of 1904. The cases to be brought before International Courts in the north of Siam were to be cases in which Danish and Italian subjects were parties.

(2) The evacuation of Chantaboon by French troops duly took place in January, 1905.

out to him by the authorities at the Quai d'Orsay that France would be glad of a rearrangement of the territories on the Cambodian frontier.<sup>(1)</sup> The proposal which met Strobel on his arrival in Bangkok was a French demand for Battambang, Siemreap and Sisophon in exchange for Krat and the islands of Donsai, a wedge of land cutting into Siam on the north-east frontier. As the balance of the proposed exchange appeared very much in favour of France, Strobel suggested the extension of the scope of negotiations to include the abandonment of French jurisdiction over French Asian subjects in Siam. It was Strobel's view that Siam would not suffer a loss of these Cambodian provinces so long as they satisfied her pride in obtaining jurisdiction over the subjects of a foreign Power. Also the loss of Krat in 1904 had caused great sorrow to the Siamese, especially to the King. It was possible that Siam agreed to the French demand in order to recover Krat.<sup>(2)</sup>

Strobel's proposal met with a favourable reception on the part of the French authorities. The negotiations then proceeded with unexpected rapidity, reaching a conclusion

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(1) F.O. 422/61, Paget-Grey, March 27, 1907.

(2) F.O. 422/61, Memorandum by Lister, March 23, 1907.

on March 23, 1907.<sup>(1)</sup>

The French Treaty of 1907 constituted a very considerable advance in the political status of Siam. It created a wide and novel extension of the regime built up in the north from 1874 to 1905. It extended the International Court

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(1) A summary of the Treaty was to the following effect:

1. The Siamese Government should cede the territories of Battambang, Siemreap and Sisophon to France, receiving in return the territories of Donsai and Krat, with adjacent islands.

2. All French Asian subjects or proteges who registered after signature of the Treaty should be subject to the Siamese Courts. All other French Asian subjects should be subject to the International Courts, but the right of withdrawing cases from the International Court should cease in respect of all such cases as came within the scope of laws regularly promulgated.

3. French Asian subjects should enjoy all rights equally with the Siamese.

4. An arrangement was made regulating and safeguarding the rights of Phraya Kathathorn of Battambang.

5. An Agreement was entered into regarding the lease by the Siamese Government to the Indo-China Government of certain lands on the Siamese bank of the Mekong, with a view to facilitating commercial navigation.

6. There was an exchange of notes regarding the Island of Koh Chang and the islands situated in the south to the effect that no territory in these regions should be ceded to a foreign Power by Siam.

Department of Publicity, Pratet Thai Ruang Kan Sia Dindaen Gkæ Farangset, (Siamese Loss of Territory to France), (Bangkok, 1940), pp. 59-64.

regime<sup>(1)</sup> throughout Siam to all Asian subjects and proteges inscribed in the French Consular list who had registered before the date of the Treaty, with the proviso that the right of withdrawing cases to the Consular Court should cease in respect of all such cases as should come within the scope of the laws regularly promulgated.<sup>(2)</sup> It rendered subject to the purely Siamese Courts those Asians registered after the date of the Treaty. It provided for a complete cession of extraterritorial jurisdiction regarding Asians from the date when the Siamese laws came into force. It conferred on Asians equal rights of property, free residence and travel with the Siamese, while imposing on Asians equal taxation with the latter. It dealt exclusively with Asians, provided no guarantees for the efficient working either of the International Courts or of the purely Siamese Courts,<sup>(3)</sup>

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(1) There were six International Courts established at Bangkok, Chantaboon, Krat, Ubol, Chiangmai and Nan. The regulations for the trial of cases were based on the procedure already in force in Chiangmai.

(2) Court Gazette, Vol. XXV, p. 210.

(3) Laung Chakrapranisisilvisudh, Ekkarat Nai Kan San, (Freedom of Justice). Published in a book to commemorate the opening up of the Civil and Criminal Court building by His Majesty the King, (Bangkok, 1963), p. 94.

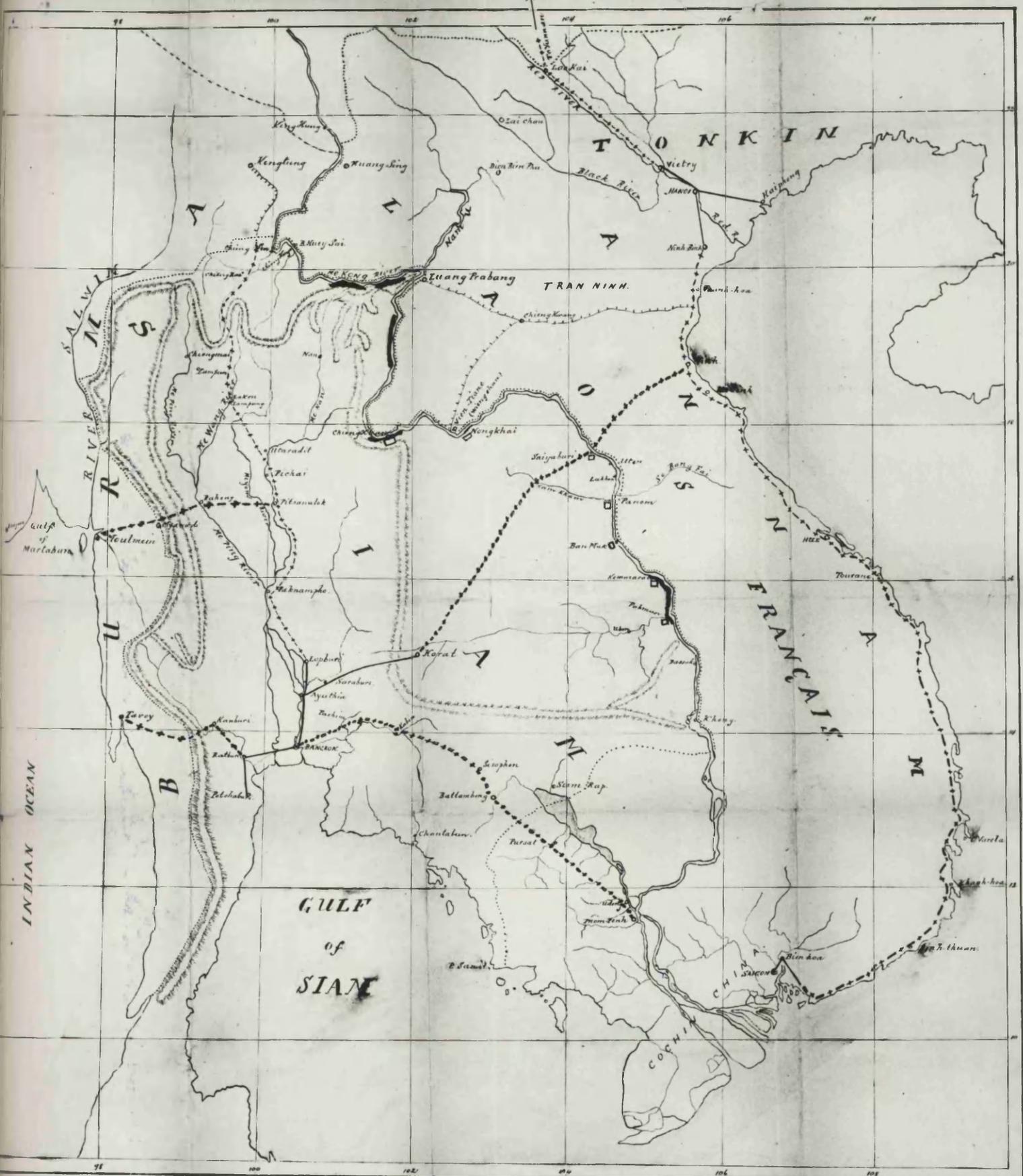
and lastly it set up invidious racial distinctions between the Asian proteges and the French citizens - a distinction which the British Government found it difficult or, perhaps, impossible to make.

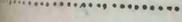
Judging from the haste with which this Treaty of 1907 was concluded, the actual negotiations covering a period of barely one month, and in view of the fact that since 1857 French policy towards Siam had consistently been based on the principle of a strict and jealous assertion of extraterritorial rights, the explanation of this sudden abdication of these rights, as far as her Asian proteges were concerned, without any precautionary guarantees, rests on one of two hypotheses. Either France was weary of asserting rights on behalf of proteges who differed little, if at all, from the Siamese themselves in racial characteristics, or she was prepared to submit to any sacrifices of extraterritorial rights as regards these proteges as a quid pro quo for her territorial ambitions.<sup>(1)</sup>

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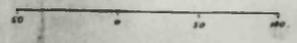
(1) In his article 'The Treaty of March 23, 1907, between France and Siam and the Return of Battambang and Angkor to Cambodia' printed in Far Eastern Quarterly, 5 (August, 1946), pp. 439-54 Briggs, (Lawrence Palmer) suggested following conditions which made the negotiations favourable: First, France was willing to abandon extra-territoriality since the legal status of Siam had been reformed. Second, France was beginning to adopt a more amicable policy with Siam. Third, there was a general feeling that the fate of these provinces was sealed by the 1896 Agreement. Fourth, Strobel's urgings were irresistible. Fifth, King Sisowath of Cambodia was in France during the negotiations. And lastly, at that time King Chulalongkorn was about to visit Europe and His Majesty wanted all disputes settled before his departure.

Whichever hypothesis may be correct, the fact remains that the modifications of the extraterritorial system conceded by France throughout Siam for her Asian proteges supplied the stimulus, which would otherwise have been lacking, to bring the Anglo-Siamese negotiations to a definite conclusion. At the same time it prepared the Siamese for the political quid pro quo which was as necessary to England in the Malay Peninsula as it had been to France in Cambodia.



-  Railways completed.
-  do under construction
-  French strategic railways contemplated.
-  British do proposed
-  Cart-roads under construction
-  Terrains of French demands
-  Frontiers where H. King is unrecognizable
-  Frontier

Map to accompany Memoir by  
 1871 Debell of 25 October 1873.  
 Natural Scale 1: 400,000  
 English Miles



## CHAPTER IV

## ANGLO-SIAMESE NEGOTIATIONS, 1907-1909

The year 1907 was a landmark in Siam's struggle for freedom of jurisdiction, inasmuch as it saw the submission of French Asian subjects in Siam to the jurisdiction of the Siamese tribunals, and brought also a radical change in the system of extraterritoriality and jurisdiction over British subjects. The Anglo-Siamese talks regarding jurisdiction, which ended in failure at the end of 1905 because of the British Government's refusal to submit only British Asian subjects as distinct from British European subjects to Siamese courts, and because of the Siamese Government's reluctance to offer a more beneficial quid pro quo than the right of British subjects to hold land in Siam, moved into a new phase.

Following closely the pattern of the Franco-Siamese Treaty of 1907, the two Governments handled the negotiations more reasonably and practically. From the start the atmosphere was friendly and for the first time a settlement seemed close at hand.

To do justice to the British Government it is undeniable that it had long realised the necessity of making important concessions respecting extraterritoriality to the Siamese Government. The bone of contention was made apparent by the 1883 Chiengmai Treaty which submitted British subjects in the north of Siam to the International Court. But the delay in

giving up extraterritorial privileges of British subjects all over Siam was caused by the price to be asked for such a bargain. With France's judicial concession in 1907 the British Government became more acutely aware of the issue. The British authorities knew that they could not stand idly by and something had to be done to ease the judicial problems of British subjects in Siam.

It was a stroke of luck for the British Government that, following shortly upon the signature of the Franco-Siamese Treaty, an approach for negotiations regarding jurisdiction was made by Strobel to Paget, to the effect that the time had come for the British Government to acquire important territory in the Malay Peninsula. The suggestion was for a cession to England by Siam of the states of Kedah, Kelantan and Trengganu in return for certain concessions to Siam in the matter of extraterritorial jurisdiction.<sup>(1)</sup>

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(1) F.O. 422/61, Paget-Grey, April 27, 1907. It should be noted here that since his appointment in 1904 Strobel had played an important part in the affairs of the Foreign Ministry. Being a Professor of Law himself, he soon clearly understood the various disadvantages under which Siam was placed as regards judicial matters and he initiated the steps towards the abolition of extraterritoriality. At the same time, being an American and having no political axe to grind, he was in a position to estimate accurately the true political requirements of England and France, and to act as an impartial mediator between these countries and Siam. From 1904 onwards negotiations took place with the British, French and American Governments based on the ground that the Siamese Government had no need of jurisdiction over European or American subjects, its only object being to secure the submission of native

(2) F.O. 422/61, Paget-Grey, April 29, 1907.

The proposal sounded promising to Paget. The Siamese Government had made a large territorial sacrifice to France in order to obtain a concession regarding jurisdiction, and there seemed no reason why the British Government should not likewise expect some territorial or other concession to be the price of a partial surrender of its extraterritorial jurisdiction.<sup>(1)</sup> He wrote the following passage in a note to the Foreign Office:

... the advantage of the bargain would appear to be entirely on our side. It will be a distinct advantage that the questions as to the publication of the Secret Convention and the grant of concession, which have formed the subject of a good deal of controversy since Mr. Strobel's first arrival in Siam, should be finally disposed of ... With the surrender of our jurisdiction such questions as the right of British subjects to hold land and the right of the Federated Malay States natives to registration would also ipso facto disappear.<sup>(2)</sup>

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British, French and American subjects to the Siamese Courts. France took the lead. In 1907 the French Government transferred its Asian proteges to the jurisdiction of the Siamese Courts. Thus Strobel won the entire confidence of the King and his Ministers. The whole conduct of foreign affairs passed from Prince Devawongse, Minister for Foreign Affairs from 1885, into the hands of Strobel. (With the introduction of M. Rolin Jacquemyns as the first General Adviser in 1891, the management of foreign affairs passed to a certain extent into the Adviser's hands but the Belgian had neither the breadth of view nor the tact to gain entire confidence).

James V. Martin, A History of the Diplomatic Relation Between Siam and the United States of America 1883-1929, page 270. Court Gazette, Vol. XXII, November 26, 1905. F.M. File 1, Treaty negotiations with the United States, Devawongse-The King, August 9, 1910.

(1) F.O. 422/61, Paget-Grey, April 27, 1907.

(2) F.O. 422/61, Paget-Grey, April 29, 1907.

In Whitehall, Foreign Office officials were in favour of the offer, though they very much doubted whether the Siamese Government would follow Strobel's advice.<sup>(1)</sup> But if negotiations were to be opened the problem arose as to the terms on which they should start. The question that faced the British Government was how to obtain advantages equivalent to those gained by the French Government, while avoiding extreme concessions themselves. At this stage the Foreign Office considered one much-disputed demand, the right of British subjects to hold land in Siam.<sup>(2)</sup> The India Office and the Colonial Office were secretly consulted about the bargain.<sup>(3)</sup> The India Office expressed the view that as far as exclusively

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- (1) F.O. 371/331, Note on Paget's letter dated April 27, 1907.
- (2) F.O. 371/331, Memorandum concerning Strobel's proposal regarding the cession to Great Britain of Kelantan, Trengganu and Kedah and in regard to jurisdiction over British subjects in Siam, May 28, 1907.
- (3) Before the views of both offices were obtained, Sir Edward Grey cabled to Paget directing him not to make any suggestions himself but to let the Siamese first broach the subject. Mr. Langley, the Under-Secretary of State, made the following note on this telegram: "It was fortunate that Mr. Paget was warned against allowing the Siamese Government to think the proposal emanated from us. They would have credited His Majesty's Government with designs which they have not had, and which would have militated against its acceptance." Paget accordingly informed Strobel of this, and the latter agreed to inform the Siamese Government, if negotiations were opened, that the idea of a cession of territory was entirely his own. However, Strobel preferred to wait, since he had only recently suggested to the Siamese Government the cession of Battambang, Sisophon and Siemreap to France.

In July, 1907, however, it was rumoured in the Siamese Legation in London and in the Foreign Ministry in Bangkok

Indian interests were concerned, the abandonment of extra-territoriality appeared inadequate as a concession. But in view of the larger interests at stake, it was willing to consent to the negotiations.<sup>(1)</sup> The Colonial Office also agreed to the opening of the negotiations but it thought that more territory should be given to England.<sup>(2)</sup> It should be remembered that three years earlier, when the news of the Franco-Siamese Treaty of 1904 reached the Straits Settlements, Sir John Anderson wrote to Lord Elgin, the Colonial Secretary,

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that negotiations regarding possible surrender of British jurisdiction were in progress. Strobel was much annoyed. He wrote to Paget, who was then in London on sick leave, warning him not to give any indication to the Siamese Legation especially with regard to cession of territory. Again in November of this same year the London Daily Mail printed the news that negotiations between England and Siam had been going on for months. To avoid any misunderstanding with King Chulalongkorn, Paget had the following contradiction published in the local press of November 19, 1907. "There have been rumours regarding an arrangement between Great Britain and Siam in reference to extraterritoriality, but we are authorised to state that up to this time there have been no negotiations on this subject between the two Governments." F.O. 422/61, Grey-Paget, May 1, 1907. F.O. 371/331, F.O. Note. May 4, 1907. F.O. 628/28/314, Paget-Grey, May 4, 1907. F.O. 371/331, Tel., Campbell-Beckett, November 15, 1907. F.O. 422/61, Beckett-Grey, November 20, 1907. Bangkok Times, November 19, 1907.

(1) F.O. 371/331, I.O.-F.O., August 14, 1907.

(2) F.O. 422/62, C.O.-F.O., August 1907, undated.

suggesting that England should insist on Siam's surrendering her claims to all the northern Malay States.<sup>(1)</sup> So this time Sir John Anderson made an even stronger demand, writing to Charles Lucas that:

... If it was impossible to obtain the whole area south of latitude seven, an effort should be made to secure Legoh, Rahman, Pattani, Perlis and Setul, the latter two being dependencies of Kedah.<sup>(2)</sup>

In the meanwhile both Paget and Strobel were busy negotiating the bargain. While Paget was in London on sick leave in July 1907, Strobel wrote him a private letter summarising his proposals and making four other suggestions. First, the Federated Malay States Government should pay back to Siam loans amounting to about £300,000 contracted by the Siamese Malay States.<sup>(3)</sup> Second, the British Government should make a declaration in favour of higher import duties into Siam.<sup>(4)</sup>

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(1) C.O. 273/330, Anderson-Elgin, March 27, 1907.

(2) C.O. 273/330, Anderson-Elgin, August 31, 1907.

(3) The indebtedness to the Siamese Government of Perlis, Kedah and Kelantan: Kedah 2,600,000 dollars, Perlis 380,000, Kelantan 150,000; total 3,130,000. F.O. 422/62, Williamson-Paget, February, 1908.

(4) By the Treaty of 1855, and confirmed by Sir Henry Parke's Treaty of May 13, 1856, import duties could not exceed 3 per cent. Siam asked that this percentage be increased. Although formal statements were not made, it was estimated that the revised duty would be seven and a half per cent. The Times, May 19, 1906.

Third, the abandoned Malay Peninsula Railway talks should be reopened in the light of the Siamese Government's proposal<sup>(1)</sup> and fourth, the Secret Convention of 1897 should be abrogated, as it was a hindrance to commercial liberty. A stipulation providing against strategic positions and the establishment of coaling stations by other Powers could be made in substitution.<sup>(2)</sup>

At the end of April, 1907, the Foreign Office, the India Office and the Colonial Office all agreed to open negotiations but they imposed certain conditions. These were the right to hold land; an undertaking on public works similar to Article VII of the 1904 Franco-Siamese Treaty<sup>(3)</sup> and a stipulation against the acquisition of territory in the Peninsula by foreign Powers for strategic purposes. But the question of the cession of more territory should be dropped.<sup>(4)</sup> Lord Elgin thought it was unwise to put forward any demands which were likely to be considered excessive or unreasonable as the Siamese might take fright and abandon the whole affair.<sup>(5)</sup>

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(1) See Chapter III.

(2) F.O. 371/331, Strobel-Paget, July 1, 1907.

(3) Siam gave the French Government the right to be consulted on public works in its sphere of influence.

(4) F.O. 371/331, F.O. Memorandum, May 28, 1907.

(5) C.O. 273/331, C.O. Note, August 31, 1907.

Campbell of the Foreign Office saw the situation in the same light. He noted:

A glance at the map will show the large extent of the three provinces offered by Strobel. To ask for more territory would have a bad look.<sup>(1)</sup>

However, in order to meet the spirit of the wishes of the Colonial Office officials in the Straits Settlements, Beckett, the British Consul in Bangkok, was cautioned by the Foreign Office against saying anything which might stand in the way of including, at a later stage in the negotiations, other Malay-speaking States.<sup>(2)</sup>

When asked whether the Siamese Government was ready for talks, Strobel anticipated difficulty, in the absence of the King,<sup>(3)</sup> in approaching the Siamese Ministers. He decided to sound out Prince Damrong first. The Prince was

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(1) F.O. 371/331, F.O. Note on Paget's letter of April 27, 1907

(2) F.O. 371/331, Note on C.O.'s letter of September 6, 1907, F.O. 422/61, Paget-Beckett, September 10, 1907.

(3) For the second time during his reign the King made a trip to Europe. The reason for the journey was the King's ill health and it had been stated that His Majesty's visit was confined to undergoing a cure at San Remo, but subsequently the King indicated that he would be glad to visit, in a private and unofficial capacity, those Courts where he had been shown courtesy and kindness during his former stay in Europe. The King left Bangkok on March 27 and proceeded direct to San Remo. Then he visited France, England, Germany, Sweden and Norway, returning to Germany to complete the cure at Hamburg. He left Europe in October reaching Bangkok on November 17, 1907. Collected from despatches in F.O. 372/80. King Chulalongkorn, Klai ban, (Far From Home), (Bangkok, 1954).

discouraging.<sup>(1)</sup> Strobel therefore proposed to await the return of the King from Europe when he felt he could probably use his personal influence to secure the King's consent, as he had done with the French Treaty.<sup>(2)</sup>

On November 17, 1907, the King returned. Six days later Strobel outlined the general purpose of the approaches which he had made to Paget. The King did not, as he feared might be possible, adopt an unsympathetic attitude regarding the cession of Kelantan and Trengganu, but he did not commit himself as to the cession of Kedah or to the idea that the Federated Malay States Government should control the construction of the Railways.<sup>(3)</sup>

In December, 1907, Paget returned to Bangkok and shortly afterwards the formal discussions between him and Strobel

(1) Strobel complained in a private letter to Beckett that though he had not expected an altogether sympathetic attitude from the Prince, he was not prepared for such a cold reception. However, he was not surprised. In his opinion, Prince Damrong was the sort of man who wanted the credit of initiating everything but shirked responsibility unless he was certain of the King's attitude. F.O. 422/61, Beckett-Paget, September 13, 1907.

(2) F.O. 371/331, Private, Strobel-Paget, September 14, 1907.  
F.O. 371/331, Beckett-Paget, September 17, 1907.

(3) F.O. 628/28/314, Beckett-Langley, Private, November 27, 1907.

Strobel said that much depended on Prince Damrong's attitude regarding the railway and regarding also the question of the cession of Kedah. The King was likely to seek the advice of the Prince who, as a Minister of Interior, was responsible for both issues.

began. These negotiations were under four headings:

1. The cession of territory to Great Britain.
2. The abrogation of the Secret Convention of 1897.
3. The abandonment of British extraterritoriality in Siam.
4. Arrangements for the construction of the Malay Peninsula Railway.

#### The cession of territory.

It was to Strobel's suggestion for a cession of Kelantan, Trengganu and Kedah that the negotiations concerning territorial cessions owed their origin. A series of talks over existing problems between England and Siam had been proceeding for years without any appreciable progress, and, failing the introduction of some such quid pro quo as a territorial cession, the balance of advantage would be too preponderantly in favour of Siam to admit of any hope of successful bargaining. To this extent, therefore, the cession of territory deserved a prominent position.

The question arises: why did Siam want to give up these three Malay States? In fact it was Strobel who on his own initiative first advocated the cession. To him, these remote states were a source of weakness, danger and annoyance rather than of profit. Kelantan and Trengganu had never formed an integral part of Siam. In spite of the King's policy of strengthening Siam's administrative control by appointing Royal

Commissioners to station in Kelantan and Trengganu<sup>(1)</sup> from 1894 onwards and by his own extensive tours of the peninsula in the 1890's,<sup>(2)</sup> the Court of Siam could not trust the Sultans' loyalty. This uneasy situation coincided with the wish of the British Government to expand British influence in the north of the Peninsula. The Siamese came to realise that the appointment of a Siamese Adviser of British nationality to Kelantan in 1902 revealed British ambitions to incorporate the state into British Malaya. Evidence was apparent in Sir Frank Swettenham's close connection with the Sultan which caused smouldering irritation between the latter and the Siamese Government. For example, in October, 1903, Swettenham went to Kelantan to persuade the Sultan to turn against Siam. He laid down four primary conditions: first, Kelantan should come under British rule; second, the Sultan was to send the Bunga Mas to the British Government once in every three years; third, the British Government agreed to leave the administration

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(1) In 1894 Phraya Tipakosa was appointed High Commissioner in Kelantan and Trengganu, F.M. Section 1-2 concerning the Pahang Rebellion, the King's advice to Phraya Tipakosa on the occasion of the latter's taking office in Kelantan and Trengganu, 1894. Before 1892 Phraya Tipakosa had been appointed High Commissioner to Puket. He had the duty to report on events in Kelantan and Trengganu to Bangkok. Damrong Rajanubhab, Tesapiban, (Bangkok, 1960), pp. 102-103.

(2) Damrong Rajanubhab, Kan Sadet Phraratchasammuen Prapat Laem Malayu 107, 108, 116, 119, (Royal Tours of the Malay Peninsula in 1888, 1889, 1897, 1900), (Bangkok, 1925), Foreword, p. 1.

of the State in the hands of the Sultan; and, lastly, England would allow the Sultan to govern the State in accordance with Malay religion and customs. But the Sultan was opposed to British intervention in the internal affairs of the State as had taken place in Perak and Pahang. The talk therefore proved fruitless. However, Swettenham was able to persuade the Sultan to fly a white flag in Kelantan instead of an elephant flag, a symbol of dependency on Siam.<sup>(1)</sup> Moreover, the Duff Company, established in 1901, was working in Kelantan for the sole interest of the British. The Company's affairs had been a constant source of trouble and anxiety. Considerable friction between Graham, Adviser to the Sultan, and the Duff Development Company over the Company's administrative rights in their concession brought the work of organising and developing the State to a standstill.<sup>(2)</sup>

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(1) FM, 7/77, 3555. Luang Thammaraturatorn-Chao Khun Tesapiban, October 17, 1903.

FM, 597/8273, Prince Damrong-Prince Devawongse, November 1, 1903.

(2) At the time of Graham's first arrival in Kelantan in 1903, the Duff Development Company possessed many administrative rights, had much influence with the Sultan, and played a very important part in the affairs of the State. Graham evidently considered that to allow the existing conditions to continue would decrease his dignity and position as Adviser. Instead of trying to come to an amicable arrangement with the Duff Company, he proceeded in an aggressive manner to question these rights and tried to excite distrust in the Sultan towards the Company. In 1905 a new Agreement between the Kelantan Government and the Company was drawn up abrogating practically all the administrative rights held by the Duff Company. But the

The situation was the same in Trengganu. The Sultan, a man of character, as compared with the Sultans of Kedah and Kelantan, who had for some time succeeded in baffling any attempt to establish Siamese control over his State under the 1902 Agreement, by his policy of passive resistance, continued to adopt similar tactics to thwart Siamese authority.<sup>(1)</sup> At the same time the Siamese made no attempt to impose their suzerainty.

As regards Kedah, Prince Damrong's important change in 1897 in transforming it into a Monthon<sup>(2)</sup> comprising Kedah,

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situation remained unchanged. The Duff Company complained that Graham pursued a continuous policy of unfair interpretation of the new Agreement. Representations were made in Bangkok by the British Minister regarding Graham's unsatisfactory conduct, and it was threatened that unless he adopted a more peaceful policy the British Government would insist on his removal. In reply, Prince Damrong, the Siamese Minister of Interior, stated that if Graham's removal were insisted upon he would himself resign. Vide NA, R5, 3/197, "Concerning Mr. Duff's Application to Conduct Mining Operations in Kelantan."

(1) FM, 7838, Khun Nikornkanprakit-Prince Damrong, October 7, 1903.

(2) In the 1890's King Chulalongkorn introduced a policy of administrative centralisation throughout his kingdom. All provinces which formerly had been under Krom Mahatthai, Krom Kalahom, and Krom Tha, were brought under the direct control of the Ministry of Interior, established in 1892. These provinces were grouped into Monthons or "Circles". By 1906 there were a total of 18 Monthons, including Monthon Saiburi (Kedah). The High Commissioner (Khaluang Thesapiban) was appointed by the Ministry for each Monthon with full governing authority. In Kedah's case, the Sultan of Kedah was appointed the High Commissioner. Prince Damrong, Tetsapiban, pp. 81-85.

Perlis and Setul under actual Siamese control accomplished no miracles. The administration suffered from a lack of trained men and money. A capable official like Phraya Sukhum Naivinit,<sup>(1)</sup> the High Commissioner of Nakornsittamarat, was rare. Most of the Siamese officials did not speak Malay and hardly understood Muslim customs. Hence disagreement often flared up. Mr. Hart, who in 1905 was appointed Siamese Financial Adviser to the Kedah Government, completely failed to gain any influence or control over the Malay officials.<sup>(2)</sup> Frequent complaints were made by Mr. Frost, the British Consul

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(1) Phraya Sukhum was an example, very rare in Siam, of a commoner, unaided by pretensions to Royal or noble descent, rising to the highest rank of nobility, that of Chao Phraya (he became Chao Phraya Yommaraj in 1909) to which a commoner could attain. Starting his career as a tutor of the Princes, he spent nearly ten years in London teaching Siamese to those Princes who continued their studies in England. On his return to Siam he was taken over by the Minister of the Interior, Prince Damrong, and, as Phraya Sukhum, spent ten years as High Commissioner of Nakornsittamarat. He did much useful work in organising the administration of the Malay peninsula provinces, which at that time (1901) was by no means satisfactory. He was one of the few Ministers of State who was popular with his own people as well as with foreigners. Ruang Tang Chao Phraya Krung Rattanakosin, (The Appointment of Chao Phrayas during the Bangkok Period), (Bangkok, 1931), pp. 172-8. Prince Damrong, Prawat Chao Phraya Mahasena Prawat Chao Phraya Bodindeja, Prawat Chao Phraya Yommaraj, (Biographies of Chao Phraya Mahasena, Chao Phraya Bodindeja, and Chao Phraya Yommaraj), (Bangkok, 1961), pp. 44-188.

(2) In a private letter to Campbell, Paget wrote: "Strobel said to Beckett that Hoops (a medical adviser in Kedah) was worth a dozen of Hart and latterly, when talking over the cession of Kedah to us, Westengard volunteered the remark that the Siamese Government would be glad to get rid of Hart 'who is not the same stamp of man that the Government of India have been in the habit of sending them'."

in Kedah, as to corruption among both the executive and judicial officials.<sup>(1)</sup> The situation became worse with the death of the Raja Muda in 1906,<sup>(2)</sup> which was followed immediately by an attempt on the part of the Sultan himself to resume the reins of government, to put in his own favourites, and to destroy the influence of the Adviser.<sup>(3)</sup> The State Council, of which Hart was a member, had unanimously elected Tunku Ibrahim, the Sultan's eldest son, to become Raja Muda, but the Sultan refused to give his consent on the grounds of his intention to abolish the title of Raja Muda and govern the country himself. The Siamese Government found much cause for dissatisfaction with the Kedah Government. Westengard, who visited the State in 1906 and who succeeded Strobel in 1908, used the expression that Kedah was 'running wild'. Undoubtedly, this state of affairs was largely due to the somewhat jealous policy pursued by the Straits Settlements, as exemplified in the Swettenham mission, in regard to any pronounced interference by Siam in the internal affairs of Kedah, and the situation was exploited by the Kedah Government to follow their own policy.

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(1) F.O. 371/738, The Annual Report of the year 1908.

(2) At that time the administration was carried on almost entirely by the Raja Muda, an exceedingly enlightened and intelligent Malay, a younger brother of the Sultan. The Sultan himself was practically useless. Syed Mohammed and M.G. Knowles, op cit, pp. 10 et seq.

(3) F.O. 371/332, Tel. Paget-Grey, June 7, 1907.

Thus, in view of Duff's affairs in Kelantan, the unsatisfactory condition of Kedah since the Raja Muda's death, and the uncompromising attitude of the Sultan of Trengganu, Strobel would not be sorry to see the Siamese Government being freed from the responsibility of administering them. There was so much to be done in the heart of Siam that men and money could not be spared to rule those outlying possessions with a strong hand. Thus he much preferred to see Siam retain only those territories over which she exercised effective control. Westengard, after his trip to the Malay Peninsula in 1906, also supported the idea that Siam should forego her interests in this territory.<sup>(1)</sup>

Strobel convinced the King and his ministers that with the cession of these states to England all recurring difficulties and numerous sources of friction would automatically disappear. Though the loss of territory would undoubtedly be galling to the nation, she must realise that, with the Siamese exercising only ineffective control over them, the day would inevitably come when Siam would lose all her Malay possessions to England without getting any return. Strobel reminded the King of the medical doctrine that amputation of diseased limbs was often necessary to save the trunk of the body from disease. Such amputation was necessary to Siam in

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(1) F.O. 422/61, Paget-Grey, April 27, 1907.

order to rid her of those diseased and unhealthy portions of the kingdom which served no other purpose than to weaken the rest of the State.<sup>(1)</sup>

Strobel did not waste much time in winning the King over to his side. Apart from the loss of face, the Siamese hardly regretted letting these states go. The words of King Chulalongkorn on his visit to these states in 1891 should be recalled:

... we have no particular interest in the states ... If we lost them to England we would miss only 'the Bunga Mas'. Apart from this there would not be any material loss. However, it is bad for the prestige of the nation. That is why we have to strengthen our hold over this part of territory ...<sup>(2)</sup>

And when Strobel presented the matter to the King his immediate reply was:

As to Kelantan and Trengganu, I feel no interest in those States, and you can do whatever you like with them.<sup>(3)</sup>

During the negotiations, the only serious hitches which occurred were those concerning the division between the regions

(1) See also Phraya Maha-Ammattayadhibodi, Ruang Mahatthai, (Interior Administration), (Bangkok, 1952), pp. 134-136.

(2) King Chulalongkorn, Royal Tour to the Peninsula in 1890, p. 325.

(3) F.O. 628/29/316, Conversation between the King and Strobel, November 23, 1907. The reason for Prince Damrong's discouragement in the first instance was probably due to the fear of loss of face, for he always adopted the watchword, 'Siam for the Siamese'.

where Siamese control was indeed effective and those where it was probably only nominal. Administrative, ethnological, and geographical considerations were applied in places, but these were subject to considerations of Siamese dignity. A frontier including all the Malay-speaking provinces in the peninsula, such as Rahman, Legoh and Pattani, was more desirable from a Federated Malay States' point of view. It had been the dream of Raffles, Braddell, Weld, Swettenham, Low and others in the Colonial Office that the line of division should be drawn so as to bring under British influence the predominantly Malay and Mohammedan states, leaving to Siam those mainly Siamese and Buddhist.

All along, Paget had realised that, although the Siamese Government might be anxious in many respects to obtain the successful conclusion of these negotiations, there were limits, especially in the matter of cession of territory, beyond which it would not go. Strobel made two points clear when he first broached the subject. Firstly, the cession was based entirely on the wish of the Siamese Government to disencumber itself of the territory over which it exercised no control. Secondly, the division should be made from the standpoint of administrative rather than any other considerations. Thus he named only the three states over which Siam had the least effective control.<sup>(1)</sup> However, in spite of this, Paget had to keep in

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(1) F.O. 422/62, Paget-Grey, February 7, 1908.

mind the hope expressed by the Colonial Office officials in London and in the Federated Malay States that more territory might be ceded.<sup>(1)</sup> In these circumstances the negotiations became distinctly delicate. For some time the question threatened seriously to impede the negotiations.

During his informal talks with Strobel, Paget firmly and insistently kept pushing for more territory. His argument was based on the fact that, on a racial basis, not only the States of Kelantan, Kedah and Trengganu, but also other portions of the Malay Peninsula such as Perlis, Setul and Pattani would be transferred to England. Perlis and Setul were geographically, ethnically, and culturally a part of Kedah.<sup>(2)</sup> As regards Pattani, the situation was always difficult. As has already been mentioned, early in the year 1902 the Siamese Government found it necessary to arrest and deport the Raja of Pattani, who was alleged to be contemplating rebellion. From then on there were other indications of

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(1) On hearing the news of the cession of territory, Cooks of the Foreign Office thought it desirable to acquire the whole Peninsula as far as Bangtapan. The Colonial Office took a similar view. F.O. 371/331, F.O. note, April 27, 1907. F.O. 422/61, Anderson-Elgin, August 31, 1907.

(2) In 1839 Perlis was separated from Kedah and became an individual state.

discontentment with Siamese rule.<sup>(1)</sup> The British Government wanted to know whether the Siamese Government would be willing to relinquish this trouble-spot.

The request was cold-shouldered by Strobel who well understood that the suggestion of the cession of more territory would meet with a strong reaction from the Siamese. He replied boldly:

If that is to be the game, I think we had better abandon the negotiations at once. I am having sufficient difficulty with the King about Kedah and am not prepared to go further ....<sup>(2)</sup>

... there are considerable settlements of Siamese in Setul, and it might not be possible to include that state.<sup>(3)</sup> ... As for Pattani it is out of the question, as the Siamese Government will never consent to its cession.<sup>(4)</sup>

*Handwritten notes:*  
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(1) In 1908 Mr. W.A.R. Wood, the British Consul in Songhla, reported that every citizen in Pattani disliked Siamese rule. Even the Raja, a poor old figurehead set up by the Siamese, complained: "You will see that my mouth cannot speak some things, but in my heart I know what people are saying, and how unhappy the peasants of Pattani are now." F.O. 628/29/320, Wood-Paget, September 22, 1907.

(2) F.O. 371/521, Paget-Campbell, Private, February 28, 1908.

(3) F.O. 422/61, Beckett-Paget, September 13 and 15, 1907. & Strobel was inclined to think that Setul had stronger

(4) connections with Puket. Sixty per cent of the inhabitants were Sam Sam or Siamese who embraced Mohommedanism. But Frost, the British Consul in Kedah, protested. Frost reported to the Secretary to the High Commissioner of the Federated Malay States that the country was originally part of the old kingdom of Kedah, and had never had any connection with Puket. The people were Mohommedan and

However, in subsequent talks Strobel became more reasonable. To Paget's surprise, he calmly gave up Perlis. The real motive behind this was not known for certain. It is probable that Perlis, on political and geographical grounds, should go with Kedah.

The refusal to give up Setul and Pattani, though an indication of Siamese unwillingness to give up more territory, did not deter the British negotiator. Early in 1908 Paget claimed instead the southern part of Rahman and the Langkawi Islands, leaving to Siam Tarutau and small islands to the west of Langkawi. (1)

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considered themselves Malays and not Siamese. F.O. 422/62, Frost-High Commissioner, November 2, 1907.

In October, 1907, the Siamese Government introduced changes in the political status of Setul by appointing two Siamese officials to be a Treasurer and a Judge, sending a gun-boat there and placing the State under the direct orders of the High Commissioner at Puket. This step undoubtedly created the unfavourable impression in the minds of the British Government and the Government of the Straits Settlements that the Siamese wanted to remove that State from the sphere of the negotiations. F.O. 371/522, Beckett-Grey, December 15, 1907.

(1) F.O. 628/29/316, Paget-Anderson, March 18, 1908.  
C.O. 273/253, Anderson-Paget, January 27, 1908.

Surprisingly, Westengard<sup>(1)</sup>, who succeeded Strobel, welcomed the idea. The explanation of this decision rested on one of two hypotheses; either that the antagonistic feelings of the Siamese died down after Strobel's death or that the Siamese Government was desperately anxious to settle the railway question. The Siamese agreed to cede the Langkawi Islands and Rahman if they could have the railway loan at  $3\frac{3}{4}$  per cent instead of a 4 per cent fixed rate.<sup>(2)</sup>

The proposal met with different reactions from Sir John Anderson and Paget. The former was extremely pleased with a  $3\frac{3}{4}$  per cent interest in return for two more pieces of land. But, were Langkawi and Rahman worth  $\frac{1}{4}$  per cent of the Railway loan? To balance the reduction of the interest Sir John Anderson thought that Legoh, another small state next to Kelantan, should also join British Malaya.<sup>(3)</sup> Paget, on the other hand, was completely opposed to the proposal. The many controversial chapters in the long history of his

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(1) Mr. Westengard, an American, took up the position of Acting General Adviser to the Siamese Government in 1904. Upon Strobel's death in January, 1908, he became General Adviser. The negotiations with England, then in progress, became his responsibility. He was able to achieve their successful conclusion in 1909. During his ten-years' service Westengard's work was invaluable. He worked not only in the political sphere, but was concerned with numerous smaller matters. In 1910 Westengard was promoted to "Phraya Kalaya Na Maitri". On his resignation in 1914 King Rama VI wrote: "The Siamese will not forget what he has contributed to Siam".

(2) F.O. 422/62, Paget interviewed Westengard, January 28, 1908.

(3) C.O. 273/253, Anderson-Paget, January 29, 1908.

association with the Siamese had already turned him into an extremely tough negotiator. Paget did not see the connection between the interest on the loan and the cession of Rahman and Langkawi. England was giving up so much to Siam but was being offered very little in return. By the proposed Treaty, England would abandon a stipulation similar to Article VII of the French Convention, so that the control of the construction of the railway by the Federated Malay States was denied while at the same time the claims for Setul and Pattani were dropped. So he felt that England was entitled to ask for the lower portion of Rahman and the Langkawi Islands to compensate for the concessions she was making. The railway interest should remain at 4 per cent but Anderson should give up Legoh<sup>(1)</sup>, since Paget believed that to persist in such a demand would impede the negotiations.

Paget's insistence yielded results. The Siamese Government gave up Langkawi and Rahman without demur. Perhaps the renunciation by the British Government of extraterritoriality and the payment for the construction of the Railway by the Federated Malay States Government were worth more than those two remote territories. The dark clouds of the dispute lifted

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(1) C.O. 273/253, Paget-Anderson, January 30, 1908.  
F.O. 422/62, Paget-Grey, January 30, 1908.

and the light broke through. Paget wrote to Sir Edward Grey:

.... the territory we are gaining is considerably greater in extent, population and wealth, and incomparably more valuable than any of the Cambodian Provinces lately ceded to France ....(1)

With the frontiers of the British possessions pushed northward as far as Setul on the west coast and as far as Sai on the east, and with the construction of the railway in progress, there is little doubt that the intervening wedge made up of Pattani, Legeh and Rahman will come very effectually under British influence, and will be easily accessible to British enterprise.(2)

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(1) F.O. 422/62, Paget-Grey, February 27, 1908.

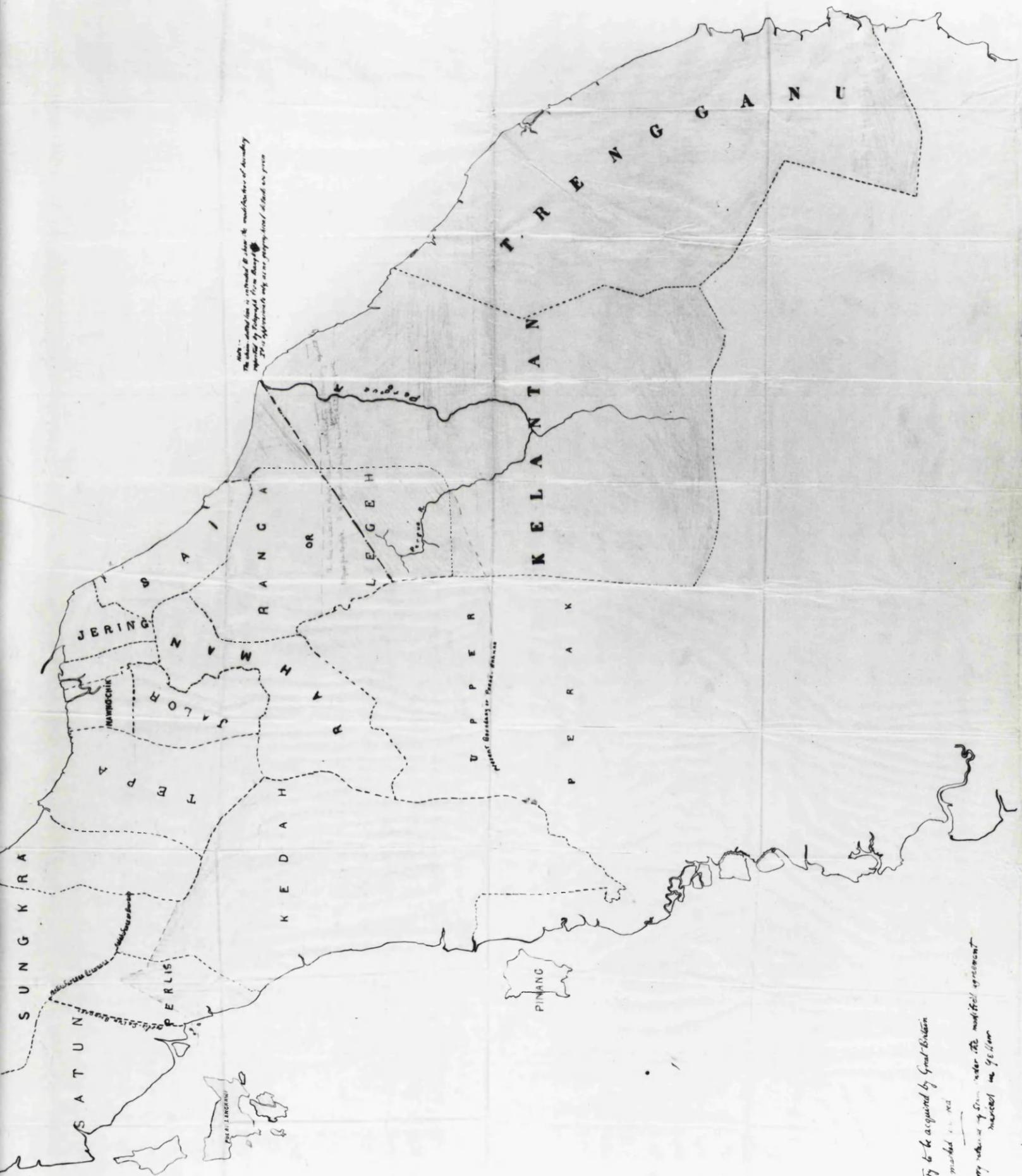
(2) F.O. 422/63, Paget-Grey, February 27, 1908.

	Population		Square Miles
Kedah and Perlis	139,000	Kedah	2,880
Lower Rahman	4,443	Perlís	221
Kelantan	300,000	Langkawi	166
Trengganu	114,895	Lower Rahman	1,344
		Lower Legeh*	544
		Kelantan	5,331
		Trengganu	4,512
Total	558,338	Total	14,988

Vide F.O. 422/62, Paget-Grey, May 20, 1908.

\* At the suggestion of Anderson, the Kelantan-Legeh boundary was altered so as to give to England the lower portion of Legeh. In return, the Siamese Government received a small corner of North Eastern Kelantan.

F.O. 422/62, Paget-Grey, April 2, 1908.



The shaded area is reported to have the boundaries of territory reported by the Sultan of Selangor in 1890. The dotted line only as a geographical sketch as per

Territory to be acquired by Great Britain

Territory returned by Sultan under the modified agreement marked in 1890

marked in 1890

The Abrogation of the Secret Convention  
of 1897.

The abrogation of the 1897 Convention was one of the chief objectives of the negotiations. Strobel regarded the Convention, with its phraseology regarding concessions, as affording England so stringent a hold over the Siamese Malay States that they were rendered practically valueless to Siam. If such conditions were allowed to continue the day would inevitably come when Siam would lose all her Malay possessions to England without getting any return. Certainly if the Colonial Office continued their argument on racial and cultural grounds. From the point of view of the British Government also, the Convention, though affording a guarantee against too rapid a penetration by foreigners into these States, was a constant source of trouble and anxiety.<sup>(1)</sup> It seems therefore probable that the existence of the Convention was directly responsible for the suggestions as regards a cession of territory, and without the prospect of its abrogation no cession would have been suggested.

At the very outset of the negotiations, simultaneously with his request for the abrogation of the Convention, Strobel himself proposed to make a substitute Agreement of a purely political nature, in order to preclude the acquisition by

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(1) See Chapter I on the 'Anglo-Siamese Secret Convention of 1897'.

foreign Powers of any harbour, strategic position or coaling station.<sup>(1)</sup> Paget, striking for the best bargain, urged that, in addition to such an agreement, the British Government be granted a provision similar to Article VII of the Franco-Siamese Convention of 1904, which gave the French Government the right to be consulted on public works in its sphere of influence.<sup>(2)</sup> To this suggestion Strobel strongly demurred. In his opinion, Article VII of the said Convention itself was not of immediate importance. The prospect of public works in the Mekong Valley was not a question which was at all pressing, nor would the Siamese Government for some time undertake public works there of any magnitude. Its existence would always be a restriction upon the undertaking of public works in the Mekong Valley. The desire for a modification of the Article had become stronger since the Treaty of March 23, 1907. The Siamese naturally felt that, having ceded to the French Government provinces in which they were interested, they ought to be left a free hand in the territory which they retained. Unlike the Mekong Valley, the question of public works in the Malay Peninsula was of some importance. If Siam, after ceding the territory, was still to submit to treaty restrictions in controlling and managing the remainder of their territory

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(1) F.O. 422/61, Paget-Grey, April 29, 1907.

(2) F.O. 422/61, Paget-Beckett, Tel. September 10, 1907.

then intervention in the Peninsula would continue in spite of the abrogation of the Secret Convention of 1897. Also the negotiations would fail in their whole object. At the same time Strobel would be deprived of one of the strongest arguments on which he relied to induce the King to agree to the proposal.<sup>(1)</sup> A special Agreement was about to be concluded with the British Government regarding the Malay Peninsula Railway, and this was the most important of all works likely to be undertaken by the Siamese Government. In view of this strenuous opposition, the British claim to such a provision was dropped.

The Agreement of a purely political character which was drafted by Paget on Strobel's request was worded, that:

Siam will neither in the Malay Peninsula nor in the islands adjacent thereto, nor in the territories situated in the immediate neighbourhood of British India, cede or lease any territory of any description directly or indirectly to any foreign Government or Company to establish or lease any coaling station, to construct or own docks, or to occupy any harbour in a position likely to be prejudicial to British interests from a strategical point of view.<sup>(2)</sup>

While the matter was still only in the proposal stage, the sudden death of Strobel occurred in January, 1908. This

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(1) F.O. 371/331, Strobel-Paget, September 14, 1907.  
F.O. 371/521, Memorandum by Paget, January 25, 1908.

(2) F.O. 422/62, Paget-Grey, January 1, 1908.  
The underlining is the writer's.

sad circumstance delayed the negotiations for the next twelve months. When the talks were resumed again in early 1909, Paget met with an altogether antagonistic response from the Siamese Government. Westengard, the new negotiator, raised several objections. First, he argued that the words, "territories situated in the immediate neighbourhood of British India", would extend the scope of the new Agreement to regions never contemplated in the 1897 Convention. Furthermore, the expression was vague, and might even be construed to cover Bangkok, a contingency which was naturally out of the question. Second, he regarded the words "to construct or own docks" as implying some measure of commercial restriction. Lastly, the phrase "occupy positions" was unfavourable, as being too indefinite and liable to misconstruction. (1)

At this stage the Siamese Government was beginning to

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- (1) The limits mentioned in the 1897 Convention covered the whole of the west coast of Siamese Malaya up to the British possession of Tenasserim and the whole of the east coast up to Bangtapan. North of this limit there were no harbours nor islands in any way adaptable as coaling stations. Paget thought that such harbours or islands as based, any foreign Power could find an object in leasing territory, or could turn any territory inland to account as a position of strategical advantage detrimental to British interests. Under these circumstances there appeared to be no ground for insisting on the phrase, "territories in the neighbourhood of British India", and that the scope of the new Agreement should extend above the southern boundary of the Province of Rajburi, which was perhaps a more convenient limit than the former one of Bangtapan. F.O. 422/62, Paget-Grey, February 27, 1906.

show a lack of interest towards the negotiations. There was already an outcry for the abandonment of the whole treaty. Any different view on the British part would only endanger the success of the negotiations. Paget had no option but to agree to all amendments without delay. Nonetheless, he succeeded in persuading the Siamese Government to agree to publish this Agreement.<sup>(1)</sup>

In estimating the relative value of the new Agreement as against the wording of the abandoned one, both parties got the best of the bargain. Siam was relieved of all responsibility for the area covered by the Convention. To England, the new Declaration, being public, was a warning against pacific penetration. The much-vexed question of concessions was set at rest, for the British Government had no longer the right of being consulted in granting concessions. As regards the northern portion of the peninsula which still remained to Siam, it now stood on a different administrative footing well under Siamese control. It seemed impossible for Siam to allow a foreign Power to establish a footing in those regions.

There was a question raised whether, in preparing a draft Convention, the abrogation of the 1897 Convention should form one of the documents for publication, or whether it

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(1) Grey ordered Paget to obtain the publication of this document in return for abandonment of stipulations of Article VII of the French Convention. F.O. 371/521, Grey-Paget, January 25, 1908.

should be considered confidential.<sup>(1)</sup> The territory which Siam was about to cede to England was directly the price paid for the abrogation of the Secret Convention, and should the abrogation remain secret, a misapprehension might arise to the effect that territory was being bartered for jurisdiction and that too little return was gained for the sacrifice of territory. On the other hand, the disclosure of the Secret Convention through the publication of its abrogation might cause criticism of the practice of concluding secret treaties, and might lay Siam open to the accusation of entering into secret engagements with England contrary to her Treaty obligations with other foreign Powers. The British Government had, after consideration of the several agreements, decided that such abrogation should remain confidential. In its view, publication of the abrogation would tend to produce a more rapid influx of foreigners.<sup>(2)</sup> In April, 1908, however, the British authorities expressed a willingness to change their view, and enquired whether there would be any objection on the part of the Siamese Government.<sup>(3)</sup> Westengard personally favoured the idea, for such publication would be a

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(1) F.O. 422/62, Paget-Grey, January 11, 1908.

(2) F.O. 371/521, Paget-Grey, January 11, 1908. C.O.-F.O., January 25, 1908.

(3) F.O. 371/522, Paget-Grey, May 5, 1908. The British Government wanted to point to the fact that the territory ceded by Siam was the price paid for this abrogation, and not for jurisdiction.

complete answer to the incredulous persistency of the German and Dutch representatives, and take the wind out of their sails in the matter of their request for a quid pro quo<sup>(1)</sup>. He was, however, unable to convert the King to his own views although all the Ministers were favourably inclined towards this being done. The King recoiled from the accusations to which he felt he would expose himself, and the irritation that would arise not only on the part of Germany and the Netherlands but of France also, with whom his relations were then most cordial, if a secret Agreement with England were made public. He evidently looked on complaints as to the insufficiency of the quid pro quo as more temporary and easier to meet, and therefore the least disagreeable alternative, for after a month's reflection he gave his definite decision against publication.<sup>(2)</sup> This decision was notified to the Foreign Office on May 21, 1909, and the Secret Convention, with the instrument of March 10 cancelling it, thus continued to remain confidential. Campbell, who saw the seeds of danger in secrecy, noted:

I have always been against publication  
myself not because of the French, but

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(1) The Dutch and German representatives requested for an appointment of one adviser either of German or Dutch nationality by way of a set-off against what they considered unfair advantage gained by England, who had secured cession of territory as compensation for surrender of jurisdiction. F.O. 422/64, Beckett-Grey, April 26, 1909.

(2) F.O. 422/64, Peckett-Grey, May 4, 1909.

because I thought it would enable the Germans to make themselves unpleasant to Siam on the ground that the Convention was a violation of their Federated Malay States' rights. But the position is different now as the new Treaty says the Secret Convention is abrogated and the new Treaty must be published. It is therefore difficult to see how publication of the Secret Convention can be avoided.<sup>(1)</sup>

Campbell was right. The abandoned Convention made its first dramatic appearance in 1910 in the Treaties, Engagements, and Sanads published in Calcutta by the Government of India. The Siamese Government was caught by surprise. It sent an urgent enquiry to look into this most regrettable occurrence.<sup>(2)</sup> Sir Edward Grey, astonished and displeased, pressed for reasons from the India Government. It appeared to be due to pure oversight.<sup>(3)</sup> But everything was too late. The secrecy was no longer maintained. The British Government as well as the Government of India could only greatly deplore the error which had been committed.<sup>(4)</sup> In acknowledging

(1) F.O. 371/736, Campbell's note, May 6, 1909.

(2) F.O. 422/66, Beckett-Grey, August 10, 1911.

(3) F.O. 422/66, Grey-Beckett, September 6, 1911.

(4) Grey noted:

I suppose all we can do is to send the annexed telegram to Bangkok, though an expression of regret will be poor compensation to the Siamese Government for what must look to them very much like a gross breach of faith on the part of His Majesty's Government.

It is a disturbing reflection that oversights which might have such grave consequences are possible and perhaps we ought to "rub it in" to the India Office.

F.O. 371/1222, F.O. Note on India Office's letter dated September 2, 1911.

this expression of regret, Prince Devawongse requested that steps should be taken to modify as far as possible the erroneous impression which might lead to the belief that the 1897 Convention was still in force, when it had been cancelled on the 10th March, 1909.<sup>(1)</sup> With this request the incident closed. Undoubtedly, the publication of this secret document did not give the Siamese Government the same anxiety which would have been felt had King Chulalongkorn been still on the throne.<sup>(2)</sup>

#### The Abandonment of British Extraterritoriality in Siam.

By the end of the year 1907 the main principles of the scheme to achieve a partial modification of extraterritoriality had been only roughly devised. Strobel advanced a proposition that England should, in the case of her Asian subjects, make at least the same concessions as had been made by France respecting her Asian subjects. The British had no objection but they wanted to obtain very full guarantees for the proper administration of the Siamese courts, inasmuch as, since British policy was to make no distinction between British

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(1) F.O. 371/1222, Beckett-Grey, October 28, 1911.

(2) King Chulalongkorn died on October 23, 1910.

European and Asian subjects, the submission of Asians to Siamese jurisdiction entailed also the submission of Europeans.<sup>(1)</sup> Had the French Treaty of 1907 not intervened with the distinction it created between Asians registered before and after the Treaty, and the provision as to the cessation of the International Court system after the introduction of the Siamese codes, the arrangement with England would have been a simple one, namely, that all British subjects, European or Asian, should, subject to certain safeguards as to the presence of European advisers, come under the same jurisdiction throughout Siam as had been created for the North by the Chiengmai Treaty of 1883. Indeed, Strobel considered such an arrangement as fulfilling all his expectations. Much did he appreciate as late as January of 1908 the justice of the contention that the proposal to submit to the direct jurisdiction of the purely Siamese courts British European subjects who might come to Siam after the signature of the Treaty was a sweeping change. Eventually the solution which satisfied Strobel's and Paget's requirements was that all British subjects should be amenable to the jurisdiction of the International Court where guarantees were provided for the protection of British subjects in view of the gradual cessation of the right of withdrawal clause. These were, broadly speaking, that in every case to which a

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(1) F.O. 422/62, Paget-Grey, January 1, 1908.

British subject was a party there should be a European Judge on the bench, Europeans should have the right of having their cases tried in Bangkok, and in every case to which a British Asian subject was a party there should be one of the European legal advisers to the Siamese Government in Court.<sup>(1)</sup>

However, Strobel did not really gauge Siamese feeling on this point, for when, subsequent to his death, Westengard came to take the matter up with the Siamese Government, he met with strong opposition from the King. His Majesty argued that Siam had obtained certain rights over foreign subjects by the French Treaty, and could not agree to accept less favourable terms from another Power.<sup>(2)</sup> Most important of all, should all British subjects be amenable only to the

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(1) F.O. 422/62, Paget-Grey, January 1, 1908.

With the expansion of legislation directed by Prince Rabi, several European Legal Advisers were engaged to assist the judicial administration in Bangkok from 1897 onwards. But it was not until the appointment of Mr. J. Stewart Black, an Englishman, as Judicial Adviser to the Siamese Government in 1904 that any fixed policy of improvement by means of European supervision was established. Under Black's direction, young English solicitors were engaged for definite periods. They were required to make themselves familiar with the Siamese language and law, and were attached to most of the principal Courts in Bangkok as advisers, and were occasionally sent to inspect and advise the provincial Courts. By 1907 nine of these young Legal Advisers were employed.

Apart from this there were four senior Advisers (including the Judicial Adviser). One, a Japanese, sat in the Dika Court, and two Belgians in the Appeal Courts. Ministry of Justice Report, 1907.

(2) F.O. 628/29/326, Paget's Memorandum of an Interview with Westengard, February 4, 1908.

International Court, France would at once demand the same privilege, a contingency which would entail a backward instead of a forward step for Siam. The argument that England stood on a different footing from France inasmuch as she proposed to submit both British European and Asian subjects to the International Court, and eventually to the Siamese Courts, proved of no avail. The King remained obdurate. He insisted that all British subjects registering after the Treaty should come under the ordinary Siamese Courts. To overcome the difficulty Paget complied with the King's wish by bringing British subjects registered after the Treaty under the Siamese Courts so long as Siam applied likewise guarantees in the International Court to the Siamese Courts and these guarantees should not cease except with the consent of the British Government. Thus, the complications which arose in early 1908 were those of extending the guarantees and safeguards regarding the conduct of the ordinary Siamese Courts.

In February, 1908, the draft Agreement was drawn up. Article 6 referred to the question of jurisdiction. It stipulated that:

The jurisdiction of the ~~Siamese~~ International Courts, established by Article 8 of the Treaty of 3rd September, 1883, shall, under the conditions defined in the Protocol of Jurisdiction annexed hereto, be extended to all British subjects in Siam registered at the British Consulates before the date of the present Treaty.

This system shall come to an end, and the jurisdiction of the International Courts shall be transferred to the ordinary Siamese Courts after the promulgation and the coming into force of the Siamese codes, namely, the Penal Code, the Civil and Commercial Codes, the Codes of Procedure, and the Law of Organization of Courts. All other British subjects in Siam shall be subject to the jurisdiction of the ordinary Siamese Courts.<sup>(1)</sup>

Briefly, the Judicial Article provided for the exercise of jurisdiction over British subjects by two different sets of tribunals:

1. Those registered prior to the date of the Treaty would come under the jurisdiction of the International Court in which the guarantees would be:

(a) The presence of the Consul with the right of removal which, however, gradually disappeared with the promulgation codes, then being drafted. <sup>(1)</sup>

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(1) F.O. 422/62, The Draft Treaty of 1908.

(2) The nucleus of a Code Commission was formed by the appointment of M. Padoux in 1904 as Legislative Adviser. In September, 1908, the new Siamese Penal Code came into force. This codification caught the attention of the Ministry of Justice from 1897 when Dr. M. Schlessler, a Belgian, was first engaged in the work. When he left the service in 1902, he took the draft Penal Code to Europe where he amended it and brought it up to date. It was returned to the Ministry of Justice in 1904. At this time M. Padoux was appointed Legislative Adviser and attached to the Ministry. The work of re-drafting the Code began early in 1904. M. Schlessler's draft was used as a frame-work. Finally a substantially new Code was completed in December 1905. In December 1906, the King appointed a Commission of Revision to decide finally on

(b) For Europeans, a European Judge on the bench.

(c) For Asians, the presence on the bench of one of the European legal advisers of the Siamese Government.

2. Those registered subsequently to the conclusion of the Treaty would fall under the jurisdiction of the ordinary Siamese Courts in which the guarantees would be:

(a) The presence of one of the British Consular officers in Court, if desired, but without the power of removing cases.

(b) For Europeans a European Judge on the bench.

(c) For Asians, the presence on the bench of one of the European legal advisers to the Siamese Government.<sup>(1)</sup>

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the adoption of the Draft. The members of this Commission were Prince Damrong, Prince Devawongse, Prince Naret, and Prince Rabi.

During the year 1907 the revision of details was carried on by M. Padoux and the Judicial Adviser, Black, the latter being responsible for the actual wording of the English text. M. Padoux made at the same time a complete translation into French, so that the publication of the Code would, when enacted, be made simultaneously in Siamese, English and French.

Vide Ruang Kong Chao Phraya Mahitorn, p. 71.

(1) These arrangements presumably followed the lead given by France. The transition of a French Asian subject from his position to the eventual condition of submission to full jurisdiction was by three stages:

1. From the French Consular Court to the International Court, with the right of removal, and appeal to the Siamese Appellate Tribunal in Bangkok, whose members included at least two European Judges.
2. The right of 'removal' from the International Court ceased as each new code was published in respect of all cases coming within the scope of that particular code. Appeals still remained as under the first stage.

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Europeans would have, in addition to the above-mentioned guarantees, whether they fell under the jurisdiction of the International or the Siamese Courts, the right of having their cases tried in Bangkok, if they were defendants or accused, or of having the European Judge of the Court of First Instance in Bangkok sent to the locality where the case was to be tried.

If, then, these two sets of guarantees be compared, the only difference would be found in the fact that in the International Court the Consul would possess the right of removal, while this was not the case in the ordinary Siamese Courts. Circumstances would, however, render this distinction practically of no effect, for it was scarcely conceivable that, with a European Judge on the bench, the British Consuls would feel themselves justified in withdrawing a case to their own Court. Therefore the International Court would in actual practice be nothing more than a Siamese Court for the trial of cases in which British subjects were concerned. It would be one and the same in composition and in every other respect, merely changing its name according to the case that was up for trial.

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3. When all the codes were published, French Asian subjects passed from the International Court to the purely Siamese Courts, both as regards Courts of First Instance and of Appeal.

It should be remembered, in addition to this, that the appeal lay to the same Courts of Appeal as well as from the Siamese Courts as from the International Court, namely, to the Appellate Court in Bangkok, in the composition of which there would be two European Judges. Thence appeals went to the Dika Court, or King's Court, in which a private assurance was given that there would likewise be two European Judges,<sup>(1)</sup> and finally there remained as a last resort, should circumstances warrant the step, the possibility of diplomatic intervention.

With such safeguards as these the situation appeared as substantial as any British subject could hope for.

The British officials took a favourable view of the principles of the Draft Treaty. During a three-month talk prior to signature there were minor alterations suggested by both the Siamese and British Governments. Nonetheless, nothing significantly affected the main theme in principle.

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(1) Later the F.O. commented that, "... it is a pity we cannot get Siam to promise the two English Judges in the Dika Court more formally ..." F.O. 371/735, Note on Paget's Telegram dated January 22, 1909.

Arrangements for the Construction of  
The Malay Peninsula Railway.

When the cession of territory was offered to England in April, 1907, the talks concerning the railways were already in progress. The settlement was then still remote and largely depended on the extent to which the Siamese Government was prepared to push forward its railway policy and to fall in with the wishes and views of the Federated Malay States. The proposal for the construction of the Railway on non-political lines, made by Strobel, gave rise to the expectation of some British officials in Bangkok that the actual construction of the railway might be left in the hands of the Federated Malay States railway authorities. However Strobel denied such a possibility since it was impossible for him to obtain the consent of the Siamese Government. True, in return for the loan of the money, the Federated Malay States should have the right to make certain stipulations regarding the personnel of construction, but beyond this they could not go. Subsequent negotiations showed that Strobel was right regarding the sentiments of the Siamese Government. The tempting offer of a loan of money at the low rate of  $3\frac{3}{4}$  per cent which Sir John Anderson proposed to the Siamese Government if it would hand over the actual construction of the railway to the Federated Malay States Government was rejected. The Siamese seemed to prefer to pay the higher rate of 4 per cent to such an alternative.

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In July, 1907, Strobel brought the railways question up for discussion together with the territorial cession,<sup>(1)</sup> but it was not until the third week of January, 1908, that formal talks took place. Strobel had died the previous week but the controversies which lasted from 1906 did not blow over with his death. The Federated Malay States still failed to persuade the Siamese Government to comply with their wishes. The usual complications arose over the extent of the control of the Federated Malay States Government on the line. In Sir John Anderson's view, the minimum the Federated Malay States could demand was to ask the Siamese Government to submit all plans and surveys to them, thus giving the lender the right of inspection and the right of consultation as to the construction personnel.<sup>(2)</sup> But the Siamese would suffer no expression such as "approve of plans or consult regarding plans" which conveyed any idea of veto or control.<sup>(3)</sup> Such a thought was both wounding to the Siamese amour-propre and aroused Siamese apprehensions as to the possibility of the railway becoming the means of increasing British influence

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(1) F.O. 371/331, Strobel-Paget, July 1, 1907.

(2) C.O. 273/253, Anderson-Paget, January 18, 1908.

(3) F.O. 422/62, Memorandum by Paget regarding an interview with Westengard on January 28, 1908.

in the Siamese Malay States at the expense of Siamese influence.<sup>(1)</sup> Sir John Anderson was discontented. He worked up an argument that,

the proposition of Siam that we should advance money to the extent of several millions sterling, taking charge as security of the railway, over construction of which we have no supervision or control, is not business. If money squandered we are helpless, and if we refuse money to complete, security is only a worthless railway ending in air.<sup>(2)</sup>

Nevertheless, Paget failed to win the Siamese over to his side.

In February, 1908, an agreement between the Royal Railway Department of Siam and the Federated Malay States Government was drafted, its main principles being embodied in Articles 9, 10 and 11. Article 9 secured the establishment of a separate department for construction and control until construction was completed. Thereafter the lines constructed would be under the control of a separate Siamese Director-General until the loan was paid off.<sup>(3)</sup> Article 10 regulated

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(1) F.O. 422/62, Paget-Grey, January 30, 1908. With the junction of the railways, the Siamese apprehended the possibility of a very heavy influx of foreigners, i.e. Chinese, into the mining districts of the Siamese Malay States. They were much perturbed by the idea of such a possibility since they considered their administration would not be strong enough to cope with the circumstances, and they feared they might be hustled out of more territory. F.O. 422/62, Paget-Grey, March 24, 1908

(2) F.O. 422/62, Anderson-Paget, January 29, 1908.

(3) This was the point upon which the British Government insisted when the project of the Malay Peninsula Railway first started.

the relations between borrower and lender in respect of showing surveys, plans, specifications, and the examination of books and estimates.<sup>(1)</sup> Under paragraph 11 the Siamese Government agreed that the principal engineers should be British. To the draft Agreement a letter from Westengard to Paget was also attached in which the statement appeared that the line was intended for through-traffic between Bangkok and Singapore or, in other words, that it would connect with the Federated Malay States' railway system.<sup>(2)</sup> This draft agreement was, however, not considered by Sir John Anderson and the Manager of the Federated Malay States Railway as sufficiently precise.<sup>(3)</sup> To them, no provision was made,

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(1) The Siamese Government refused to pledge itself on paper to the effect that it would 'consult' the Federated Malay States. The wording was:

"The borrower should keep such books and accounts as shall be necessary to show the amount expended by him from time to time out of the sums received by him from the lender under this Agreement. These books and accounts shall be open to inspection by the lender at all reasonable times, so that he may satisfy himself that the moneys advanced by him have been applied to the purpose for which they were loaned.

The Railway Department of the Federated Malay States shall be at liberty to inspect the plans, showing the road along which the railway is proposed to be constructed, the sections, specifications, and estimates of the cost of the railway, and the number and locality of its sidings, stations, level crossings, goods sheds, signal stations, and other works, from time to time, as the survey and preparation of working drawing proceeds."

(2) F.O. 422/62, Paget-Grey, February 27, 1908.

(3) Beckett went to Singapore to discuss the matter with Anderson.

and no assurance given regarding the ultimate junction of the Siamese with the Federated Malay States Railway system and the Siamese Government was not sufficiently bound to spend the money loaned by the Federated Malay States exclusively on the trunk line, in the construction of which only the latter was interested.<sup>(1)</sup> Sir John Anderson considered it necessary to add a clause to secure three points, namely, the linking up of the Siamese and the Federated Malay States systems on the Kelantan frontier, the systematic and continuous construction of the trunk line, and that the whole of the money loaned should be devoted primarily to the construction of the trunk line.<sup>(2)</sup>

Westengard agreed with Sir John Anderson. He hurriedly proposed a clause to be added to the Railway Agreement. It was phrased in these terms:

It is the intention of each of the parties hereto to construct within the territory of Siam and of the Federated Malay States respectively a trunk line for through traffic between Bangkok and Singapore. Each party shall proceed with the construction of his portion of the line systematically and continuously, subject naturally to unforeseen difficulties of supply of labour, cost of materials, etc., which may intervene. The junction shall be made at the boundary between Kelantan and Legoh. The borrower depends upon the proceeds of their loan as a fund out of

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(1) C.O. 273/253, Anderson-Crewe, April 18, 1908.

(2) C.O. 273/253, Anderson-Crewe, April 18, 1908.  
F.O. 422/62, Paget-Grey, April 9, 1908.

which to build his portion of said trunk line, and it is his intention to devote said funds primarily to the construction of the trunk line. According to the borrower's estimates said proceeds appear to be more than sufficient for the purposes of the trunk line, but he cannot guarantee that in fact they will prove so.

Nothing in this Agreement shall give either party the right to control or interfere with the work of construction or operation of the line of the other party.

Westengard considered that this clause secured, first a junction between the Federated Malay States and Siamese lines. Second, the region in which the junction should be made was approximately fixed. Third, indefinite postponement of the "linking up" was precluded by the provision that the line should be systematically and continuously constructed. And fourth, expenditure of money borrowed from the Federated Malay States for purposes other than the construction of the trunk line was guarded against.<sup>(1)</sup>

This additional clause was strenuously resisted by the Siamese Government, especially by the King, whose opposition to the Agreement was becoming more and more pronounced. His Majesty would go no further than he had done in the Agreement as originally drawn up.<sup>(2)</sup> The King once stated that, if it were not for his great confidence in Strobel's and Westengard's

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(1) F.O. 422/62, Paget-Grey, March 24, 1908.

(2) F.O. 628/29/316, Paget-Anderson, April 2, 1908.

opinions and abilities, he would have put his foot down about the railway negotiations long ago.<sup>(1)</sup> Siam was already sufficiently bound by the stipulations regarding control and the employment of British engineers. His Majesty also feared that it might give the British something of a hold over the Siamese Government.<sup>(2)</sup> As Westengard put it,

The Siamese are now terrified of the grip which the loan and the railway may give the Federated Malay States over them.<sup>(3)</sup>

It should be remembered that the possibility of the Straits Settlements Government's interference in this part of the peninsula had been a perpetual bugbear to the Siamese Govern-

(1) A short time previous to the signature of March 10 Treaty an inclination was visible on the part of the King to mistrust the advice of Prince Damrong who, for so many years and in so large a measure, enjoyed the Royal confidence in a manner unique perhaps in the history of Siam. It may have been because the King considered that Prince Damrong, in the course of the treaty negotiations, especially with regard to Malay Peninsula Agreements, yielded too much to Great Britain and protected Siam's interests too little. The chief point of attack on Prince Damrong's policy was his pet scheme of the Malay Peninsula Railway, without which he clearly saw that there could be no sound cohesive administration on the Siamese portion of the Malay Peninsula. The Crown Prince's Report on his prolonged tour in the Malay Peninsula provinces in 1909 tended to widen rather than to lessen the breach between the King and Prince Damrong. The Prince was struck very forcibly with the fact that commercial enterprise in whatever shape or form in the peninsula was entirely in the hands of foreigners, chiefly British and Chinese, to the total exclusion of the natives of Siam.  
F.O.371/739, Beckett-Grey, July 7, 1909.  
King Vajiravudha, Royal Tour to the Malay Peninsula in 1910

(2) F.O. 422/62, Paget-Grey, April 9, 1908.

(3) F.O. 422/62, Paget-Grey, April 23, 1908.

ment ever since the Kelantan and Trengganu episode in 1902. The Siamese, who by nature disliked any written agreements, thought that if everything had to be set down in black and white and tied up with fool-proof conditions negotiations and good relations would be very difficult.

The King's remonstrance matched Sir John Anderson's stubbornness. The latter declared:

.... if the Siamese refused to alter the draft Agreement to suit our requirements, the entire negotiations should be postponed until our requests are complied with. (1)

Because,

.... it looks to me as though the railway would never be built, for there is nothing in the present Agreement to oblige the Siamese to construct the railway at all. (2)

Anderson knew full well that Siam badly needed the conclusion of the whole treaty. Every Siamese was extremely anxious to see the abolition of the extraterritorial rights and the abrogation of the 1897 Convention root and branch. Thus the Straits Settlements Government could afford to wait. The longer it did so the more it would gain.

The negotiations showed no sign of progress. Discussion went back and forth between the British Representatives and the Siamese Government. The issue resolved itself into this, that either both parties had to take the Railway Agreement as

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(1) C.O. 273/253, Anderson-Paget, June 18, 1908.

(2) F.O. 371/522, Paget-Westengard, July 6, 1908.

it stood or abandon it altogether. Paget considered that this latter cause would, for many reasons, be regrettable. The discussion of this project proceeded concurrently with important negotiations regarding extraterritoriality, the abolition of the Convention of 1897 and the cession of territory. The transfer of jurisdiction would terminate many troublesome questions regarding the trial of British subjects and registration would confer on British subjects the right to hold land, the abrogation of the 1897 Convention would give relief from the much-vexed question regarding concessions to foreigners, whilst the cession of Kelantan, Trengganu and Kedah would add a large area to British Malaya.

In July, 1908, the railway duel was suspended for the time being. Paget went on leave to England. On his way, he stopped in Singapore to clear up an adjustment to the draft Agreement with Sir John Anderson, 'the great stickler'.<sup>(1)</sup> Paget uttered a persuasive plea for immediate consideration. One reason, he argued, was that once the Siamese signed the Treaty they would comply with the building of the Railway. Although the Siamese Government refused to pledge itself on paper to the effect that it would 'consult' the Federated Malay States regarding the route to follow, Paget felt that in actual practice it would consult them freely on every

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(1) F.O. 371/735, F.O. Note on C.O.-F.O., February 4, 1909.

point of importance. In the end, Sir John Anderson reluctantly gave approval to Paget. He said:

Well, I am willing to let all the rest go just as it is if you can get some sort of assurance from the Siamese that the railway will be built and will commence without undue delay after the signature of the Treaty.<sup>(1)</sup>

When the discussion was resumed in January, 1909, the negotiations entered a new phase. The Siamese proposed that although the Railway Agreement was to be signed at the same time as the Treaty, no reference should be made to it in the Treaty, nor should it be attached, but should be considered quite separately as a purely private contract between the Siamese Government and the Federated Malay States. The Siamese hated the political character the Agreement was given by association with the rest of the Treaty.<sup>(2)</sup> Anderson concurred, thus making the Siamese attitude towards the Treaty markedly more favourable. In January and February, 1909, some more alterations were agreed upon without much ado. First, Article 9 was changed to read, "It is agreed that, until the completion of the construction of the lines to be built under this

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(1) F.O. 371/522, Paget-Westengard, July 6, 1908.

(2) In the draft Agreement Article 4 read:

The Federated Malay States will make a loan to the Siamese Railway Department of a sum of money for the purpose of constructing a railway in the Siamese territory in the Malay Peninsula. The terms and conditions of this loan are set forth in a separate Agreement bearing even date with this Treaty.

Agreement, the construction, equipment, maintenance and operation of those lines shall be kept distinct from that of the other railways of the borrowers." The original wording was:

It is agreed that a separate Department shall be formed for the construction, equipment, maintenance, and operation of the railway hereinbefore described. The separate Department shall remain in existence and perform its duties until the completion of the lines to be constructed under this Agreement. If, thereafter, the separate Department ceases to exist, the lines constructed hereunder shall be placed under the direct control of a Siamese Director-General until the money which is to become due hereunder shall have been repaid.<sup>(1)</sup>

The change may possibly at first sight appear to alter the effect of the Agreement, but in fact, it was of no consequence. The words 'separate Department' were omitted because the Siamese thought that they were galling to the prestige of the Railway Department. Second, Article 11 which provided that the principal engineer should be British was deleted from the Agreement and replaced by the same assurance to Paget, in a letter from Prince Damrong. A slight difference was, however, introduced, inasmuch as the Siamese Government stated "the Chief Engineer" should be British, as compared with "principal engineers" in the former version. Third, a letter from Westengard to Paget regarding the explanation of

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(1) F.O. 422/64, Paget-Grey, January 22, 1909.  
The underlining is the writer's.

the Agreement was entirely omitted.<sup>(1)</sup> It was replaced by Prince Damrong's letter which, in addition to the two points already mentioned, contained the following statement:

Construction will be begun as soon as financial arrangements are concluded, and will carry on continuously to connect with the Federated Malay States north-easter<sup>the Federat</sup> system.<sup>(2)</sup>

At the beginning of March, 1909, when the 10th of March, the deadline for signature, drew near, financial considerations arose which caused the Siamese Government to hesitate in signing the Agreement. Prince Damrong put forward a request for an additional loan of £500,000 from the Federated Malay States for the construction of a branch line from Patalung to Trang.<sup>(3)</sup> But Sir John Anderson turned a deaf ear. However, he compensated with a promise to pay the whole of

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(1) Vide F.O. 422/62, The Draft Agreement.

(2) F.O. 422/64, Paget-Grey, January 22, 1909.

(3) F.O. 422/64, Paget-Grey, February 20, 1909. Prince Damrong's contention was that from the point of view of the Siamese Government, the Patalung-Trang branch was of more importance than the line to the Kelantan frontier, and that, although fully intending to carry on the construction of the main line to the Kelantan frontier "continuously", he thought it advisable to announce that the Siamese Government also intended simultaneously to construct the Patalung-Trang section. Unless this were fully understood, His Royal Highness thought a misunderstanding might easily occur, and the best means of insuring an acknowledgement of the Siamese Government's right to construct the Patalung-Trang line was to ask the Federated Malay States Government to lend the money for its construction. F.O. 371/735, Paget-Grey, February 20, 1909.

the indebtedness of Kedah, Kelantan and Perlis to the Siamese Government, in two instalments, on July 1 and January 1 respectively. This would give the Siamese Government a sum of some £380,000 in hand which it might devote to the construction of the Patalung-Trang line or not according to its wishes.<sup>(1)</sup>

On March 10, 1909, the Federated Malay States Government and the Siamese Railway Department both entered into the Malay Peninsula Railway Agreement whereby the Federated Malay States Government agreed to lend a sum not exceeding £4,000,000 at 4 per cent interest to provide for "the construction, maintenance, equipment and operation of the railway of the borrower in the Siamese dominions of the Malay Peninsula", to be secured upon the sections of railway as they were successively constructed. It was further laid down that until the lines to which it related should be fully completed, their construction, equipment, maintenance and operation should be kept distinct from that of the other Siamese lines, that is to say, they should be independent of the control of the German Director-General of Siamese railways.<sup>(2)</sup> In a note addressed to Paget simultaneously with the signature of the Agreement Prince Devawongse stated the

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(1) F.O. 422/64, Paget-Grey, February 20, 1909.

(2) F.O. 422/64, Beckett-Grey, March 31, 1909.

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intention of the Siamese Government to use the money primarily to build the portion of a line for through traffic between Bangkok and Singapore. Construction would be begun as soon as financial arrangements were concluded and would be carried out continuously to connect with the Federated Malay States' north-eastern system. (1)

#### General trends of the negotiations.

The negotiations as a whole were unpopular among the Siamese Court officials who were mainly the sons and brothers of the King. (2) There were at least two reasons to explain this hostile attitude. First, these officials held the opinion that by the cession of territory Siam was paying too high a

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(1) F.O. 371/736, Prince Devawongse-Paget, March 10, 1909.

(2) To mention only some Siamese Princes who held important official positions:

H.R.H. Chao Fa Bhanurangsi Sawangwongse - Minister of War.

H.R.H. Chao Fa Krom Khun Narisara Nuwattiwongse - Minister of Public Works.

H.R.H. Prince Damrong Rajanubhab - Minister of the Interior

H.R.H. Prince Devawongse Varoprakar - Minister of Foreign Affairs.

H.R.H. Prince Krom Khun Sommot Amorabhandu - Private Secretary to the King.

H.R.H. Prince Krom Khun Bidyalabh Briddhada - Minister of the Royal Household.

H.R.H. Prince Krom Mun Mahisra Rajahrudhai - Minister of Finance.

H.R.H. Prince Krom Luang Nares Vorariddhi - Minister of Local Government and Police.

H.R.H. Prince Rajburi Direkridi - Minister of Justice.

H.R.H. Prince Krom Mun Nakorn Chaisee - Commander-in-Chief.

H.R.H. Prince Abhakara - Deputy Superintendent of the Navy.

price for the abolition of extraterritoriality. By 1905 most foreign subjects in many parts of Siam, for example, the French, Italian and Danish subjects, were already under Siamese jurisdiction in the so-called International Courts. So Siam could afford to wait, and every year she did so the price she paid would become less.<sup>(1)</sup> In fact, Strobel, the master-mind of the negotiations, repeatedly tried to convince them that the main object of these long-drawn-out talks was to achieve for Siam the consolidation of her dominions in the Malay Peninsula and their protection against future danger. In his opinion the feebleness of Siamese administration in the Malay States could easily prove a threat to Siam and the 1897 Convention was 'the most deplorable document' Siam had ever signed. The bargain, therefore, was that Siam should sacrifice her Malay States and secure in return the abrogation of the Convention. Kedah, Kelantan and Trengganu and whatever other territory the British acquired, was in reality the price paid by Siam to free herself from the 1897 Convention,<sup>(2)</sup> a payment by which she also consolidated her position, and not a payment by which she gained advantage or jurisdiction over

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(1) Bangkok Times, March 24, 1908.

(2) From the start (September, 1907) Strobel proposed to Paget that two separate Conventions should be signed in order to make it appear that the cession of extraterritoriality was bought by a cession of Siamese territory. The two groups of Convention were:

British subjects.<sup>(1)</sup> But such a statement was not sufficiently convincing. The Siamese officials still believed that the loss of territory would inflict a humiliating scar on their nation's pride. The second reason was that Strobel's idea of keeping detailed knowledge of the negotiations within a

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- Treaty I. (a) Abrogation of 1897 Convention.
- (b) Loan by the Federated Malay States as a set-off to
- (c) Cession of territory.
- (d) Guarantees as to construction and management of the Malay Peninsula Railways.
- (e) Guarantees as to coaling stations and transfers to other Powers.
- Treaty II (a) Abandonment of jurisdiction as a set-off to
- (b) The right to hold land.
- (c) Guarantees as to British Judges and Advisers.

F.O. 405/179, Precis of Correspondence with reference to proposed cession of Kedah, Trengganu and Kelantan, in exchange for surrender by Great Britain of extraterritorial jurisdiction in Siam.

(1) F.O. 422/62, Paget-Grey, April 3, 1908.

very tight circle of counsellors<sup>(1)</sup> made other officials who were not consulted feel humiliated, so that they became suspicious and eventually were eager to interfere. The situation became worse in the competitive atmosphere of the Court of Siam. Each official seemed only too anxious to give advice based on sheer ignorance of the details of negotiations while following motives of personal interest and ambition. Often, the King was inclined to be swayed from his own judgement. Fortunately, Strobel was able to overrule the biased outbursts and suggestions of the King's entourage; and because he held the personal confidence of the King he was able both to initiate the negotiations and to keep them going.

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(1) The negotiations, from 1904 onwards, were almost entirely in the hands of the King, Prince Damrong and Strobel. Even in talks regarding jurisdiction the Minister of Justice was not consulted. Strobel thought that to act otherwise was to invite a host of irrelevant suggestions based on personal views. Still some officials intervened. To take just one example, Verney, an English Secretary to the Siamese Embassy in London, once a British interpreter in Siam, wrote to the King suggesting that the Siamese Government would be ill-advised to cede any of its territory to England. However, he met with a well-merited snub from the King. In a polite letter, the King let Verney know that Verney's advice would be asked only when needed and he would best serve the interests of Siam by remaining silent.

F.O. 422/64, Paget-Grey, January 15, 1909.

Prince Marathip, "Tactics of Diplomacy" Saranrom, (Annual of the Ministry for Foreign Affairs), (Bangkok, February 10, 1963), p. 9.

The Foreign Office described Verney as "a wanton mischief maker".

F.O. 371/735, Note on Paget's letter dated January 15, 1909.

The sudden death of Strobel on January 15, 1908, jeopardised the promising negotiations which had started formally only a month before.<sup>(1)</sup> It rendered the solution more difficult by opening up opportunities to the King's counsellors, whose influence Westengard, Strobel's assistant, lacked the power to counteract to the same extent as Strobel himself. The position of Westengard thus became a most difficult one. In picking up the threads of the negotiations from the point to which Strobel had carried them, he had to contend with new suggestions which tended to weaken the case for England as presented by Strobel, and to advance the case for Siam. A month after Strobel's death a draft treaty was drawn up.<sup>(2)</sup> Though there was a mutual understanding that,

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(1) Only two days before his death Strobel told Paget that he considered these to be the most important negotiations Siam had ever undertaken. If he had carried the matter to a successful conclusion he would have achieved the principal aim of his labours.

F.O. 371/522, Paget-Grey, January 16, 1908.

(2) The contents of the Draft Agreement may be summarised as follows:-

First, Siam ceded to England the States of Kedah, Kelantan and Trengganu, with the lower portion of Rahman and the Langkawi Islands.

Second, the Secret Convention of 1897 was abrogated. This document was confidential, and not for publication with the rest of the Treaty.

Third, in substitution for the 1897 Convention, Siam made a declaration to the effect that she would not, within certain limits, cede or lease territory, docks or coaling stations to any foreign Power or Company.

for the time being, the proposals therein contained should be considered as purely tentative,<sup>(1)</sup> and though Paget and Westengard agreed that it would meet both British and Siamese requirements<sup>(2)</sup> the Siamese Government showed no sign of approval. Had the regrettable death of Strobel not taken place when it did, there was little doubt that the King, with

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Fourth, British subjects should come under Siamese jurisdiction, while the Siamese Government should furnish guarantees to ensure satisfactory administration of justice. British subjects acquired the right to hold land and all other privileges enjoyed by the natives of the country.

Fifth, the Federated Malay States would lend a sum of money at 4 per cent for the construction of the Siamese Malay Peninsula Railway. The Siamese Government objected to the actual construction being undertaken by the Federated Malay States but they agreed that it should be constructed under the supervision of British engineers.

(Subsequently, it was suggested that the text of this Article should be omitted entirely and that it should form a separate Agreement between the F.M.S. Government and the Siamese Railways Department).

Vide, 628/29/316, Note on the Draft Treaty, February 28, 1908.

(1) Westengard said the Siamese Government was most anxious that the draft should be considered merely as an expression of the personal views of himself and Paget, and not in any way as having received their consent or being binding upon them.

F.O. 422/62, Paget-Grey, May 15, 1908.

(2) In a private letter to Campbell, Paget wrote:

.... I trust it may pass .... more or less as it stands. Westengard told me that with every new alteration or addition proposed he was experiencing increasing difficulty with the Siamese.

F.O. 371/521, Private, Paget-Campbell, February 28, 1908.

the profound confidence which he placed in him, would have accepted this draft treaty without demur. But Westengard's lack of the same powerful influence as Strobel, afforded just the opportunity for the Siamese officials to perplex the King with a flood of advice based on self-interest. The King flatly refused to consider the draft treaty on the grounds that some of the provisions of the Railway Agreement were unacceptable.<sup>(1)</sup> But this objection was equally matched by Sir John Anderson's firm insistence on his proposal. In spite of warnings from Paget that the Siamese threatened to abandon the negotiations,<sup>(2)</sup> arguments over the railway issue dragged on without any sign of compromise.

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(1) See more details in separate headings.

(2) Paget wrote two letters to Sir John Anderson with an undertone of warning.

The Siamese are now by no means in love with the proposed Treaty; they are constantly being twisted with giving away territory to buy jurisdiction which they might shortly have had for nothing ....

As a matter of fact I do not see that we are giving up anything of great value. With the place crammed with European Advisers, with new Codes in force, and with every effort being made by the Siamese Government to run things on European lines it would be impossible much longer to deny them jurisdiction over our subjects. We should be obliged to abandon our extraterritoriality and should receive nothing in return. As to the abrogation of the 1897 Convention, I am not sure that it will be as great a boon to ourselves as to the Siamese.

F.O. 628/29/316, Paget-Anderson, April 9, 1908.

Paget-Anderson, March 31, 1908.

In view of the deadlock Paget decided to postpone the talks. He left Bangkok for London on July 2, 1908.<sup>(1)</sup> Before leaving he gave the Siamese Government to understand that he would come back to the conference table after the Whitehall authorities had made further enquiries and had considered further the various issues.<sup>(2)</sup> This statement annoyed the Siamese Government. It thought that the concessions it had made were sufficient, and that no more should be necessary to close the bargain. The Siamese could not understand why the British Government should not at once accept the, in their opinion, favourable terms which were offered, and contrasted the easy and quick settlement effected with France with the slow progress made in the negotiations with England. Hostility towards the Treaty grew and, during Paget's absence, whenever Westengard had occasion to mention any Treaty matters, he met with a chilling lack of interest on the part even of

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Campbell also warned Fiddles of the Colonial Office that:

It is rather a blow to us that you insist upon seeing the texts of the Siamese Railway and boundary agreements before agreeing to authorise Paget to sign.  
C.O. 273/253, Campbell-Fiddles, February 8, 1909.

(1) F.O. 371/522, Paget-Grey, July 2, 1908.

(2) F.O. 422/64, Paget-Grey, January 15, 1909.

those who, like Prince Damrong and Phraya Si Sahadeb, once were warm supporters of the negotiations. The dominant mood of the King and his Ministers, and, in fact, of all representatives of Siamese public opinion was, at the end of 1908, one of peevishment and discontent.

Paget, on resuming negotiations in January, 1909, reported in his despatch to the Foreign Office as follows:

The sentiments of the King and the Siamese Government towards the proposed new treaty have all along been somewhat divided. Their amour-propre prompts them ardently to desire the abolition of extraterritoriality and the abrogation of the 1897 Convention, but amour-propre also, on the other hand, makes the cession of territory and submission to certain of the provisions of the jurisdiction protocol and the railway agreement distinctly distasteful. Hence the view they take of the treaty, at any given moment, depends upon which of the several issues has most recently been uppermost in their minds.<sup>(1)</sup>

Paget spoke of attempts made by individuals and the local press to encourage the idea, both with the King and his Government, that Siam was not getting the best of the bargain. He drew attention to the hostile public opinion in Siam, which was based mainly on the assumption that, if Siam would only wait, the issue of extraterritoriality might of itself soon disappear.

Paget faced a more difficult problem. During January and February, 1909, amendments began to flow in from the

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(1) F.O. 422/64, Paget-Grey, January 15, 1909.

Siamese Official circles as one new counsellor or another thought that he had grasped the full meaning of various provisions, and found them to be opposed to his own views of Siamese national self-respect. There was a danger that, once the process of whittling down the British demands started, the whole Treaty would be thrown into the melting-pot.<sup>(1)</sup> It was doubtful whether the Treaty would have been signed at all, had not Paget, who had returned to Siam with the special object of concluding the Treaty, stated frankly his intention of leaving on March 10, 1909, whether the Treaty was signed or not. With this lever in his hands Westengard's influence carried more weight. After much strenuous effort, infinite patience and with the use of extraordinary powers of persuasion, he finally obtained the King's sanction on the very eve of Paget's departure. On March 10, the Treaty was duly signed by Paget and Prince Devawongse.

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(1) The F.O. Under-Secretary noted:

I realise the danger of not coming to a decision as to the terms of the Treaty at once ... the Siamese are sure to find various suggestions if they have time to make them, and we may conceivably be met with a volte-face from the King of Siam if he thinks we are still not satisfied with the terms ....

And in a private letter to Fiddles this same person wrote:  
 .... unless we make haste to conclude the Agreement we shall find ourselves confronted with endless alterations.

F.O. 371/735, Note on C.O.-F.O., February 4, 1909.  
 C.O. 273/253, Private, Campbell-Fiddles, February 8, 1909.

Notification of the Treaty was delayed to the utmost limit of the four months allowed, owing chiefly to the question raised by Westengard as to the interpretation of the Jurisdiction Article. Discussions on this matter added to the hostile comments on the Treaty by the London Times which referred to the "notorious corruption and inefficiency of the Siamese Courts."<sup>(1)</sup> The fact that the wish of the Siamese Government to defer publication until ratification was anticipated by publication in the House of Commons on June 11, did not tend to improve Siamese feeling towards the Treaty.<sup>(2)</sup> Nor did the decision reached by the King in May, that there should be no publication of the 1897 Convention, assist in satisfying Siamese or foreign public opinion that the cession of territory was anything more than a quid pro quo for the cession of extraterritoriality. The possibility of the Treaty not being ratified like the Franco-Siamese Agreement of 1902, seemed ever present in the minds of the Siamese Government. Thus it was that, when ratification documents were exchanged in London on July 9, 1909, Prince Rabi complained bitterly that he had no official knowledge from the Siamese Minister for Foreign Affairs of the provisions as to jurisdiction. Apart from this, however, the Siamese Government showed every inclination to accept the Treaty on its true merit.

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(1) The Times, (London), July 3, 1909.

(2) The Siamese Foreign Minister believed that it was unusual for the 1909 Treaty to have been published before ratification. F.O. 422/64, Beckett-Grey, June 1, 1909.

With the close of the year 1909, the King and his Ministers became more and more convinced that the new Treaty was in the best interests of Siam.

CHAPTER V  
THE ANGLO-SIAMESE TREATY OF 1909  
AND ITS AFTERMATH

Nine years of diplomatic talk and strenuous attempts of the British and Siamese Governments to end misunderstandings and disagreements between them had resulted in a satisfactory solution on March 10, 1909. On this very day the four raw wounds, the problem of extraterritoriality, the existence of the Secret Convention of 1897, the construction of the Malay Peninsula Railway and the question of Siam's suzerainty over the four northern Malay States which laid at the heart of discussions, were healed by the Anglo-Siamese Treaty. (1)

The provisions of the treaty were as follows:

First, the Siamese Government transferred to the British Government all rights of suzerainty, (2) protection, administration and control whatsoever, which they possessed over the states of Kelantan, Trengganu and Perlis.

Secondly, the transfer of these States was to take place within a month after the ratification of the treaty;

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- (1) A joint public announcement in the Press stated that the chief objects of the treaty were firstly, to settle political questions in the Malay Peninsula, and secondly, in view of altered conditions during the past fifty years, to change the system of legal jurisdiction over British subjects. F.O. 371/735, Paget-Grey, March 10, 1909.
- (2) In the first draft of the treaty the King of Siam proposed to transfer to England his rights of sovereignty over these States, but this was altered on Anderson's suggestion to rights of suzerainty, protection, etc. C.O. 273/253, Anderson-C.O., April 20, 1909.

Thirdly, a mixed commission, composed of Siamese and British officials and officers, would be appointed to delimit the new frontier;

Fourthly, the British Government undertook that the new Government of the Federated Malay States should assume the indebtedness to the Siamese Government of the ceded territories;

Fifthly, the jurisdiction of the Siamese International Court established by the Treaty of 1883 was to be extended to all British subjects in Siam, registered at the British Consulate before the date of the treaty. The previous system was to come to an end, and the jurisdiction of the International Courts was to be transferred to the ordinary Siamese Courts after the promulgation and the coming into force of the Siamese codes, namely, the Penal Code, the Civil and Commercial Code, the Code of Procedure and the law for Organisation of Courts. All other British subjects in Siam would be subject to the jurisdiction of the ordinary Siamese Courts; and

Sixthly, British subjects were to enjoy the whole extent of rights and privileges enjoyed by the Siamese, notably, the right of property and the right of residence and travel.

There were annexes to the Treaty, one being a Declaration abrogating the Secret Convention of 1897. In addition there was a separate Railway Agreement between the Siamese Railway Department and the Federated Malay States Government for the construction of the Malay Peninsula Railways. (1)

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(1) See Appendix IV.

The treaty received only slight notice in England both in Parliament and in the press. An attempt was made in the House of Commons to create an impression that the Sultan of Kedah had not been fairly treated. A few questions were asked but no difficulties arose. (1)

In the four Northern Malay States news of the signature of the treaty caught the Malays by surprise. There was widespread uncertainty and a lack of information. The Sultans had never been consulted or even approached with regard to the transfer of their allegiance: in fact they were kept very much in the dark and only heard of the proposed changes through local rumours and through some articles in the Singapore papers. (2)

As early as 1908, when the rumours were in the air, the

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(1) On July 21, 1909, Sir William Collins asked in the House of Commons whether the Sultan, State Council, or people of Kedah had been informed of or consulted in regard to the proposed transfer to England of any suzerain rights claimed by Siam over Kedah. The Under-Secretary of State for Colonial Affairs answered that, since the British Government had recognised Kedah's dependence on Siam, England could not have a direct communication about the treaty with Kedah. The British Government had no knowledge of any such communications. But if there were any, they should be between Kedah and Siam.  
Parliamentary Debates, 1909, Vol. 8, Sir William Collin's question on July 21, and the Under-Secretary's reply.

(2) Penang Gazette and Straits Chronicles, June 24, 1914.

Sultan of Kedah immediately confirmed with the Foreign Office in London that before anything was settled with regard to the future administration of his state he would be given an opportunity to place the views of his Government before British Ministers. Unfortunately, this precaution came too late. The next thing the Sultan heard was of the signature of the treaty. Kedah felt herself snubbed. Though she was not averse to joining her Malay neighbours, she felt that such an arrangement should have not been made without her consent. True, as Kedah's creditor, Siam had the right to transfer her debt, but Siam had no right to transfer the debtor.<sup>(1)</sup> The Sultan accused Siam of treating him as a mere pawn or chattel and said to Sir George Maxwell, the first British Adviser of Kedah:

My country and my people have been sold as one sells a bullock, I can forgive the buyer who had no obligation to me, but I cannot forgive the seller.<sup>(2)</sup>

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- (1) C.O. 273/253. The proposed Siamese Treaty of 1908. Memorandum in connection with the treaty on behalf of the Government of the State of Kedah. Arthur C. Adams, Penang, M.L.C.S.S., Legal and Confidential Adviser to the Government of Kedah, September 12, 1908.
- (2) The Straits Times, May 16, 1957. Sir George Maxwell, the first British Adviser of Kedah, wrote a letter to the editor of the Straits Times recalling the words of the Sultan of Kedah to him in 1909 when Kedah was transferred from Siam to Great Britain.

The only thing left for the Sultan to do after 1909 was to obtain, if possible, from the British Government some

This reaction was echoed in Kelantan. From the time when rumours of a new treaty became rife the Sultan, backed by Graham, displayed an extremely pro-Siamese policy. He wrote to King Chulalongkorn protesting against the cession of his country and sent up the Dato Montri, or Prime Minister, to Bangkok for this purpose.<sup>(1)</sup> The petition made it clear that the Sultan and his Government were much perturbed by the rumours of the cession of Kelantan to England. They had always been faithful adherents of Siam, and therefore they would be grateful to Siam if they were not handed over to England.<sup>(2)</sup> Graham was seriously opposed to the change. He

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guarantee that he and his subjects would not be affected injuriously by this treaty which had been made over their heads. A question to this effect was put in the House of Commons on July 21, 1909, by Sir William Collins. The British Government concurred. Penang Gazette and Straits Chronicles, June 24, 1914.

In 1923 England promised not to 'transfer or otherwise dispose of his rights of suzerainty over Kedah to another Power, without the written consent of His Highness the Sultan in Council.' The Colonial Problem, a report by a Study Group of Members of the Royal Institute of International Affairs (Oxford University Press, 1937), p. 87.

- (1) F.O. 371/736, Wood-Paget, February 21, 1909.  
F.O. 371/521, Paget-Grey, May 27, 1908.
- (2) F.O. 422/62, Paget-Grey, May 29, 1908, Wood-Beckett, October 3, 1908.

Paget took this protest lightly. He thought that it was merely an expression of anxiety by a few office-holders who feared the change and the stricter British regime. Wood also threw ridicule on the petition. And Campbell noted: "He (Wood) is very down on Graham and I dare say rightly."

wrote a private letter to Prince Damrong depicting vividly the Sultan's grief and anxiety at the prospect of Kelantan being compelled to change from the lenient rule of Siam to British control and inquiring whether the suspicion of a transfer was indeed founded on fact.<sup>(1)</sup> There was no reply from the Prince.<sup>(2)</sup>

As might be expected, the strongest opposition came from the Sultan of Trengganu. All along he had jealously opposed Siamese encroachment over his State and proved himself 'a much harder nut to crack' than the Sultans of Kedah and Kelantan.<sup>(3)</sup> On hearing that a treaty had been concluded by which the Siamese Government ceded Trangganu to England, the Sultan castigated the Siamese as thieves who were giving away what did not belong to them and complained bitterly against the British Government for entering into such arrangements without consulting him.<sup>(4)</sup> From then on, he was thrown into a state of fear mingled with anger by the news of the treaty. Before the treaty was ratified the Sultan had hurried to send

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(1) F.O. 371/736, Paget-Grey, February 23, 1909.

(2) Paget commented that the reason was probably that the Prince felt embarrassed as regards the reply; it would be somewhat ungracious for a suzerain state to curtly inform a loyal vassal that he was about to be transferred to another Power. F.O. 422/64, Paget-Grey, February 27, 1909.

(3) F.O. 371/736, Campbell's note on Beckett's letter to Grey of April 19, 1909.

(4) F.O. 422/64, Beckett-Grey, April 19, 1909.

gratuitous and premature bunga mas to Bangkok to remind Siam that what she could cede were certain shadowy suzerain rights only.<sup>(1)</sup> At the same time he prudently paid a visit, as unusual as it was unexpected, to the Governor of Singapore.

*1. may* / A talk with Anderson might have gone far to ease the situation, for when the treaty was finally carried into effect no fuss arose in the state.<sup>(2)</sup> All these actions, however, were ignored by the King of Siam who would not bother to waste words nor use coercion with the Sultan. To quote His Majesty's words:

The one thing which the Sultan required and would always require, was money.... A loan of ready cash on reasonable terms would pave the way to friendly understanding in the future.<sup>(3)</sup>

No matter what the different reactions of the three Sultans to the new Treaty, all displayed a similar attitude - a grim feeling of loss of pride and dignity. The Malays loved freedom and hated foreign rule. Thus, under these circumstances, the Malays' resentment went deeper since their states and they themselves had been transferred from one rule to another behind their backs.

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(1) F.O. 422/64, Beckett-Grey, June 22, 1909.

(2) Anderson promised the Sultan that he had no intention of interfering with the internal administration. The two chief points with which he was concerned were, first, that the Sultan should hold no communications with foreign Powers except through the High Commissioner. Second, no transfer of land should be made, or concessions of land given to foreigners, without the consent of the High Commissioner. C.O. 273/253, Anderson-Earl of Crewe, May 27, 1909.

(3) F.O. 422/64, Beckett-Grey, April 26, 1909.

In contrast to the hard-feeling of the Malays, long-time British residents of Malaya wholeheartedly welcomed the treaty since their wish to increase their hold over the Malay Peninsula was then fulfilled.<sup>(1)</sup> Sir John Anderson expressed his hope that:

I look for a very large development indeed of the local trade which finds its outlet at Singapore and Penang.<sup>(2)</sup>

At long last the British authorities in London had found irresistible the temptation to extend British supremacy in the northern Malay States. Only seven years earlier Sir Frank Swettenham's insistence on pushing British protection over the north of the Peninsula had led Lord Curzon to consider him 'a swashbuckler of the most truculent type'.<sup>(3)</sup>

In Siam the people generally were coldly indifferent to the treaty. However, there was feeling in Siamese official circles for the loss of the bartered territories regardless of the Siamese ill-defined and disputed rights over them.<sup>(4)</sup>

Beckett reported the following reactions to Grey:

The treaty of 10 March, though viewed with indifference by the nation at large, is most unpopular with the large majority of Siamese

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(1) Straits Budget, April 8, 1909.

(2) C.O. 275/80, Proceedings of the Legislative Council of the Straits Settlements, Sir John's address to the Legislative Council.

(3) Sir Richard Winstedt, Malaya and Its History, (London, 1962), p. 75.

(4) F.O. 371/983, F.O. Note on Peel's letter to Grey dated February 15, 1909.

princes who form the palace clique and virtually represent public opinion in Siam. They are chagrined at not being consulted during the negotiations, save at the last moment. They consider that the bargain is all in favour of Great Britain. They resent the cession of territory. They say that, as usual, Great Britain has secured the substance and left them the shadow.... (1)

A German daily newspaper published an article describing King Chulalongkorn's dissatisfaction with the treaty. (2) His Majesty was concerned about the cession of territory. He told Paget that although his ministers who knew of the Secret Convention of 1897 might acknowledge the transfer of Kedah, Kelantan, Trangganu and Perlis as the wisest policy for Siam, he feared that the general public would consider it a needless sacrifice and would form a very uncomplimentary opinion of his statesmanship. (3)

Also, a strong criticism in Siam prevailed among British subjects relative to the jurisdiction clauses embodied in the treaty. This antagonistic feeling was due to their natural sentiment against the principle of the European British subjects being amenable to the Courts of any Asian Power, and especially to the idea that, "their extraterritoriality was being bartered for a few square miles of territory." (4) But upon the treaty's

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(1) F.O. 371/739, Beckett-Grey, July 7, 1909.

(2) Vossische Zeitung, June 30, 1909.

(3) F.O. 371/736, Paget-Campbell, May 3, 1909.

(4) F.O. 422/62, Paget-Grey, April 3, 1908, May 5, 1908.

publication, Beckett called a meeting of all British subjects in Bangkok, and was apparently successful in allaying completely all their apprehensions.<sup>(1)</sup>

The third party mainly concerned with the treaty was Germany. With the announcement in the press in Bangkok at the end of March, 1909, of the suspension of further construction on the Bangkok-Chiangmai Northern State Railway, followed by gradual knowledge of the terms of the treaty, the German Minister, Herr Von Prollius, became alarmed at what he doubtless considered a disaster to German influence.<sup>(2)</sup> He complained to Westengard of Siam's suddenly unfriendly attitude towards Germany, and belittled the quid pro quo which Siam gained from England in exchange for valuable

(1) F.O. 422/64, Beckett-Grey, April 15, 1909. See e.g. Parliamentary Debates, Commons, 1909, Vol. 8, Comments by Earl Percy on July 22 and the Under-Secretary of State for Foreign Affairs' remarks.

(2) At the turn of the twentieth century the policy of Germany had been constantly to ingratiate herself with Siam, and to adopt the role of an ally on whom Siam might rely when harassed by the importunities of England and France. In pursuance of this policy, German Princes and Austrian notabilities were sent to Siam in constant succession. The five years between 1904 and 1909 had witnessed the visits of Prince Henry of Prussia, Prince Adalbert, two Bavarian Princes, the Austrian Ambassador to Japan, Baron Von Call, the German Admiral of the China station, and the Prince Regent of Brunswick. Added to this, King Chulalongkorn, during his trip to Europe in 1907, received most marked attention from the German Emperor. On the occasion of each visit of a German Prince, moreover, the very highest decorations were conferred on certain Siamese Princes and others on numerous Siamese officials.

territory.<sup>(1)</sup>

The sentiments of the German subjects in Siam were accurately reflected in an article which appeared in the Vossische Zeitung and those of German officialdom in an article in the Kölnische Zeitung. The former stressed the importance to German commerce of the careful preservation of Siam as one of the few remaining independent markets capable of development. It deplored the incompetence of the German Minister as compared with that of his English counterpart. It sounded an alarm at the decline of German influence as well as German interests, especially those connected with the important northern railway which were endangered by the British treaty, and pictured King Chulalongkorn as the puppet of England, dissatisfied with the treaty, and looking to Germany for help at this critical juncture. The Kölnische Zeitung, on the other hand, emphasised more the inadequacy of the bargain concluded by Siam, suggested that Germany should consider well before she gave up her extraterritorial rights out of flattery to Siam, considered that England and France

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(1) Von Prollius asked Westengard whether Siam was going to enter into negotiations with other Powers, and, if so, what did she propose to offer Germany in return for jurisdiction? Westengard replied that the Siamese Government had never considered that they paid England for the jurisdiction arrangement, so they did not envisage paying other Powers.

F.O. 371/736, Westengard-Paget, April 20, 1909.

F.O. 422/64, Beckett-Grey, April 26, 1909.

(2) The Vossische Zeitung, June 30, 1909; and The Kölnische Zeitung, October, 16, 1909.

were dividing the 'Siamese booty' between them, took the view that Germany would never allow her subjects to be given the same legal status as Siamese peasants or Chinese coolies, and concluded by stating that Siam had to prove that she had something left for Germany before the latter could submit her subjects to Siamese judicial control.

In actual fact, the British treaty proved disastrous to German susceptibilities. First and foremost, because of the Malay Peninsula Railway Agreement, it was a severe blow to any hopes of a monopoly of railway construction which Germany may have entertained since 1891, and on which she had mainly depended for political influence. Secondly, by the agreement as to a coaling station, it put an end to any further attempts by Germany to obtain a political footing in the Peninsula. And thirdly, by the legal protocol and the provision as to European legal advisers, it gave Germany no option but to concede extraterritorial jurisdiction for her subjects, who were all Europeans on the same terms and subject to the same provisions as other Europeans, or to incur the wrath of Siam and the risk of her own isolation by holding altogether aloof.

Amidst mixed feelings of sorrow, disappointment, joy, indifference and fear from all people concerned, the British and the Siamese Governments went on with their task of implementing the treaty's provisions.

The transfer of Siamese rights over Kedah, Kelantan, Trengganu and Perlis were formally carried out a few days after the ratification of the treaty. It was at first Anderson's intention to attend the ceremonies in person, accompanied by a certain show of force 'on some important business'.<sup>(1)</sup> But in deference to the wish of the Siamese Government, it was agreed that the proceedings should be of an entirely simple nature, and the Governor was represented merely by the officials who were chosen for the posts of Advisers in the various states.<sup>(2)</sup> These gentlemen were met by the Siamese advisers in Kedah, Kelantan, and Perlis, but in the case of Trengganu by an officer sent specially from Bangkok.<sup>(3)</sup> The transfer of Trengganu took place on July 14, 1909, and that of Kedah, Perlis, and Kelantan on July 15. The proceedings passed off in each case

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- (1) On hearing a rumour that the Governor of Singapore was about to visit Kedah with a guard of honour to take over his State, the Sultan referred the matter through his lawyers to eminent counsel in London, and was informed that he could decline to receive the troops until he was told by the Siamese Government that his State had been handed over to England. F.O. 422/64, Beckett-Grey, September 9, 1909.
- (2) F.O. 371/737, Beckett-Grey, July 26, 1909, Prince Devawongse-Beckett, June 23, 1909. F.O. 422/64, Beckett-Grey, July 4, 1909.
- (3) There was no Adviser in Trengganu because the Sultan had not recognised the Siamese-Trengganu Agreement of 1902.

without a hitch.<sup>(1)</sup>

Prior to the ratification of the 1909 treaty Whitehall authorities had discussed the measures necessary to give political status to the four Sultanates. The Foreign Office suggested annexation as the best solution, mainly on the grounds that it would stop other foreigners' claims of extra-territoriality.<sup>(2)</sup> But the Colonial Office raised various insurmountable difficulties. The main objections were, first, that these States, with the possible exception of Kedah, could not be regarded as integral parts of Siam. What Siam had ceded amounted to something less than sovereignty. The annexation, therefore, was not a result of cession. Secondly, annexation

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(1) However, in Kedah and Kelantan friction arose over the reactions of Hart and Graham prior to the actual transfers. Both these advisers were informed by the Siamese Government that their advisership was no longer necessary and they could proceed on leave as soon as they wished. Neither took the hint and both remained. To the Sultans, they showed sympathy and solicitude, to encourage them to make a protest. Graham remained in Kelantan until the transfer but he failed to persuade Anderson to retain his services as adviser. However, protests against the cession of Kelantan were made. These were confined to somewhat inarticulate grumblings against the new boundary, which Graham calculated would endanger the successful carrying out of the arrangements for the transfer, but in fact no serious trouble occurred. In Kedah the situation was even more tense and Hart was ordered to return to India on June 20, in spite of his strenuous efforts to remain until the transfer. F.O. 371/736, Beckett-Grey, June 30, 1909. F.O. 405/195, Annual Report, 1909, by Beckett.

(2) The Colonial Office later described this proposal as "nonsense ... No other Foreign Power has worried about extraterritorial jurisdiction in these States." C.O. 273/253, Note on Foreign Office's letter to the Colonial Office, May 19, 1909.

meant the deposition of the Sultans. Such a step seemed likely to meet with determined resistance. The Sultan of Trengganu, for example, was extremely likely to use force against annexation. Hostile motives at that time were also evident in Kelantan and it was quite natural that the Sultan of Trengganu might take the same step as his neighbour. The Colonial Office wanted to preserve the status quo ante of the States to the limits. Any changes in the administration should be gradually and cautiously introduced for it would be regrettable if the first consequence of the treaty was the despatch of an armed force to impose the new arrangements on the people. Even if these difficulties were overcome, the problem of providing for the administration of the States, including the process of bills through Parliament for funds to set up the machinery of Government would similarly be difficult.<sup>(1)</sup> Accordingly, the Colonial Office suggested that the territories should eventually follow the system of the Federated Malay States, the difficulty of foreign rights of extraterritorial jurisdiction being overcome by the simple expedient of refusing to grant privileges to foreign consuls, unless all claims to jurisdiction were waived.<sup>(2)</sup> This course was accepted by Grey.<sup>(3)</sup>

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(1) F.O. 371/736, Campbell's note on Beckett-Grey, April 19, 1909.

(2) C.O. 273/253, C.O.-F.O., May 28, 1909.

(3) F.O. 422/64, F.O.-C.O., June 2, 1909.

But in practice these expectations were not fulfilled. The Malays in the newly acquired states were antagonistic to British rule. It was probable that by this time they had not fully recovered from the harsh treatment accorded them at the transfer. Johore, Kedah, Kelantan, Trengganu and Perlis chose to stand apart from the Federated Malay States. The new Unfederated Malay States, as their negative title indicated, formed a different political entity from the Federation.<sup>(1)</sup> Under the common leadership of the High Commissioner they joined with the Federation and the Straits Settlements to constitute British Malaya but they retained their independent status. The British officers assigned to each State were styled Advisers and not Residents. Under the advisory system the Sultan still maintained 'a position of authority in the Government', but he was bound to ask and act upon British advice in all matters other than those touching the Mohammedan religion and Malay customs.<sup>(2)</sup>

Since the Anglo-Siamese Treaty of 1909 was signed without consulting the Malay Rulers concerned, England was then left

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(1) In 1896 the four States of Perak, Selangor, Negri Sembilan, and Pahang formed the Federation. Under the terms of the Treaty a Resident-General was appointed as the agent and representative of the British Government. His advice was followed in all matters of administration other than those touching the religion. Vide, R. Emerson, Malaysia, A Study of Direct and Indirect Rule, (New York: Macmillan, 1937), p. 194.

(2) Sir Roland Braddell, The Legal Status of the Malay States, (Singapore, Malaya Publishing House, 1931), p. 22.

with the problem of negotiating separate agreements with them to gain recognition of British protection. Their legal assimilation was undertaken by gradual stages. In the year after the transfer both Kelantan and Trengganu entered into new agreements with the British,<sup>(1)</sup> but in the case of Trengganu provision was made only for a British Agent. Article II of the Kelantan treaty stipulated that the Sultan "undertakes to follow and give effect to the advice of the Adviser, or in his absence, of the Assistant Adviser, in all matters of administration other than those touching the Mohammedan religion and Malay customs" whereas Article II of the Trengganu treaty contained a declaration of the British King's desire "to place a British Officer in Trengganu to be an agent with functions similar to those of a Consular Officer..." Thus, a new Convention was necessary in 1919 to complete the process. In accordance with its terms the Adviser's advice "must be asked and acted upon in all matters affecting the general administration of the country and all questions other than those touching the Mohammedan Religion."<sup>(2)</sup>

The Kedah Agreement was signed in 1923. The Agreement provided specifically in the first article that Kedah "shall

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(1) The Trengganu Agreement was signed on April 23, and that of Kelantan on October 22. F.O. 371/983, C.O.-F.O., June 4, 1910. F.O. 422/65, Anderson-Crewe, October 26, 1910.

(2) Maxwell and Gibson, Treaties and Engagements Affecting the Malay States and Borneo, (London, 1924), p. 114.

continue to be under the protection of His Britannic Majesty who shall exercise the right of suzerainty." By the third Article Kedah was given guarantees far beyond what had previously been granted. Assurance was given that she would not be forced to join in the Federation. England promised not to "transfer or otherwise dispose of its rights of suzerainty over the State of Kedah to another power and will not merge or combine the State of Kedah or her territories with any other States or with the Colony of the Straits Settlements without the written consent of His Highness the Sultan in Council."<sup>(1)</sup>

Perlis was left in the Unfederated Malay States without any formal agreement with England until 1929 when she paid off the final instalment of the loan to the Federated Malay States Government. Then a somewhat embarrassing situation arose when the British Adviser, nominally acting only in financial matters but actually controlling the general administration of the State, found himself without legal standing for his position. In order to secure his authority and avoid any dispute, a new agreement was finally negotiated in 1930 legalising the position of the British Adviser. Article V of the Treaty was worded:

The Raja of Perlis and his successors will receive and provide a suitable residence for a British Adviser to advise in all matters relating to Malay Custom or Mohammedan religion, and will accept such advice ....

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(1) Braddell, op. cit., p. 29.

To sum up, constitutionally, the position then was simply that Kedah, Kelantan, Perlis and Trengganu as individual States retained the same status and the same Constitution as before. The only practical change effected under British rule was the substitution of English Advisers for the Siamese ones.

Most articles of the treaty were implemented without difficulty. Under the provision of Article III of the 1909 Treaty the Anglo-Siamese Boundary Commission was appointed in October, three months after the ratification, to make out the frontier which had been transferred. Apart from a dispute over the boundary between Perlis and Setul<sup>(1)</sup> the work was successfully accomplished. And in accordance with Article IV, the Federated Malay States Government paid the whole of the indebtedness of Kedah, Kelantan and Perlis to the Siamese

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(1) The general principle adopted in the delineation of the frontier of these two States was that of following the main watershed between the Perlis River on the one hand and the Putoh River on the other. The point in dispute was that the Siamese Commissioner took the view that, as it was clearly understood that no Setul territory should be handed over, they would at a certain portion of the boundary, in following strictly the watershed, be surrendering territory which had formerly belonged to Setul, the evidence of ownership being established by a stone post. They also alleged apparently that the adoption of the watershed frontier would cut off from Siamese territory part of the track connecting Singapore with Setul. On the other hand, the British Commissioners contended that this reason was not a sufficient one for diverging from the watershed. In the end, the English Commissioner complied with the Siamese demand in the interests of goodwill.  
F.O. 371/1220, C.O.-F.O., January 9, 1911 and  
F.O. Note on it.

Government, in two instalments, on July 1, 1909, and January 1, 1910, making a total of nearly £400,000.<sup>(1)</sup>

A series of difficulties arose from the interpretation of Articles V and VI of the treaty. They included the annoyance caused by disputed claims to British nationality, the unfriendly attitude of Prince Charoon,<sup>(2)</sup> a new Minister of Justice, the abrupt dismissal of Black, the Judicial Adviser, Siamese reluctance to employ the legal advisers and the question of British subjects' rights to hold land.

Even before the treaty was ratified Beckett and Prince Devawongse had already been confronted with a complex problem over the establishment of the international courts and court procedure. The basis of this dispute lay in Beckett's opinion that the new Regulations, different from the French Court Regulations of 1907, were required for the English International

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(1) F.O. 371/737, Phraya Visuti Kosa-Grey, July 23, 1909.  
 F.O. 422/65, Phraya Visuti Kosa-Grey, January 22, 1910.  
 F.O. 371/983, Peel-Grey, April 28, 1910.  
 Each instalment amounted to £197,645.19.6d.

(2) The Prince was called from the post of Minister in Paris to become Minister of Justice in 1910. Educated at Harrow and Trinity, he was more English than Siamese and unfortunately was unpopular both with the staff of the Ministry of Justice and with his colleagues in the Cabinet. Collected from Ruang Kong Chao Phraya Mahitorn.

Courts.<sup>(1)</sup> But Prince Devawongse was not in favour of new Regulations. And the following three months saw the Prince and Beckett playing an endless game of verbal tennis. Beckett strongly criticised Prince Devawongse, stating that,

(The Prince) apparently laboured under the impression that the only obligations incumbent on the Siamese Government in order to carry out the provisions of the Protocol of Jurisdiction were that he should come to an understanding with me as to the selection of places ... at which International Courts were to be established. He did not appear to grasp the importance of the sweeping change in jurisdiction, nor what such a change implied. Nor did he seem to realise that the arrangements made necessary by the Treaty differed in any respect from those made after the conclusion of the Treaty with France of March 23rd, 1907....<sup>(2)</sup>

After exhaustive discussions from mid-March to mid-April, 1909, Beckett submitted a draft of new Regulations for the Courts to Prince Devawongse on April 22nd. Though this draft was framed, to quote Beckett's own words, 'with a view to

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(1) Beckett claimed that the French Treaty merely provided for a transfer of jurisdiction from the French Consular Courts to the International Courts of all French Asian subjects registered previous to the signature of the Treaty without any guarantees as to the constitution of the Courts either in the case of such subjects or of those registered subsequently to the date of the Treaty. But the Treaty signed with England extended the jurisdiction of the International Courts to all British European and Asian subjects registered prior to March 10, 1909, and laid down very distinct conditions for the constitution of the International Courts and for the ordinary Siamese Courts in cases in which a British-born subject was a plaintiff or defendant, or in which Asian subjects were defendants, whether registered before or after the signature of the Treaty. F.O. 371/737, Beckett-Grey, July 22, 1909.

(2) F.O. 371/737, Beckett-Grey, July 22, 1909.

permanency and yet elastic enough to fit in with any changes of Consuls and Advisers,<sup>(1)</sup> Prince Devawongse strenuously opposed it.<sup>(2)</sup> He proposed a completely different draft which in turn was refused by Beckett on the grounds that "it consisted of nothing more than the French Regulations embodied en bloc with certain provisions of our Treaty interlarded and often misquoted, whilst other provisions were neglected..."<sup>(3)</sup>

Differences of opinion continued during the two full months of May and June. Then a warning came from the British Government in early July that they would leave the Treaty unratified. Faced with this problem the Prince accepted another new draft as drawn up by Beckett. This provided for five International Courts of which two were situated in Bangkok and one each in Chiangmai, Songkhla and Puket. British district Courts for the trial of evoked cases and for the exercise of non-contentious probate jurisdiction were established in Bangkok, Chiangmai, Lampang and Songkhla. The Rules of Procedure of the Chiangmai International Court would apply to all other International Courts and the Rules of Civil and Criminal Procedure then in use in the ordinary Siamese Courts

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(1) Beckett claimed that in drafting these regulations he took into account also the fact that in some places within the International Court system there was a Consul but no Adviser, in others an Adviser but no Consul, in others neither Consul nor Adviser.

F.O. 371/737, Beckett-Grey, July 22, 1909.

(2) F.O. 422/64, Beckett-Grey, May 31, 1909.

(3) F.O. 371/737, Beckett-Grey, July 22, 1909.

were substituted throughout.

Another point of contention was the too-rigid interpretation of the jurisdiction clauses by Prince Rabi whose dissatisfaction at the territorial loss of his country was acute. In every disputed case of nationality Prince Rabi insisted on the production of a registration certificate to determine whether a British subject should be treated as a pre- or a post-registrant.<sup>(1)</sup> Minor disputes flared up soon after the coming into force of the treaty.<sup>(2)</sup> The matter reached its

(1) A great deal of inconvenience was caused by doubtful cases in litigation as to the real status of the person claiming to be a British subject, and thus entitled to the privileges secured under the terms of the treaty, but unable to produce a certificate on the grounds that it had been lost or not obtained through sheer neglect.

(2) In Songkhla, Wood, the British Consul, alleged that the judges of the International Court there assumed that it was within their jurisdiction to determine whether a man was a British subject or not. This was in contradiction to Article 3 of the Registration of 1899 which laid down that the joint committee was authorised to decide the nationality of any person claiming to be a British subject.

In Petchaburi, the judge asked the Chief Judge of the international court in Bangkok for instructions in dealing with three persons, accused of some crime, claiming to be British subjects, but without any means of proving their claim. The Judge was ordered to try these persons as Siamese subjects in the ordinary way. The British Minister objected on the grounds that it was contrary to the stipulations of the treaty of 1909, as the Judge had virtually admitted that they were British subjects, and they consequently were entitled to enjoy the privileges secured under Article 5 of the Treaty and the Siamese Government was requested to send instructions to the Judge indicating the correct procedure. Instead Prince Rabi remained adamant and issued instructions that certificates of registration had to be produced in any court.

F.O. 371/983, Peel-Grey, April 7, 1910.

climax when a case arose in Petchaboon Court against a man who claimed to be a Shan British subject but was unable to produce a certificate, claiming that it had been lost. An instruction was sent from the International Court in Bangkok that the accused had to bring evidence within fifteen days to prove that his certificate had really been lost; otherwise he had to be tried in the ordinary Siamese courts. Crosby, the British Vice-Consul in Chiengmai, was opposed to the instruction and protested to the chief judge of the international court that if the judge of the Petchaboon Court was not prepared to admit the accused's nationality one of the two following courses should be adopted; either the judge should hold a formal inquiry into the man's nationality, and should forward the record of such an inquiry with a written opinion for the consideration of the British Consular authorities and of the international court; or, if this was considered insufficient, then a joint inquiry should take place. However, the talks were a failure and the matter became the sole responsibility of the British Minister in Bangkok.<sup>(1)</sup>

After some discussion, this question of cases of disputed nationality was settled by an agreement concluded between Prince Devawongse and Peel, the new British Minister, relating to the practical judgement of persons and firms claiming British nationality. By this agreement the Siamese Government

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(1) F.O. 422/65, Peel-Grey, September 13, 1910.

admitted that the claim to British nationality of an unregistered person was subject to an inquiry of the British Consular Officer. In remote districts, where a personal inquiry by a British Consular Officer was impossible the judge of the Siamese Court should perform the duty. If the decision was unacceptable records of such investigations had to be forwarded to the British Consular Officer sitting with a nominee of the Siamese Government. The definition, for legal purposes, of a British firm was also included in the agreement.<sup>(1)</sup> Firms were, for this purpose, divided into two classes: first, those registered as limited liability companies, and secondly, partnership firms, whether limited or unlimited, in which the partners were each individually or personally liable.

The companies defined in the first category, which had been registered in the British Empire and had had branches in Siam before the treaty of March 10, 1909, were considered as pre-registered companies and under the jurisdiction of the international court. Those which were established after the treaty were considered as post-registered companies and under the jurisdiction of the ordinary Siamese courts. No certificates of registration were required for such firms. As regards the second category, a registration certificate of a

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(1) A difference of opinion also arose in regard to the status of a British firm. The Siamese authorities rejected a consular certificate of nationality as insufficient evidence. F.O. 422/66, Grey-Beckett, June 17, 1911.

partner who was a litigant was adduced as proof of his being of British nationality, and the decision as to whether he was a pre- or a post-registrant and therefore subject to the jurisdiction of either the international or the ordinary Siamese Courts respectively was dependent on the date of that certificate. If a firm was represented by an agent, that agent had to produce a certificate of nationality issued by some competent authority to prove that one of the partners was a British subject.<sup>(1)</sup>

Nothing was more disheartening to the successful judicial arrangements than the resignation, or, more correctly speaking, the dismissal of Prince Rabi and the abrupt departure of

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(1) Vide, F.O. 371/1221, Disputed Cases of Nationality, Annual Report for the year 1910, pp. 2-4.

Peel reported that after the ratification of the treaty Asian British subjects showed the greatest reluctance to register themselves. Before the treaty they were liable to a fine not exceeding £2 if they failed to register. Since this penalty no longer existed, their failure to register themselves was very often caused by economic reasons to save the expense of the fee, added to the fact that they came under Siamese jurisdiction and subject to the same taxes and services as the Siamese. Wood reported from Songkhla that the British subjects there believed that it was best to be unregistered. If they registered, they usually did it with extreme reluctance. In Setul a number of British subjects went so far as to enquire whether it would be possible to come to register at night, as they did not consider it politic to be seen coming to the office during the day. In September 1910, although there were at least 300 British subjects in Setul, only sixteen registration certificates had been issued.

F.O. 422/65, Wood-Beckett, September 22, 1910.

F.O. 422/66, Peel-Grey, August 3, 1911.

Black from the Ministry of Justice.<sup>(1)</sup> Prince Charoon, the new Minister, did not have an easy personality and things often did not go smoothly in his dealings with the British Government. The principal criticism was of Prince Charoon's policy to reduce the employment of foreigners in his department as far as possible for he believed that his country should be freed from the restrictions of foreign control. His

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(1) The circumstances which led to Prince Rabi's fall were comparatively trifling and arose through the publication of a malicious libel reflecting on his moral character by one of the members of the Royal Family. In view of the difficulties which existed in Siam in bringing any action against a Prince, Prince Rabi decided to resign his position as Minister of Justice. His Royal Highness decided to leave Bangkok. Before his departure he called a meeting of the judges and explained to them the circumstances which had led to his resignation. There were deeply emotional feelings among his subordinates. Under the leadership of the chief judge of the international court, they drew up a petition representing to the King that they could not work without Prince Rabi. The King promptly ordered all the judges to return to their duties and reproached them for being disloyal towards him. The judges were all discreet enough to acknowledge their fault. This event was followed by a stormy interview between Prince Rabi and his father. The Prince showed so much temper that he was simply told to resign. His loss was a blow to the Ministry. It was undeniable that during his term of office the administration of justice in Siam had made considerable strides. Vide, Ruong Kong Chao Phraya Mahitorn, pp. 76-79.

During this tragic crisis Black, who was on leave, sent a letter to Prince Charoon, the new Minister of Justice, asking for a leave-extension. In a cutting tone Prince Charoon informed Black that his services were no longer required, and that he was entitled to take his pension, and receive all the compensation due to him owing to breach of contract. His dismissal caused no little bitterness among British subjects in Siam since his presence and advice would have helped considerably in preventing any disagreement or encroachment on the rights and safeguards provided by the treaty in their interests.

reluctance to employ a Judicial Adviser was not unnatural and it was only after long and painful discussions between Prince Devawongse and Peel that Skinner Turner, formerly judge of the British court in Siam, was appointed the Judicial Adviser as successor to Black and the legal advisers were appointed to be attached to the international courts.<sup>(1)</sup>

The provision that caused strong feelings of regret among the Siamese was that of Article VI under which British subjects were placed on the same footing as Siamese in regard to the acquisition of land. For years Siam had fought vigorously to hold this sacrifice as her trump-card against British demands and she gave it up only when the British Government agreed to abandon completely extraterritorial rights granted to their subjects in Siam. Even then the Siamese Government could not accept this with good grace. During the first two years after the treaty came into force heated arguments occurred between the British Minister and the Siamese Government. The former alleged that there appeared a marked tendency on the part of the Siamese Government to

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(1) F.O. 422/65, Peel-Grey, October 17, 1910.

discourage British enterprise in their Malay provinces.<sup>(1)</sup>

Whenever British subjects applied for concessions, the Siamese Court automatically refused. To mention only a few cases: early in 1910, Mr. Ross Clunis, a British subject, complained to Peel that the Siamese Government had rejected his application for exclusive prospecting rights over an area situated in the Bay of Tarus, on the east coast of Puket Island, because that area was to be held as a special reserve.<sup>(2)</sup>

In Penang, Mr. Laws, a British subject, stated that all his applications to take up land for mining purposes in Setul had been refused on the grounds that the Siamese Government was not yet prepared to open up the province of Setul for mining or agricultural purposes.<sup>(3)</sup>

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(1) It should be noted here that after the treaty of 1909, Prince Damrong's prestige was much impaired both with King Chulalongkorn and his colleagues in the Cabinet, on the ground that he had selfishly realised his pet scheme of a Malay Peninsula Railway at too excessive a sacrifice of other national interests. The Prince felt piqued at the position of scapegoat for England into which Prince Devawongse had thrown him in the eyes of the King and the Cabinet. To this pique and a wish to dispel the impression that he was sacrificing national to foreign interests doubtless was due to the Prince's bold attempt to exclude foreign capital by the establishment of a reserved zone along the southern railway and the introduction throughout the peninsula of a policy of unofficial and veiled obstruction to foreign enterprise. This event probably led to his eventual retirement in 1915.

(2) F.O. 371/983, Wood-Peel, May 4, 1910.

(3) F.O. 371/1220, Peel-Grey, April 15, 1910.

In October, 1910, Wood reported to the British Consulate in Bangkok that he had been shown an official letter from the director of the Agricultural and Mining Department in Puket which said that the Siamese Government did not intend to permit any prospecting for minerals, nor to issue mining licences for Trang, as it was intended to reserve that province for agriculture. (1)

In November, 1911, rumours reached Peel that the Siamese Government had instructed the authorities in their provinces in the Malay Peninsula to reserve the land in that region exclusively for the use of the local people. (2)

In Pattani the Langkat Oil Company, a British firm, requested a concession to exploit oil-bearing lands but the reply which came from the Siamese Department of Mines clearly stated that the Siamese Government was not disposed to grant any concessions for oil-bearing land, and if oil were found in sufficient quantities, use would be made of it by the Government, assisted by its own experts. (3)

But the most striking case was that of Mr. Pearson, a British subject, who applied for a licence to prospect for minerals in Nakornsitammarat. This licence was granted, but an endorsement on the document forbade prospecting for a

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(1) F.O. 371/983, Wood-Peel, October 24, 1910.

(2) F.O. 371/1474, Peel-Grey, Annual Report, 1911.

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distance of five miles on each side of the Southern Railway line, which was then in process of construction. This endorsement was unfortunately overlooked by Pearson and a prospector was dispatched by his company to start operations. The endorsement was subsequently discovered, and the prospector at once was withdrawn. Efforts were then made by the company to induce the Siamese authorities to cancel the clause in question, and a fresh application for a new licence was made. But a new order was issued by the Siamese Government debarring British enterprise along a reserved zone of ten miles wide throughout the whole course of the railway.<sup>(1)</sup>

Apart from all these arguments, there also existed differences over the regulations for purchasing land which placed British subjects on a different footing from the Siamese. A report from the British Consul in Songkhla said that the Siamese were able to secure prospecting and mining licences without any formality from the Mining Department in Puket while British subjects had to wait until a report had been made to Bangkok and instructions received. And legally, fifteen days' notice was required to give time for any third party to make a claim to land proposed for sale; when a Siamese applied for land, the notice was at once pasted, but in the case of a British subject it could not be done until

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(1) F.O. 422/66, Peel-Grey, August 7, 1911.

after instructions had been received from Bangkok approving his application.<sup>(1)</sup>

Another controversial point was the right to hold land. At the outset the Siamese Government contended that this right applied merely to individuals, and not to companies or associations. This point was clearly illustrated in the case of a representative of a British missionary society who applied for title-deeds to lands belonging to the society, which hitherto had been held in the name of a Siamese. He was informed by the Siamese Government that they would not object to the land being transferred to him in the capacity of representative, but it could not be held in the name of a society which was a non-resident body.

The formal recognition of ownership of land purchased by British subjects prior to the treaty also raised another point of argument. It should be noted that for many years before the ratification of the treaty of 1909, British subjects, although technically having no right to hold land,<sup>(2)</sup> had acquired landed property outside the limits by private

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(1) Prince Devawongse stated that this differentiation was necessary because rights of foreign subjects under the various treaties with Siam were complicated. In certain districts some foreigners might have a right to the ownership of land while others had not. So the matter should be supervised directly from Bangkok.  
F.O. 371/1220, Peel-Grey, January 6, 1911.

(2) Prior to the date of the 1909 treaty British subjects in Siam could buy or rent houses, lands, or plantations situated anywhere within a distance of twenty-four hours' journey from Bangkok.

contract, the purchaser being, as a rule, contented with a document signed by both parties recording the terms of the sale. With the right of property granted to them by the treaty, attempts were made by British subjects to obtain recognition of their ownership of land from the local authorities. Complaints came up continually since in many cases it so happened that it was impossible to trace the seller.<sup>(1)</sup>

The above-mentioned difficulties had to be discussed and resolved. It took nearly two years before all the points were settled. By 1911 Prince Devawongse had promised to adopt a more favourable attitude to any applications of British subjects for land in the Malay Peninsula. Together with this promise new regulations on the acquisition of land by foreign subjects had been drafted to meet the circumstances. They were applied as follows:

To individual persons:

First, in all cases where the person claiming to be a British subject could produce a certificate of registration in applying for a transfer of land, the order for the transmission of the application to the Ministry of the Interior would be dispensed with.

Secondly, in cases where the applicant did not present a certificate of registration the application should be reported to Bangkok before any action was taken.

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(1) F.O. 422/65, Peel-Grey, April 16, 1910.

To British companies:

First, when the application was received the usual notice would be pasted at once.

Secondly, a report of the facts would at once be made to Bangkok.

Thirdly, no further action would be taken until orders from Bangkok had been received. (1)

The matter of the right of property was also settled by the agreement which Peel concluded with the Siamese Government with reference to the treatment, in the Courts of Justice, of firms claiming British nationality.

One of the effects of the 1909 treaty was the suspension of the operation of the Fugitive Offenders' Act enforced by Article 74 of the Siam Order in Council of 1906, which stated that Siam was regarded as a British possession. After the treaty was ratified a fugitive from justice of British nationality could no longer be brought back from Siam. And it was feared that if this were known in the Straits Settlements or in Hong Kong there was a possibility that Siam might become the home of all absconding criminals. To safeguard against it the extradition treaty between England and Siam for the mutual rendition of fugitive offenders between Siam and the Malay States under British protection was signed on March 4, 1911. As regards the newly acquired territories,

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(1) F.O. 371/1220, Peel-Grey, March 17, 1911.

the British Government considered that, as they did not possess treaty-making powers on behalf of these States, the question should be dealt with by a separate agreement. At this point, however, the Siamese Government found it necessary to give the formal assurance that they recognised the natives of the recently ceded States as coming within the scope of the 1899 Registration Agreement and included within this admission the natives of the Federated Malay States and Johore, as well as the territories under British protection in Asia.<sup>(1)</sup>

With regard to the Railway Agreement, though at the start it appeared a hesitant gamble, it worked out effectively. Gittins, an English engineer, was appointed in August, 1909, to the post of "controlling engineer" to select a staff of engineers and others. Thanks to his skilful foresight, he selected them irrespective of nationality, including English,

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(1) F.O. 371/1474, Peel-Grey, Annual Report, 1911. This matter was raised for the first time in 1906, remained afterwards in abeyance, and in fact was lost sight of during the negotiations which ultimately led to the conclusion of the 1909 treaty. The objection to the recognition in Siam of the natives of the Federated Malay States and Johore as British subjects had previously been based on the grounds that they would have the privilege of being tried in a British court, but this objection no longer existed after the 1909 treaty as these natives were, with very few exceptions, post-registrants and consequently subject to the jurisdiction of the ordinary Siamese courts; nor could they be eligible for military service, as the Siamese Government had adopted the policy that all aliens should be exempt from duties connected with the defence forces of the country.

Italian and German,<sup>(1)</sup> thus gaining strong co-operation from the Siamese Government since they regarded the matter of nationality as of prime importance.

A Royal Proclamation was published on August 1, 1909, making provision for the appropriation of land for the railway and enumerating the points through which it was to pass.<sup>(2)</sup> The construction started immediately in August on the Songkhla-Patalung-Tung Song-Trang section.

The conclusion of the treaty was reflected in a mood of optimism among the people of the two countries generally. The British Government was contented with the newly-ceded territories while the sacrifice of judicial rights of British subjects was compensated for by the enjoyment of rights to own land and by a much-improved legal status of Siam. The treaty, on the other hand, raised Siam to a higher position among Asian powers. At least the Siamese were proud to say that their country had attained her ambition to become,

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(1) These Germans were dismissed from the Northern State Railway. On March 29, 1909, there was an official communique stating that the Siamese Government had decided for purely financial reasons, to take no further loans for the purpose of pushing the construction of the Northern Railway any further north.

F.O. 422/64, Beckett-Grey, May 12, 1909.

(2) The total length of main line was stated to be 600 miles for which a branch line of 95 miles had to be built out of revenue. In regard to the purchase of materials Belgium was most favoured source of supply. Rails, fastenings and ballast-wagons were bought from that country, while tenders for locomotives were awarded to England.

in legal matters, on a par with Japan and European countries. And she could congratulate herself that she had brought to a conclusion within less than a decade a revision of her treaty system by England which Japan had accomplished only after laborious negotiations extending over twenty years. The people gradually reconciled themselves to the territorial loss, though it caused a strong feeling among them at the time. With the evident desire of the young King, King Vajiravudh, who ascended the throne in October, 1910, to maintain very friendly relations with England, the country in which he was educated and spent so many of his early years, Anglo-Siamese relations moved into a more understanding phase.

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## APPENDICES

## APPENDIX I

## The Chiangmai Treaty of 1883

WHEREAS the relations of Peace, Commerce, and Friendship happily subsisting between Great Britain and Siam are regulated by a Treaty bearing date the 18th April, 1855, and a Supplementary Agreement dated 13th May, 1856; and, as regards the territories of Chiangmai, Lakon, and Lamphoonchi, by a special Treaty between the Government of India and the Government of His Majesty the King of Siam, bearing date the 14th January, 1874.

And whereas Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the King of Siam, with a view to the more effectual prevention of crime in the territories of Chiangmai, Lakon, and Lamphoonchi, belonging to Siam, and to the promotion of commercial intercourse between British Burmah and the territories aforesaid, have agreed to abrogate the said Treaty Special concluded on the 14th January, 1874, and to substitute therefor a new Treaty, and have named their respective Plenipotentiaries for this purpose, that is to say -

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, William Henry Newman, Esquire, Her Majesty's Acting Agent and Consul-General in Siam;

And His Majesty the King of Siam, Sovereign of Laos, Malays, Kareans, etc., his Excellency Chow Phya Bhanwongse Maha Kosa Thibodi, Grand Cross of the Most Honourable Order of the Crown of Siam, Grand Cross of the Most Noble Order of the Chula Chom Klao, Grand Officer of the Most Exalted Order of the White Elephant, Member of the Privy Council, Minister for Foreign Affairs; Phya Charon Raj Maitri, Grand Officer of the Most Exalted Order of the White Elephant, Knight Commander of the Most Noble Order of the Chula Chom Klao, Member of the Privy Council, Chief Judge of the International Court; and Phya Thep Prachun, Grand Cross of the Most Honourable Order of the Crown of Siam, Knight Commander of the Most Noble Order of the Chula Chom Klao, Grand Officer of the Most Exalted Order of the White Elephant, Member of the Privy Council, Under-Secretary of State of the War Department.

The said Plenipotentiaries, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:-

## ARTICLE I.

The Treaty between the Government of India and the Government of His Majesty the King of Siam, bearing date the 14th January, 1874, shall be and is hereby abrogated.

## ARTICLE II.

The Siamese authorities in Chiengmai, Lakon, and Lam-poonchi will afford due assistance and protection to British subjects carrying on trade or business in any of those territories; and the British Government in India will afford similar assistance and protection to Siamese subjects from Chiengmai, Lakon, and Lam-poonchi carrying on trade or business in British territory.

## ARTICLE III.

British subjects entering Chiengmai, Lakon, and Lam-poonchi must provide themselves with passports from the Chief Commissioner of British Burmah, or such officer as he appoints in this behalf, stating their names, calling, and the weapons they carry, and description. Such passports must be renewed for each journey, and must be shown to the Siamese officers at the frontier stations, or in the interior of Chiengmai, Lakon, and Lam-poonchi on demand. Persons provided with passports and not carrying any articles prohibited under the Treaty of the 18th April, 1855, or the Supplementary Agreement of the 13th May, 1856, shall be allowed to proceed on their journey without interference; persons unprovided with passports may be turned back to the frontier, but shall not be subjected to further interference.

Passports may also be granted by Her Majesty's Consul-General at Bangkok and by Her Majesty's Consul or Vice-Consul at Chiengmai, in case of the loss of the original passport or of the expiration of the term for which it may have been granted, and other analogous cases.

British subjects travelling in the Siamese territory must be provided with passports from the Siamese authorities.

Siamese subjects going from Chiengmai, Lakon, and Lam-poonchi into British Burmah must provide themselves with passports from the authorities of Chiengmai, Lakon, and Lam-poonchi respectively, stating their name, calling, description, and the weapons they carry. Such passports must be renewed for each journey, and must be shown to the British officer at the frontier stations or in the interior of British Burmah on demand.

Persons provided with passports and not carrying any prohibited article shall be allowed to proceed on their journey without interference. Persons unprovided with passports may be turned back at the frontier, but shall not be subjected to further interference.

#### ARTICLE IV.

British subjects entering Siamese territory from British Burmah must, according to custom and the regulations of the country, pay the duties lawfully prescribed on goods liable to such duty.

Siamese subjects entering British territory will be liable, according to the regulations of the British Government, to pay the duties lawfully prescribed on goods liable to such duty.

Tables of such duties shall be published for general information.

#### ARTICLE V.

His Majesty the King of Siam will cause the Prince of Chiengmai to establish and maintain guard stations, under proper officers, on the Siamese bank of the Salween River, which forms the boundary of Chiengmai belonging to Siam, and to maintain a sufficient police force for the prevention of murder, robbery, dacoity, and other crimes of violence.

#### ARTICLE VI.

If any persons accused or convicted of murder, robbery, dacoity, or other heinous crime in any of the territories of Chiengmai, Lakon, and Lampoonchi escape into British territory, the British authorities and police shall use their best endeavours to apprehend them. Such persons when apprehended shall, if Siamese subjects, or subjects of any third Power, according to the extradition law for the time being in force in British India, be delivered over to the Siamese authorities at Chiengmai; if British subjects, they shall either be delivered over to the Siamese authorities, or shall be dealt with by the British authorities as the Chief Commissioner of British Burmah, or any officer duly authorised by him in this behalf, may decide.

If any persons accused or convicted of murder, robbery, dacoity, or other heinous crime in British territory, escape into Chiengmai, Lakon, or Lamphoonchi, the Siamese authorities and police shall use their best endeavours to apprehend them. Such persons when apprehended shall, if British subjects, be delivered over to the British authorities, according to the Extradition Law for the time being in force in Siam; if Siamese subjects, or subjects of any third Power not having Treaty relations with Siam, they shall either be delivered over to the British authorities, or shall be dealt with by the Siamese authorities, as the latter may decide, after consultation with the Consul or Vice-Consul.

#### ARTICLE VII.

The interests of all British subjects coming to Chiengmai, Lakon, and Lamphoonchi shall be placed under the regulations and control of a British Consul or Vice-Consul, who will be appointed to reside at Chiengmai, with power to exercise civil and criminal jurisdiction in accordance with the provisions of Article II of the Supplementary Agreement of the 13th May, 1856, subject to Article VIII of the present Treaty.

#### ARTICLE VIII.

His Majesty the King of Siam will appoint a proper person or proper persons to be a Commissioner and Judge, or Commissioners and Judges, in Chiengmai for the purposes hereinafter mentioned. Such Judge or Judges shall, subject to the limitations and provisions contained in the present Treaty, exercise civil and criminal jurisdiction in all cases arising in Chiengmai, Lakon, and Lamphoonchi, between British subjects, or in which British subjects may be parties as complainants, accused, plaintiffs or defendants, according to Siamese law; provided always, that in all such cases the Consul or Vice-Consul shall be entitled to be present at the trial, and to be furnished with copies of the proceedings, which, when the defendant or accused is a British subject, shall be supplied free of charge, and to make any suggestions to the Judge or Judges which he may think proper in the interests of justice: provided also, that the Consul or Vice-Consul shall have power at any time, before Judgment, if he shall think proper in the interests of justice, by a written requisition under his hand, directed to the Judge or Judges, to signify his desire that any case in which both parties are British subjects, or in which the accused or defendant is a British subject, be transferred for adjudication to the British Consular Court at Chiengmai, and the case shall thereupon be transferred to such last-

mentioned Court accordingly, and be disposed of by the Consul or Vice-Consul, as provided by Article II of the Supplementary Agreement of 13th May, 1856.

The Consul or Vice-Consul shall have access, at all reasonable times, to any British subject who may be imprisoned under a sentence or order of the said Judge or Judges, and, if he shall think fit, may require that the prisoner be removed to the Consular prison, there to undergo the residue of his term of imprisonment.

The Tariff of Court fees shall be published, and shall be equally binding on all parties concerned, whether British or Siamese.

#### ARTICLE IX.

In civil and criminal cases in which British subjects may be parties, and which shall be tried before the said Judge or Judges, either party shall be entitled to appeal to Bangkok; if a British subject, with the sanction and consent of the British Consul or Vice-Consul, and in other cases by leave of the presiding Judge or Judges.

In all such cases a transcript of the evidence, together with a Report from the presiding Judge or Judges, shall be forwarded to Bangkok, and the appeal shall be disposed of there by the Siamese authorities and Her Britannic Majesty's Consul-General in consultation.

Provided always that in all cases where the defendants or accused are Siamese subjects the final decision on appeal shall rest with the Siamese authorities; and that in all other cases in which British subjects are parties the final decision on appeal shall rest with Her Britannic Majesty's Consul-General.

Pending the result of the appeal, the Judgment of the Court at Chiengmai shall be suspended on such terms and conditions (if any) as shall be agreed upon between the said Judge or Judges and the Consul or Vice-Consul.

In such cases of appeal, as above set forth, the appeal must be entered in the Court of Chiengmai within a month of the original verdict, and must be presented at Bangkok within a reasonable time, to be determined by the Court at Chiengmai, failing which the appeal will be thrown out of Court.

## ARTICLE X.

The British authorities in the frontier districts of British Burmah, and the Siamese authorities in Chiengmai, Lakon, and Lamphoonchi, will at all times use their best endeavours to procure and furnish such evidence and witnesses as may be required for the determination of civil and criminal cases pending in the Consular and Siamese Courts at Bangkok and in Chiengmai respectively, when the importance of the affair may render it necessary.

## ARTICLE XI.

British subjects desiring to purchase, cut, or girdle timber in the forests of Chiengmai, Lakon, and Lamphoonchi must enter into a written agreement for a definite period with the owner of the forest. The agreement must be executed in duplicate, each party retaining a copy, and each copy must be sealed by the British Consul or Vice-Consul and a Siamese Judge and Commissioner at Chiengmai, appointed under Article VIII of this Convention, and be countersigned by a competent local authority, and every such agreement shall be duly registered in the British Consulate and in the Siamese Court at Chiengmai. Any British subject cutting or girdling trees in a forest without the consent of the owner of the forest obtained as aforesaid, or after the expiration of the agreement relating to it, shall be liable to pay such compensation to the owner of the forest as the British Consular Officer at Chiengmai shall adjudge.

Transfers of agreements shall be subject to the same formalities.

The charges for sealing, countersigning, and registration shall be fixed at a moderate scale, and published for general information.

## ARTICLE XII

The Siamese Judges and Commissioners at Chiengmai appointed under Article VIII shall, in conjunction with the local authorities, endeavour to prevent the owners of forests from executing agreements with more than one party for the same timber or forests, and to prevent any person from illegally marking or effacing the marks on timber which has been lawfully cut or marked by another person, and they shall give such facilities as are in their power to the purchasers and fellers of timber to identify their property. Should

the owners of forests hinder the cutting, girdling, or removing of timber under agreements duly executed in accordance with Article XI of this Convention, the Siamese Judges and Commissioners of Chiengmai and the local authorities shall enforce the agreement, and the owners of such forests acting as aforesaid shall be liable to pay such compensation to the persons with whom they have entered into such agreements as the Siamese Judges and Commissioners at Chiengmai shall determine, in accordance with Siamese law.

#### ARTICLE XIII.

Except as and to the extent specially provided, nothing in this Treaty shall be taken to affect the provisions of the Treaty of Friendship and Commerce between Her Majesty and the Kings of Siam of the 18th April, 1855, and the Agreement supplementary thereto of the 13th May, 1856.

#### ARTICLE XIV.

This Treaty has been executed in English and Siamese, both versions having the same meaning; but it is hereby agreed that in the event of any question arising as to the construction thereof, the English text shall be accepted as conveying its true meaning and intention.

#### ARTICLE XV.

This Treaty shall come into operation immediately after the exchange of the ratifications thereof, and shall continue in force for seven years from that date, unless either of the two Contracting Parties shall give notice of their desire that it should terminate before that date. In such case, or in the event of notice not being given before the expiration of the said period of seven years, it shall remain in force until the expiration of one year from the day on which either of the High Contracting Parties shall have given such notice. The High Contracting Parties, however, reserve to themselves the power of making, by common consent, any modifications in these Articles which experience of their working may show to be desirable.

## ARTICLE XVI.

This Treaty shall be ratified, and the ratifications exchanged at Bangkok as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same in duplicate, and have affixed thereto their respective seals.

Done at Bangkok, the third day of September, in the year one thousand eight hundred and eighty-three of the Christian Era, corresponding to the second day of the waxing moon of the tenth month of the year of the Goat, one thousand two hundred and forty-five of the Siamese Era.

(L.S.) W.H. NEWMAN  
(L.S.)  
(L.S.)  
(L.S.)

## Annex.

List of heinous crimes appended to the Treaty made between Great Britain and Siam with regard to Chiengmai, Lakon, and Lamponchi, this 3rd day of September, 1883, in connection with the provisions of Article VI of that Treaty with regard to the extradition of offenders:-

Murder,  
Culpable homicide,  
Dacoity,  
Robbery,  
Theft,  
Forgery,  
Counterfeiting coin or Government stamps,  
Kidnapping,  
Rape,  
Mischief by fire or by any explosive  
substance.

(L.S.) W. H. NEWMAN  
(L.S.)  
(L.S.)  
(L.S.)

## APPENDIX II.

## The Secret Convention of 1897.

Her Britannic Majesty having communicated to His Majesty the King of Siam the two first Articles of the Declaration signed between the Government of Great Britain and France on the fifteenth day of January, 1896, as giving evidence of England and France's joint solicitude for the security and stability of the Kingdom of Siam, His Majesty the King of Siam and Her Britannic Majesty, being desirous of making further provision for securing the mutual interests of Siam and Great Britain, have agreed, etc.

## ARTICLE 1.

His Majesty the King of Siam engages not to cede or alienate to any other Power any of his rights over any portion of the territories or islands lying to the south of Muong Bang Tapan.

## ARTICLE 2.

Her Britannic Majesty engages on her part to support His Majesty the King of Siam in resisting any attempt by a third Power to acquire dominion or to establish its influence or Protectorate in the territories or islands above mentioned.

## ARTICLE 3.

His Britannic Majesty having engaged by the preceding article to support His Majesty the King of Siam in resisting any attempt by any third Power to acquire dominion or to establish influence or Protectorate in any of the territories or islands above mentioned, His Majesty the King of Siam engages not to grant, cede or let any special privilege or advantage whether as regards land or trade within the above specified limits either to the Government or to the subjects of a third Power without the written consent of the British Government.

(This Convention was cancelled by the agreement of March 10, 1909. British and Foreign State Papers, Vol. 102, pp. 124-5.)

## \* APPENDIX III.

Agreement between the United Kingdom and Siam relative to the Registration of British Subjects in Siam. Signed at Bangkok, November 29, 1899.

THE Governments of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and of His Majesty the King of Siam, recognizing the necessity of having a satisfactory arrangement for the registration of British subjects in Siam, the Undersigned, Her Britannic Majesty's Minister Resident, and His Siamese Majesty's Minister for Foreign Affairs, duly authorised to that effect, have agreed as follows:-

## I.

The registration according to Article V of the Treaty of the 18th April, 1855, of British subjects residing in Siam, shall comprise the following categories:-

1. All British natural-born or naturalized subjects, other than those of Asiatic descent.

2. All children and grandchildren born in Siam of persons entitled to be registered under the first category who are entitled to the status of British subjects in contemplation of English law.

Neither great-grandchildren nor illegitimate children born in Siam of persons mentioned in the first category are entitled to be registered.

3. All persons of Asiatic descent born within the Queen's dominions, or naturalized within the United Kingdom, or born within the territory of any Prince or State in India under the suzerainty of, or in alliance with, the Queen.

Except natives of Upper Burmah or the British Shan States who became domiciled in Siam before the 1st January, 1886.

4. All children born in Siam of persons entitled to be registered under the third category.

No grandchildren born in Siam of persons mentioned in the third category are entitled to be registered for protection in Siam.

5. The wives and widows of any persons who are entitled to be registered under the foregoing categories.

## II.

The lists of such registration shall be open to the inspection of a properly-authorized Representative of the Siamese Government on proper notice being given.

## III.

If any question arises as to the right of any person to hold a British certificate of registration or as to the validity of the certificate itself, a joint inquiry shall be held by the British and Siamese authorities, and decided according to the conditions laid down in this Agreement, upon evidence to be adduced by the holder of the certificate in the usual way.

## IV.

Should any action, civil or criminal, be pending while such inquiry is going on, it shall be determined conjointly in what Court the case shall be heard.

## V.

If the person in respect of whom the inquiry is held come within the conditions for registration laid down in Article I, he may, if not yet registered, forthwith be registered as a British subject, and provided with a certificate of registration at Her Britannic Majesty's Consulate, otherwise he shall be recognized as falling under Siamese jurisdiction, and, if already on the lists of Her Britannic Majesty's Consulate, his name shall be erased.

In witness whereof the Undersigned have signed the same in duplicate, and have affixed thereto their seals at Bangkok, on the 29th day of November, 1899, of the Christian era, corresponding to the 118th year of Ratanakosindr.

(Seal)	(Signed)	GEORGE GREVILLE.
(Seal)	(Signed)	DEVAWONGSE VAROPRAKAR.

## APPENDIX IV.

## ANGLO-SIAMESE TREATY, 1909.

His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the seas, Emperor of India, and His Majesty the King of Siam, being desirous of settling various questions which have arisen affecting their respective dominions, have decided to conclude a Treaty, and have appointed for this purpose as their Plenipotentiaries:

His Majesty the King of Great Britain, Ralph Paget, Esq., His Envoy Extraordinary and Minister Plenipotentiary, etc; His Majesty King of Siam, His Royal Highness Prince Devawongse Varoprakar, Minister for Foreign Affairs, etc;

who, after having communicated to each other their respective full powers, and found them to be in good and due form, have agreed upon and concluded the following Articles:-

## ARTICLE 1.

The Siamese Government transfers to the British Government all rights of suzerainty, protection, administration, and control whatsoever which they possess over the States of Kelantan, Tringganu, Kedah, Perlis, and adjacent islands. The frontiers of these territories are defined by the Boundary Protocol annexed hereto.

## ARTICLE 2.

The transfer provided for in the preceding Article shall take place within thirty days after the ratification of this Treaty.

## ARTICLE 3.

A mixed Commission, composed of Siamese and British officials and officers, shall be appointed within six months after the date of ratification of this Treaty, and shall be charged with the delimitation of the new frontier. The work of the Commission shall be commenced as soon as the season

permits, and shall be carried out in accordance with the Boundary Protocol annexed hereto.

Subjects of His Majesty the King of Siam residing within the territory described in Article 1 who desire to preserve their Siamese nationality will, during the period of six months after the ratification of the present Treaty, be allowed to do so if they become domiciled in the Siamese dominions. His Britannic Majesty's Government undertake that they shall be at liberty to retain their immovable property within the territory described in Article 1.

It is understood that in accordance with the usual custom where a change of suzerainty takes place, any Concessions within the territories described in Article 1 hereof to individuals or Companies, granted by or with the approval of the Siamese Government, and recognized by them as still in force on the date of the signature of the Treaty, will be recognized by the Government of His Britannic Majesty.

#### ARTICLE 4.

His Britannic Majesty's Government undertake that the Government of the Federated Malay States shall assume the indebtedness to the Siamese Government of the territories described in Article 1.

#### ARTICLE 5.

The jurisdiction of the Siamese International Courts, established by Article 8 of the Treaty of the 3rd September, 1883, shall, under the conditions defined in the Jurisdiction Protocol annexed hereto, be extended to all British subjects in Siam registered at the British Consulates before the date of the present Treaty.

This system shall come to an end, and the jurisdiction of the International Courts shall be transferred to the ordinary Siamese Courts after the promulgation and the coming into force of the Siamese codes, namely, the Penal Code, the Civil and Commercial Codes, the Codes of Procedure, and the Law for organization of Courts.

All other British subjects in Siam shall be subject to the jurisdiction of the ordinary Siamese Courts under the conditions defined in the Jurisdiction Protocol.

## ARTICLE 6.

British subjects shall enjoy throughout the whole extent of Siam the rights and privileges enjoyed by the natives of the country, notably the right of property, the right of residence and travel.

They and their property shall be subject to all taxes and services, but these shall not be other or higher than the taxes and services which are or may be imposed by law on Siamese subjects. It is particularly understood that the limitation in the Agreement of the 20th September, 1900, by which the taxation of land shall not exceed that on similar land in Lower Burmah, is hereby removed.

British subjects in Siam shall be exempt from all military service, either in the army or navy, and from all forced loans or military exactions or contributions.

## ARTICLE 7.

The provisions of all Treaties, Agreements, and Conventions between Great Britain and Siam, not modified by the present Treaty, remain in full force.

## ARTICLE 8.

The present Treaty shall be ratified within four months from its date.

In witness whereof the respective Plenipotentiaries have signed the present Treaty and affixed their seals.

Done at Bangkok, in duplicate, the 10th day of March, in the year 1909.

(Signed) RALPH PAGET.  
(Seal)

(Signed) DEVAWONGSE VAROPRAKAR  
(Seal)

## Release of 1897 Convention.

(Confidential)

WHEREAS on the 6th day of April, 1897, a Convention was signed at Bangkok between the Governments of His Majesty the King of Siam and His Majesty the King of Great Britain and Ireland; and

Whereas the said Convention dealt with certain matters affecting a portion of the Malay Peninsula; and

Whereas a Treaty has this day been signed between the two Governments, which Treaty also deals with certain matters affecting a portion of the Malay Peninsula; and

Whereas in the negotiations preceding the execution of said Treaty it was settled that the Convention above mentioned should be cancelled, but that such cancellation should be by a separate instrument and not in the Treaty itself:

Now, therefore, it is hereby mutually agreed by the Government of His Majesty the King of Siam, acting by His Royal Highness Prince Devawongse Varoprakar, Minister for Foreign Affairs, and by the Government of His Majesty the King of Great Britain and Ireland, acting by Ralph Paget, Esq., Envoy Extraordinary and Minister Plenipotentiary, that said Convention of the 6th April, 1897, shall be, and it hereby is, cancelled. The present Agreement shall be as effective as though incorporated into said Treaty of this date, notwithstanding anything contained in said Treaty.

Signed and sealed at Bangkok, in Siam, on this the 10th day of March, 1909.

(Signed) RALPH PAGET.  
(Seal.)

(Signed) DEVAWONGSE VAROPRAKAR  
(Seal.)

Mr. Paget to Prince Devawongse.

March 10, 1909.

M. le Ministre,

IN view of the position of British possessions in the Malay Peninsula and of the contiguity of the Siamese Malay provinces with British-protected territory, His Majesty's Government are desirous of receiving an assurance that the Siamese Government will not permit any danger to arise to British interests through the use of any portion of the Siamese dominions in the peninsula for military or naval purposes by foreign Powers.

His Majesty's Government would therefore request that the Siamese Government shall not cede or lease, directly or indirectly, to any foreign Government any territory situated in the Malay Peninsula south of the southern boundary of the Monthon Rajaburi, or in any of the islands adjacent to the said territory; also that within the limits above mentioned a right to establish or lease any coaling station, to build or own any construction or repairing docks, or to occupy exclusively any harbours, the occupation of which would be likely to be prejudicial to British interests from a strategic point of view, shall not be granted to any foreign Government or Company.

Since this assurance is desired as a matter of political expediency only, the phrase "coaling station" would not be held to include such small deposits of coal as may be required for the purposes of the ordinary shipping engaged in the Malay Peninsula coasting trade.

(Signed) RALPH PAGET.

Prince Devawongse to Mr. Paget.

M. le Ministre,

Foreign Office, Bangkok,  
March 10, 1909.

I HAVE the honour to acknowledge receipt of your note of this date, in which you express the desire of your Government that the Siamese Government shall not cede or lease, directly or indirectly, to any foreign Government any territory situated in the Malay Peninsula south of the southern boundary of the Monthon of Rajaburi or in any of the islands adjacent to the said territory; also that within the limits above

mentioned a right to establish or lease any coaling station, to build or own any construction or repairing docks, or to occupy exclusively any harbours, the occupation of which would be likely to be prejudicial to British interests from a strategic point of view, shall not be granted to any foreign Government or Company.

In reply, I beg to say that the Siamese Government gives its assurance to the above effect, taking note that the phrase "coaling station" shall not include such small deposits of coal as may be required for the purposes of the ordinary shipping engaged in the Malay Peninsula coasting trade.

I avail, etc.

(Signed)

DEVAWONGSE,  
Minister for Foreign Affairs.

Protocol concerning the Jurisdiction applicable in the Kingdom of Siam to British Subjects and annexed to the Treaty dated March 10, 1909.

SECTION 1. International Courts shall be established at such places as may seem desirable in the interests of the good administration of justice; the selection of these places shall form the subject of an understanding between the British Minister at Bangkok and the Siamese Minister for Foreign Affairs.

Sec. 2. The jurisdiction of the Internal Courts shall extend -

1. In civil matters: To all civil and commercial matters to which British subjects shall be parties.

2. In penal matters: To breaches of law of every kind whether committed by British subjects or to their injury.

Sec. 3. The right of evocation in the International Courts shall be exercised in accordance with the provisions of Article 8 of the Treaty of the 3rd September, 1883.

The right of evocation shall cease to be exercised in all matters coming within the scope of codes or laws regularly promulgated as soon as the text of such codes or laws shall have been communicated to the British Legation in Bangkok. There shall be an understanding between the Ministry for

Foreign Affairs and the British Legation at Bangkok for the disposal of cases pending at the time that the said codes and laws are communicated.

Sec. 4. In all cases, whether in the International Courts or in the ordinary Siamese Courts in which a British subject is defendant or accused, a European legal adviser shall sit in the Court of First Instance.

In cases in which a British born or naturalized subject not of Asiatic descent may be a party, a European adviser shall sit as a Judge in the Court of First Instance, and where such British subject is defendant or accused the opinion of the adviser shall prevail.

A British subject who is in the position of defendant or accused in any case arising in the provinces may apply for a change of venue, and should the Court consider such change desirable the trial shall take place either at Bangkok or before the Judge in whose Court the case would be tried at Bangkok. Notice of any such application shall be given to the British Consular officer.

Sec. 5. Article 9 of the Treaty of the 3rd September, 1883, is repealed.

Appeals against the decisions of the International Courts of First Instance shall be adjudged by the Siamese Court of Appeal at Bangkok. Notice of all such appeals shall be communicated to His Britannic Majesty's Consul, who shall have the right to give a written opinion upon the case to be annexed to the record.

The judgment on appeal from either the International Courts or the ordinary Siamese Courts shall bear the signature of two European Judges.

Sec. 6. An appeal on a question of law shall lie from the Court of Appeal at Bangkok to the Supreme or Dika Court.

Sec. 7. No plea of want of jurisdiction based on the rules prescribed by the present Treaty shall be advanced in any Court after a defence on the main issue has been offered.

Sec. 8. In order to prevent difficulties which may arise in future from the transfer of jurisdiction contemplated by the present Treaty and Protocol, it is agreed -

(a) All cases in which action shall be taken subsequently to the date of the ratification of this Treaty shall be entered and decided in the competent International or Siamese Court, whether the cause of action arose before or after the date of ratification.

(b) All cases pending in His Britannic Majesty's Courts in Siam on the date of the ratification of this Treaty shall take their usual course in such Courts and in any Appeal Court until such cases have been finally disposed of, and the jurisdiction of His Britannic Majesty's Courts shall remain in full force for this purpose.

The execution of the judgment rendered in any such pending case shall be carried out by the International Courts.

In witness whereof the respective Plenipotentiaries have signed the present Protocol and affixed their seals.

Done at Bangkok, in duplicate, the 10th day of March, 1909.

(Signed) RALPH PAGET.  
(Seal.)

(Signed) DEVAWONGSE VAROPRAKAR.  
(Seal.)

Boundary Protocol annexed to the Treaty dated  
March 10, 1909.

THE frontiers between the territories of His Majesty the King of Siam and the territory over which his suzerain rights have by the present Treaty been transferred to His Majesty the King of Great Britain and Ireland are as follows:-

Commencing from the most seaward point of the northern bank of the estuary of the Perlis River and thence north to the range of hills which is the watershed between the Perlis River on the one side and the Pujoh River on the other; then following the watershed formed by the said range of hills until it reaches the main watershed or dividing line between those rivers which flow into the Gulf of Siam on the one side and into the Indian Ocean on the other; following this main watershed so as to pass the sources of the Sungei Patani,

Sungei Telubin, and Sungei Perak, to a point which is the source of the Sungei Pergau; then leaving the main watershed and going along the watershed separating the waters of the Sungei Pergau from the Sungei Telubin, to the hill called Bukit Jeli or the source of the main stream of the Sungei Golok. Thence the frontier follows the thalweg of the main stream of the Sungei Golok to the sea at a place called Kuala Tabar.

This line will leave the valleys of the Sungei Patani, Sungei Telubin, and Sungei Tanjung Mas and the valley on the left or west bank of the Golok to Siam and the whole valley of the Perak River and the valley on the right or east bank of the Golok to Great Britain.

Subjects of each of the parties may navigate the whole of the waters of the Sungei Golok and its affluents.

The island known as Pulo Langkawi, together with all the islets south of mid-channel between Terutau and Langkawi and all the islands south of Langkawi shall become British. Terutau and the islets to the north of mid-channel shall remain to Siam.

With regard to the islands close to the west coast, those lying to the north of the parallel of latitude where the most seaward point of the north bank of the estuary of the Perlis River touches the sea shall remain to Siam, and those lying to the south of that parallel shall become British.

All islands adjacent to the eastern States of Kelantan and Tringganu, south of a parallel of latitude drawn from the point where the Sungei Golok reaches the coast at a place called Kuala Tabar shall be transferred to Great Britain, and all islands to the north of that parallel shall remain to Siam.

A rough sketch of the boundary herein described is annexed hereto.

2. The above-described boundary shall be regarded as final, both by the Government of His Britannic Majesty and that of Siam, and they mutually undertake that, so far as the boundary effects any alteration of the existing boundaries of any State or province, no claim for compensation on the ground of any such alteration made by any State or province so affected shall be entertained or supported by either.

3. It shall be the duty of the Boundary Commission, provided for in Article 3 of the Treaty of this date, to determine and eventually mark out the frontier above described.

If during the operations of delimitation it should appear desirable to depart from the frontier as laid down herein, such rectification shall not under any circumstances be made to the prejudice of the Siamese Government.

In witness whereof the respective Plenipotentiaries have signed the present Protocol and affixed their seals.

Done at Bangkok, in duplicate, the 10th day of March, 1909

(Signed) RALPH PAGET.  
(Seal.)

(Signed) DEVAWONGSE VAROPRAKAR.  
(Seal.)

Prince Devawongse to Mr. Paget.

M. le Ministre,

Foreign Office, Bangkok,  
March 10, 1909.

WITH reference to the provision contained in Article 4 of the Jurisdiction Protocol to the effect that in all cases in which a British subject is defendant or accused a European adviser shall sit in Court, I would express the hope, on behalf of His Majesty's Government, that His Britannic Majesty's Government will be prepared in due course to consider the question of a modification of or release from this guarantee when it shall be no longer needed; and, moreover, that in any negotiations in connection with such a modification or release the matter may be treated upon its merits alone, and not as a consideration for which some other return should be expected.

The Siamese Government appreciates that a Treaty like the one signed today marks an advance in the administration of justice in the kingdom. The conclusion of such a Treaty is in itself a sign of progress. It is the intention of the Siamese Government to maintain the high standard in the administration of justice which it has set before it, and towards which it has been working for some time.

In this connection, I take pleasure in acknowledging the contribution which Mr. J. Stewart Black has made to this work.

I wish also to say that provision will be made for the treatment of European prisoners according to the standard usual for such prisoners in Burmah and the Straits Settlements.

I avail, etc.

(Signed) DEVAWONGSE,  
Minister for Foreign Affairs.

Mr. Paget to Prince Devawongse.

M. le Ministre,

March 10, 1909.

WITH reference to the guarantee contained in the first paragraph of Article 4 of the Jurisdiction Protocol, I have the honour to state that His Majesty's Government will be prepared in due course to consider the question of modification of or release from this guarantee when it shall no longer be needed. His Majesty's Government are also willing that in any negotiations in connection with such a modification or release the matter shall be treated upon its merits alone, and not as a consideration for which some other return shall be expected.

His Majesty's Government learn with much satisfaction that it is the intention of the Siamese Government to maintain the high standard in the administration of justice which it has set before it, and towards which it has been working for some time; and I may assure your Royal Highness that it will be the aim of His Majesty's Government in every manner to second the efforts of His Siamese Majesty's Government in this direction.

I wish also to say that the International Courts referred to in section 1 of the Protocol on Jurisdiction annexed to the Treaty signed today need not necessarily be Courts specially organized for this purpose. Provincial ("Monthon") Courts or District ("Muang") Courts may constitute International Courts, according as British subjects may be established

in greater or less number within the jurisdiction of those Courts. The fact that an ordinary Court is designated as an International Court will have as a consequence the introduction into that ordinary Court of all the provisions relating to International Courts secured by the Protocol on Jurisdiction.

(Signed) RALPH PAGET.

Mr. Westengard to Mr. Paget.

(Confidential)

Office of the General Adviser, Bangkok,  
March 10, 1909.

Sir,

REFERRING to our conversations during the negotiation of the Treaty signed today, I beg to say that hereafter, when any case to which a British subject is a party shall on appeal reach the Dika Court, the judgment of that Court shall bear the signature of two European Judges.

You have mentioned the question of the nationality of the advisers who are to sit in the International Court. You will understand the reluctance of the Siamese Government to enter into engagements concerning the nationality of the Europeans whom it employs. They recognize, however, that in different parts of Siam there is a varied distribution of foreign subjects who are under the jurisdiction of the International Courts, and that it is desirable to keep this in view in distributing advisers. For instance, by an examination of such facts as are at hand it appears that, as between British and French subjects in the interior of Siam, the former are more numerous in some sections and the latter in others. I append hereto a list, as far as it is practicable to make one.

Now, as I have above hinted, as between Englishmen and Frenchmen it would be natural to send the former to sit in those sections where British subjects are more numerous and the latter in those sections where French subjects are more numerous, and it is the intention of the Ministry of Justice to follow this plan. At the same time I should not wish you to take the above list as one which is to be observed rigidly during the period of the existence of the International Courts. Population may change in character, the ability or character of an individual adviser or other practical reasons may render it advisable to make a departure from the arrangement in the list, or sometimes to use an adviser of a third nationality.

I am, etc.,

(Signed) JENS I. WESTENGARD.

## Approximate Distribution of Advisers by "Monthons".

British.	French.
Payab (excluding Nan).	Nan.
Pitsanuloke.	Petchaboon.
Nakon Sawan.	Ayuthia.
Bangkok.	Bangkok.
Nakon Chaisee.	Korat.
Rajaburi.	Udon.
Chumpon.	Isan.
Nakon Sritammarat.	Pachinburi.
Puket.	Chantaburi.

Mr. Westengard to Mr. Paget.

(Confidential)

Office of the General Adviser, Bangkok,  
March 10, 1909.

Sir,

IN the course of our recent discussions you have referred to the expression "European Judge", used in the second paragraph of section 4 of the Jurisdiction Protocol, and you have asked for a written statement that the Siamese Government would employ a British subject in this position.

In reply, I have repeated what I have said on other occasions, namely, that the Siamese Government, while not forgetful of the fact that nationality may play a part in the selection of its European officials, is nevertheless very reluctant to make any promises of this kind. You will, I am sure, agree that the primary motive which should govern in the appointment of an official should be his ability and fitness for the post he is called upon to occupy, and not his nationality.

You have been good enough, in view of these remarks, to discontinue the discussion of the particular question. I would point out that arrangements have been made for taking into the Siamese service Judges Skinner-Turner and Buszard.

This action you will see is in accordance with what I have above expressed to be the attitude of the Siamese Government, and I trust you will find in it some evidence that the Siamese Government will spontaneously take steps which, as guarantees, will be as substantial as written promises unwillingly given.

I am, etc.,

(Signed) JENS I. WESTENGARD.

Mr. Paget to Prince Devawongse.

M. le Ministre,

Bangkok, March 10, 1909.

REFERRING to Article of the Treaty we have signed this day, I beg to inform you that the Government of the Federated Malay States propose the following plan for the payment of the indebtedness of the territories therein mentioned:-

That indebtedness today amounts to 3,321,245.963 dollars. Converted into a sterling equivalent, this equals 387,478.695£. This sum shall carry interest from this date at the rate of 4 per cent. per annum.

The Government of the Federated Malay States will pay in London to the Siamese Government the above sum, with interest, in two equal instalments, that is to say, one-half on the 1st July, 1909, and one-half on the 1st January, 1910.

Will you be so good as to let me know whether the fore-going proposals meet the views of the Siamese Government.

I avail, etc.

(Signed) RALPH PAGET.

Prince Devawongse to Mr. Paget.

M. le Ministre,

Foreign Office, Bangkok,  
March 10, 1909.

I BEG to acknowledge the receipt of your letter of even date herewith, in which you inform me that the Government of the Federated Malay States propose to pay the indebtedness mentioned in Article 4 of the Treaty we have signed today in the following manner:-

The indebtedness which today amounts to 3,321,245.963 dollars is converted into a sterling equivalent of 387,478.695£. This sum shall bear interest from this date at the rate of 4 per cent. per annum.

The Government of the Federated Malay States will pay in London to the Siamese Government the above sum, with interest, in two equal instalments, that is to say, one-half on the 1st July, 1909, and one-half on the 1st January, 1910.

I beg to inform you that the above arrangement is entirely satisfactory to the Siamese Government.

I avail, etc.

(Signed) DEVAWONGSE VAROPRAKAR.

### Railway Agreement.

THIS Agreement made this 10th day of March, 1909, between the Government of the Federated Malay States (hereinafter called "the lender") and the Railway Department of the Kingdom of Siam (hereinafter called "the borrower").

Witnesseth as follows:-

1. The lender agrees to advance to the borrower a sum of money not to exceed 4,000,000£ on the terms and for the purposes hereinafter mentioned.

2. The moneys received by the borrower under this Agreement shall be devoted to the construction, equipment, maintenance, and operation of the railways of the borrower in the Siamese dominions of the Malay Peninsula. These objects shall be held to include such matters (for example, telegraph and telephone lines, terminal wharves, etc.) as are usually incident to the construction, equipment, maintenance, and operation of railway lines.

3. The above sum shall be paid to the borrower in London in partial payments, as demanded by him from time, to time; provided, however, that the demands so made may not exceed a total of 750,000£ in one year. The lender also reserves the privilege of notifying the borrower at any time that in future he will require three months' written notice of any demand for such partial payments.

4. The borrower shall pay interest at the rate of 4 per cent. per annum on the moneys actually received by him from time to time. Interest shall run on the respective partial payments from the date they are received by the borrower.

Interest shall be payable at half-yearly intervals, that is to say, on the 1st January and the 1st July in each year.

5. Payments of interest and principal shall be made in London.

6. The amortization of the loan will be effected within a period of forty years, by yearly annuities, according to the table attached to this Agreement. The first redemption will take place within fifteen years from the date of this Agreement.

At any time after the expiration of ten years from the present date the borrower shall have the right to redeem at par all or any part of the principal remaining unpaid. In case, however, the borrower intends to anticipate redemption by larger payments than those provided for in the Table of Amortization, he shall give three months' notice to the lender.

7. For the repayment of the principal and interest due under this Agreement, the borrower pledges as security the sections of the railway above referred to as those sections are successively constructed. If, therefore, at any time the borrower fail to pay any sum, whether of principal or interest, due by him under this Agreement, and if such default continue

for a period of not less than six months, the lender shall be at liberty to enter into possession of the sections of the railway then completed under this Agreement, and to work the same until the default has been made good. The net profits obtained by the lender from any such working shall be set off against the indebtedness of the borrower.

8. Since the proceeds of this loan are to be used for the specific purpose mentioned in section 2 hereof, it is agreed that, until the completion of the construction of the lines to be built under this Agreement, the construction, equipment, maintenance, and operation of those lines shall be kept distinct from that of the other railways of the borrower.

9. The borrower shall keep such books and accounts as shall be necessary to show the amount to be expended by him from time to time out of the sums received by him from the lender under this Agreement. These books and accounts shall be open to inspection by the lender at all reasonable times, so that he may satisfy himself that the moneys advanced by him have been applied for the purposes for which they were lent.

The Railway Department of the Federated Malay States shall be at liberty to inspect the plans, showing the route along which the railway is proposed to be constructed, the sections, specifications, and estimates of the cost of the railway, and the number and locality of its sidings, stations, level crossings, goods sheds, signal stations, and other works, from time to time, as the survey and preparation of the working drawings proceeds.

In witness whereof the parties hereto, acting by their duly-authorized representatives, have hereunto set their hands on the day first above mentioned at Bangkok.

(For the Railway Department of the Kingdom of Siam,)  
(L.S.)                      DEVAWONGSE VARAPRAKAR.

(For the Government of the Federated Malay States),  
(L.S.)                      RALPH PAGET.

Prince Devawongse to Mr. Paget.

Foreign Office, Bangkok,  
March 10, 1909.

Dear Mr. Paget,

REFERRING to the Agreement today made for a loan of 4,000,000£, I am writing this letter to say that it is the intention of the Siamese Government to use the money primarily to build their portion of a line for through traffic between Bangkok and Singapore. Construction will be begun as soon as financial arrangements are concluded, and will be carried out continuously to connect with the Federated Malay States' north-eastern system. The determination of the order in which the different sections shall be constructed will rest with the Siamese Government, and the connection need not be made until the whole line is completed from Petchaburi southward.

During the construction the Chief Engineer of the railway shall be British.

Referring to section 8 of the Agreement, I would add that if after the completion of the construction it is desired to terminate the distinction mentioned in that section, the lines constructed under the Agreement will be placed under the direct control of a Siamese Director-General of Railways.

In making the above statements on behalf of the Siamese Government it has been my desire to facilitate a clear understanding concerning the Agreement; but, in order to obviate any misapprehension in the future, I wish to add that nothing I have here stated should convey the meaning that the Siamese Government could admit any outside interference or control in connection with the construction or operation of their line.

I am, etc.,

(Signed) DEVAWONGSE VAROPRAKAR.

Mr. Paget to Prince Devawongse.

M. le Ministre,

Bangkok,  
March 10, 1909.

WITH reference to your Royal Highness' letter of even date, I beg to state that the various points therein mentioned have been submitted for the consideration of the Federated Malay States, who have expressed their concurrence in your Royal Highness' statement. I avail, etc.,

(Signed), RALPH PAGET

Mr. Westengard to Mr. Paget.

Office of the General Adviser, Bangkok  
March 9, 1909.

Dear Mr. Paget,

ALTHOUGH the Agreement for the 4,000,000£ railway loan signed today is not referred to in the Treaty of this date, yet, as you are aware, it has been part of a large negotiation which includes the Treaty. I think, therefore, it would be well to have something in writing to show the real intention of the parties, namely, that the entry into force of the Loan Agreement depends upon a condition, and that the condition is the ultimate fate of the Treaty. That is to say, if by any chance the unlikely event should happen that the Treaty should fail of ratification, then the Loan Agreement would also fail. On the other hand, if the Treaty is duly ratified, then the Railway Agreement comes into force.

Since the Loan Agreement involves a large sum of money, it may be of some interest to the Federated Malay States' Government to learn the present plans of the Siamese Railway Department, particularly as regards finances. Knowledge of this kind may be of assistance to the Federated Malay States in making their own money arrangements.

There is much preliminary work to be done in the way of organization of forces, survey, and staking out of the line, and numerous other details. These will take some time, but will probably demand only an inconsiderable outlay.

In the meantime, the Siamese Government will receive the payment of the indebtedness of the transferred States.

With this money it is intended to begin work on the Bandon-Patalung section, and also on the Patalung-Trang section. The sum in question (380,000£, more or less) is a considerable one, and since outlay must in the beginning be somewhat slow, it is thought that the above amount will cover the expenditure of the first and second years. It is therefore not likely that it will be necessary to call for any part of the 4,000,000£ until the beginning of the third year. Since, however, this 380,000£ does not form part of the loan money, it is intended that so much of it as has been expended on the Bandon-Patalung section (which forms part of the through line) will in due time be drawn from the loan money. In other words, the Siamese Railway Department will for the present make advances towards the construction of part of the through line, and will at a later time repay itself out of the loan money for these advances.

Any money expended out of the 380,000£ on the Patalung-Trang section will remain as it is, that is to say, money expended out of the Siamese Railway Department out of its own funds and not out of the loan money.

You will therefore see that the Federated Malay States will probably have ample time to make their own financial arrangements, as it is likely that nearly two years will elapse before they will be asked for any money on account of the loan. I imagine that this will not be unwelcome news to them.

The above plans are subject to alterations, if found necessary for engineering, financial, or other reasons. But in such case due information would be given to the Federated Malay States so that they can prepare to meet any such changes.

Yours, etc.,

(Signed) JENS I. WESTENGARD.

Mr. Paget to Mr. Westengard.

Bangkok, March 10, 1909.

Dear Mr. Westengard,

IN reply to your letter of yesterday's date, in the first portion of which you refer to the connection between the Treaty and Railway Agreement, in so far as the latter will be effected by the ratification or the non-ratification of the former, I beg to state that I am entirely in accord with you as to what the intention has been during negotiation, namely, that although the Treaty and the Agreement may not form a part of the same instrument, and have been separated for the sake of expediency and convenience, it was nevertheless understood that they should remain interdependent and should stand or fall together. Hence, should the Treaty by any chance fail to obtain ratification, I am of opinion that the Railway Agreement, even though signed, would fail to be binding.

I wish to thank you for the explanations you give me in the second portion of your letter concerning the arrangements the Siamese Railway Department have in view, especially with regard to financing the construction of the Malay Peninsula Railway. I will communicate these to the High Commissioner of the Federated Malay States without delay.

Yours, etc.,

(Signed) RALPH PAGET.

## B I B L I O G R A P H Y .

I. MATERIALS IN THE SIAMESE LANGUAGE.

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A Letter from the First King to the Second King, the  
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File 7/13 - 22/13 Records of the Foreign Affairs Department. (Krom Tha).

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By permission of the Foreign Minister, the writer was accorded unrestricted access to all relevant materials at the Archives of the Ministry in 1959 before it was closed to researchers after the break-up of Thai - Cambodian relations.

All these materials are not catalogued and although the documents relating to the subject of this thesis are few, they are of great historical value. Three categories of records have been consulted :

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(b) Papers on the Pahang Rebellion, 1894.

(c) Negotiations regarding the Appointment of Advisers in Kelantan and Trengganu.

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## FOREIGN OFFICE PAPERS.

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Records dated from 1906 onwards are classified under F.O. 371. The volume numbers are 131, 132 (1906), 329-333 (1907), 521-523 (1908), 735-739 (1909), 983-985 (1910), 1223 (1911).

F.O. 628 Files 239 (1896-7),-334 (1911).

Records of this category consist of files of the British Legation in Bangkok from 1856 to 1917. These include the correspondence then in circulation between the British Consular Offices in Siam, the Foreign Office, the Straits Settlements Government, the Government of India and the Sultans of the Malay States. Most of them are duplicates of

the records of F.O. 69 and F.O. 371 but there are some original documents. In particular, the reports of the British Consuls are useful.

F.O. 372 Records of the Treaty Negotiations Vols. 29 (1906), 80 (1907), 129 (1908), 178 (1909), 232 (1910), 305, 306 (1911)

F.O. 17 (China)

Vols. 1293-1296 under this classification contain the correspondence on affairs of Siam in 1896 which is helpful to a study of the negotiations leading up to the Anglo-Siamese Secret Convention of 1897.

F.O. 800/142 (1902-1905)

This volume contains Private Papers of the Marquess of Lansdowne, Secretary of State for Foreign Affairs. There is interesting information concerning the Anglo-Siamese negotiations over the appointment of the Advisers in Kelantan and Trengganu in 1902.

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Confidential Prints.

F.O. 422 (Siam and South-East Asia)

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C.O. 273

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