# NEGOTIATIONS REGARDING THE CESSION OF SIAMESE MALAY STATES 1907-1909

by

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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 throughout Siam was due to the compensation demanded. With France's judicial concession in 1907 the British Government became more acutely aware of the issue. The British authorities knew that 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 signing of the Franco-Siamese Treaty, an approach for negotiations regarding jurisdiction was made by Strobel,

the General Advisor to the Siamese Government, to Paget, the British Minister, 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.[1]

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 expect some territorial or other concession in exchange for a partial surrender of its extraterritorial jurisdiction.[2]

In Whitehall, the Foreign Office, the India Office and the Colonial Office were in favour of the offer and agreed to open negotiations.

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

1) *Foreign Office Papers, London 422/61* Paget-Grey 27 Apr 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, he soon clearly understood the 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 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 British, French and American subjects to the Siamese Courts. France took the lead. In 1907 the French Government transferred its Asian protégés to the jurisdiction of the Siamese Courts. Thus Strobel won the 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 Advisor in 1891, the management of foreign affairs passed to a certain extent into the Advisor's hands but the Belgian had neither the breadth of view nor the tact to gain complete confidence). *Court Gazette* Vol 22, 26 Nov 1905. *Foreign Ministry Papers, Bangkok* File 1, Treaty negotiations with the United States, Devawongse-The King 9 Aug 1910.

2) *Foreign Office Papers, London 422/61* Paget-Grey 27 Apr 1907.

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 in Kelantan and Trengganu[3] from 1894 onwards and by his own extensive tours of the peninsula in the 1890's, 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 Advisor of British nationality to Kelantan in 1902 revealed British ambitions to incorporate the state into British Malaya. Indeed, Sir Frank Swettenham's close connection with the Sultan irritated the relationship 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 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.[4] 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, Advisor 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.

3) In 1894 Phraya Tipakosa was appointed High Commissioner in Kelantan and Trengganu, *Foreign Ministry Papers, Bangkok* 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.

4) *Foreign Ministry Papers, Bangkok 7/77, 3555* Luang Thammaraturatorn–Chao Khun Tesapiban 17 Oct 1903.

The situation was the same in Trengganu. The Sultan, a man of character as compared with the Sultans of Kedah and Kelantan, had for some time succeeded in baffling any attempt to establish Siamese control over his state under the 1902 Agreement and by his policy of passive resistence continued to thwart Siamese authority.[5] 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 comprising Kedah, 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, the High Commissioner of Nakornsitammarat, was rare. Most of the Siamese officials did not speak Malay and hardly understood Muslim customs. Hence there was frequent disagreement. Mr. Hart, who in 1905 was appointed Siamese Financial Advisor to the Kedah Government, completely failed to gain any influence or control over the Malay officials. Frequent complaints were made by Mr. Frost, the British Consul in Kedah, as to corruption among both the executive and judicial officials.[6] The situation became worse with the death of the Raja in 1906,[7] which was followed immediately by an attempt on the part of the Sultan himself to resume the reins of goverment, to put in his own favourites, and to destroy the influence of the Advisor[8] 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 that he intended to abolish the title of Raja Muda and govern himself. The Siamese Government found much cause for disatisfaction with the Kedah Government. Westengard, who visited the state in 1906 and who

5) *Foreign Ministry Papers, Bangkok 7838* Khun Nikornkanprakit Prince Damrong 7 Oct 1903.

6) *Foreign Office Papers, London 371/738* The Annual Report of the year 1908.

7) At that time the administration was carried on almost entirely by the Raja Muda, an exceedingly enlightened and intelligent Malay and younger brother of the Sultan. The Sultan himself was practically useless. Syed Mohammed and M.Q. Knowles 'The Three Million Dollar Wedding' *Malaya in History* vol 4 pt 2 July 1958, pp. 10 *et. seq.*

8) *Foreign Office Papers, London 371/332* Tel., Paget-Grey 7 June 1907.

succeeded Strobel in 1908, thought 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, a situation exploited by the Kedah Government to follow their own policy.

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 freed from the responsibility of administration. There was so much to be done in the heart of Siam that men and money could not be spared to rule outlying possessions with a strong hand. Thus he much preferred to see Siam retain only those territories over which she exercised an 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.9

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, with the Siamese exercising only ineffective control, the day would inevitably come when Siam would lose all her Malay possessions to England without getting any return. Strobel drew an analogy for the King, comparing the Malay States to diseased limbs that must be amputated if the body was to be saved.

During the negotiations, the only serious hitches that occurred concerned the division between the regions 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, Legeh and Pattani, was more desirable from a Federated Malay States' point of view. It had been

9) *Foreign Office Papers, London 422/61* Paget-Grey 27 Apr 1907.

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.

Paget realised that though the Siamese Government might be anxious to conclude these negotiations successfully, 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 consideration. Thus he named only the three states over which Siam had the least effective control.[10] However, in spite of this, Paget had in mind the hope expressed by the Colonial Office officials in London and in the Federated Malay States that more territory might be ceded.[11] In these circumstances the negotiations became distinctly delicate and, indeed, for some time the question constituted a threat to the negotiations.

During his informal talks with Strobel, Paget firmly and insistently kept pushing for more territory. His argument basically was that, from a racial standpoint, not only the states of Kelantan, Kedah and Trengganu, but also other portions of the Malay Peninsula such as Perlis, Setul and Pattani should be transferred to England. Perlis and Setul were geographically, ethnically, and culturally a part of Kedah.[12] As regards Pattani, the situation was always difficult. 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 indication of dissatisfaction with Siamese rule. The British Government wanted to

10) *Foreign Office Papers, London 422/62* Paget-Grey 7 Feb 1908.

11) 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. *Foreign Office Papers, London 371/331* Foreign Office Note 27 Apr 1907. *Foreign Office Papers, London 422/61* Anderson-Elgin 31 Aug 1907.

12) In 1839 Perlis was separated from Kedah and became an individual state.

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 . . .[13]

> . . . there are considerable settlements of Siamese in Setul, and it might not be possible to include that state.[14] . . . As for Pattani it is out of the question, as the Siamese Government will never consent to its cession.[15]

However, in subsequent talks Strobel became more reasonable. To Paget's surprise, he calmly gave up Perlis. The real motive behind this is 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.[16]

Surprisingly, Westengard,[17] who succeeded Strobel, welcomed the idea. The explanation of this decision rests on one of two hypotheses: either that the antagonistic feelings of the Siamese died

13) *Foreign Office Papers, London 371/521* Paget-Campbell, Private 28 Feb 1908.

14) 15) *Foreign Office Papers, London 422/61* Beckett-Paget 13 & 15 Sept 1907.

16) *Foreign Office Papers, London 628/29/316* Paget-Anderson 18 Mar 1908. *Colonial Office Papers, London 273/253* Anderson-Paget 27 Jan 1908.

17) Mr. Westengard, an American, took up the position of Acting General Advisor to the Siamese Government in 1904. Upon Strobel's death in January 1908 he became General Advisor. 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.'

down after Strobel's death or that the Siamese Government was desperately anxious to settle the railway question.[18] The Siamese agreed to cede the Langkawi Islands and Rahman if they could have the railway loan at 3¾ per cent instead of a 4 per cent fixed rate.[19]

The proposal met with different reactions from Sir John Anderson the Straits Settlements Governor, and Paget. The former was extremely pleased with a 3¾ per cent interest in return for two more pieces of land. But were Langkawi and Rahman worth ¼ per cent of the railway loan? To balance the reduction of the interest Sir John Anderson thought that Legeh, a small state adjacent Kelantan, should also join British Malaya.[20] Paget, on the other hand, was completely opposed to the proposal. The many controvesial chapters in the long history of his 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 much to Siam and 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 control of the construction of the railway by the Federated Malay States was denied while at the same time claims to Setul and Pattani were dropped. He felt that England was entitled to ask for the lower portion of Rahman and the Langkawi Islands as compensation for the concessions she was making. The railway loan interest should remain at 4 percent but Anderson should give up Legeh,[21] 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 renun-

18) When the cession of territory was offered to England the discussion regarding the Malay Peninsula Railway intervened. The Siamese Government proposed to borrow £ 4 million at a low rate of interest from the Government of the Straits Settlements for construction.

19) *Foreign Office Papers, London 442/62* Paget interviewed Westengard 28 Jan 1908.

20) *Colonial Office Papers, London 273/253* Anderson-Paget 29 Jan 1908.

21) *Colonial Office Papers, London 273/253* Paget-Anderson 30 Jan 1908. *Foreign Office Papers, London 422/62* Paget-Grey 30 Jan 1908.

ciation 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 these two remote territories. Paget wrote to Sir Edward Grey, the Foreign Secretary:

> ...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...[22]

22) *Foreign Office Papers, London 422/62* Paget-Grey 27 Feb 1908. Total population 558,338; total area 14,988 square miles.