

THE TREATY OF MARCH 23, 1907 BETWEEN FRANCE AND SIAM AND THE RETURN OF BATTAMBANG AND ANGKOR TO CAMBODIA

LAWRENCE PALMER BRIGGS

Manton, Michigan

TO HAVE a proper appreciation of the return of the territory of Battambang and Angkor to Cambodia as a consequence of the treaty of March 23, 1907 between France and Siam, it is necessary to know something of the history of the ancient Khmer Empire or at least that of the peoples of the Mékong and Ménam valleys since the appearance of the so-called Tai people in the middle Ménam in the early part of the twelfth century.

THE EXTENT OF THE ANCIENT KHMER EMPIRE

The ancient Khmer Empire under its last great ruler, Jayavarman VII (1181 to probably about 1215 A.D.), included all the southern part of the peninsula of Indo-China except the Malay portion. Since near the end of the Chenla period, in the eighth century, the Tai state of Nan Chao (648–1253)—the present Yunnan—had been, with slight interruptions, the northern boundary of the Khmer Empire. This Empire under Jayavarman VII included all of what is now Laos and Siam except the Mon kingdom of Haripunjai, in the valley of the Méping, a northwestern affluent of the Ménam.¹

The capital of this great Empire—Yasodharapura, on the site of the ruins of the present walled city of Angkor Thom—was located on the northeastern shore of the Great Lake of Cambodia, near its upper end. Although this region had been the seat of the capital for many centuries, it was Jayavarman VII who built the present walls of Angkor Thom and its present central temple, the Bayon. Around this capital as a center, Jayavarman VII constructed the most marvellous group of monuments which ever proceeded from the mind or was constructed under the supervision of one man.²

The region to the north and northwest of Angkor was inhabited by un-

¹ Georges Maspero has attempted to show the limits of the Khmer Empire in 960 A.D. (*Etudes Asiatiques* [Hanoi, 1925], vol. 2, pp. 79–125), but he thought the Mon kingdom of Haripunjai was Khmer.

² Some of these monuments are described in Larry [L. P.] Briggs, *A pilgrimage to Angkor* (Oakland, Calif., 1943), which also gives a short treatise on the sources of our knowledge of the ancient Khmer Empire.

civilized Indonesians, believed to be related to the Khmers in blood and language, called Lawas by the Mons, Mois by the Annamites and Khas by the later Laotians. Ruins of Khmer cities are scattered over much of this region, and throughout most of the Mékong and Ménam valleys Khmer monuments of some kind have been found. Of the 102 hospitals maintained by Jayavarman VII, 15 stele inscriptions have been discovered. More than half of them were in territory now (before 1940) Siamese, one (Say Fong) as far north as Vientian. These cities, temples and hospitals were connected with the capital by a marvellous network of highways, parts of which are still in use. The Sé Mun valley was wholly Khmer. The ruins of some of the finest and most typically Khmer temples are found there.

THE COMING OF THE TAI³

Early in the twelfth century—perhaps a little before that—some South Mongolians, generally known by their cultural and linguistic name of Tai, began to trickle down from the north into the upper valleys of the Ménam and the Méping. They appeared in the bas-reliefs of Angkor-Wat about 1150 A.D., pictured as mercenaries in the Khmer army, under their own *chaos*, or chiefs, dressed in their savage costumes. The accompanying inscriptions call them *Sayam* and *Sayam-kut*.⁴

About the middle of the thirteenth century, they defeated the Khmer commander of the Upper Ménam and established the kingdom of Sukhothai—the first Tai kingdom of Siam. Near the end of the thirteenth century, the Chinese began to speak of embassies from *Sien* and of the *Sien-lo*.⁵ About this time, the Tai of Sukhothai began to call themselves *Thai*, which is said to mean “free.” A Lu (Tai) Prince conquered the Mon kingdom of Haripunjai and established his capital at Chieng-Mai, in 1296. A Tai Prince married a daughter of the *Chao* of the Mon principality of Uthong (which seems to have been the heir of the old Mon kingdoms of Dvāravatī and Louvo), became his successor, founded a new capital at Ayuthia in 1350 and began to rule as Rama Thibodi I. This new kingdom soon overshadowed and absorbed Sukhothai and furnished a line of kings which ruled Siam (as we may now call it) until near the end of the eighteenth century. In 1353, Fa Ngom, of the

³ Lawrence Palmer Briggs, “Dvāravatī, the most ancient kingdom of Siam,” *Journal of the American Oriental Society*, 65 (April-June 1945), 105-106.

⁴ Briggs, *A pilgrimage to Angkor*, p. 84; George Coedès, “Les bas-reliefs d’Angkor Vat,” *Bulletin de la commission archéologique Indochinoise* (1911), 170-220; E. Aymonier, *Le Cambodge* (1903), vol. 3, pp. 262-263. *Syam*, *Çyama* or *Sayyam* is said to mean dark brown or black in several languages of Southeast Asia.

⁵ [Editor’s note. *Hsien* or *Hsien-lo* is the standard Wade-Giles romanization of the Chinese characters for Siam.]

dependent Laotian kingdom of Luang Prabang, declared independence of Sukhothai⁶ and founded the Laotian kingdom of Lan Chang, which included the entire Mékong valley from the Chinese border to the valley of the Sé Mun. Before the end of the fourteenth century, there were three flourishing Tai kingdoms in territory that was formerly Mon or Khmer: the Yun kingdom of Lan-na, or Chieng Mai; the Siamese kingdom of Ayuthia; and the Laotian kingdom of Lan Chang.⁷

After the Khmer armies had been driven out of the Ménam valley, they seem to have abandoned the upper and middle Mékong to the Laotians and to have withdrawn to the territory which was predominantly Khmer—with the Sé Mun valley and Korat-Jolburi-Chantabun as a frontier. For two centuries, they fought Siam successfully for these frontiers. Once—in 1430–31—the Siamese captured Angkor and seated a Siamese puppet on the throne. But the Cambodians reconquered their capital the next year; and, although they moved the capital to Phnom Penh, they did not abandon their old frontiers, but continued to fight for them during the sixteenth century, sometimes in alliance with the Burmese, who twice sacked the Siamese capital.⁸ Finally in 1593–94, the great Phra Naret Suen, having won his independence of Burma, invaded Cambodia and captured and sacked the capital, Lovek, near Phnom Penh. The war lasted ten years, during which Spain tried twice to intervene from Manila in favor of the Cambodian king. Finally, in 1603, Siam succeeded in placing its Cambodian candidate, Soriyopon, on the throne and secured its own recognition as the suzerain state.

SIAMESE-ANNAMITE RIVALRY IN CAMBODIA

Siam's triumph was short-lived. Soriyopon's son succeeded him in 1618. One of his first official acts was to discard all semblance of vassalage to Siam. A few years later, he married an Annamite Princess, of the family of Nguyen, a dynasty which, with its capital near the present Quang-Tri, was ruling the coast of Annam (then called Cochin China) and rivalling the Trinh dynasty of Tonkin as "Mayors of the Palace" of the decadent Lê Emperors, at Hanoi, who were the nominal rulers. From this time until French intervention, in the latter half of the nineteenth century, Cambodia was a bone of contention between Siam and Annam. At first, Annam took the ascendancy. During most of the seventeenth and eighteenth centuries, Cambodia was governed

⁶ Before Sukhothai was absorbed by Ayuthia.

⁷ For the founding of the Laotian kingdom of Lan Chang, see Paul Le Boulanger, *Histoire du Laos française* (Paris, 1931).

⁸ For the Burmese invasions of Siam, see G. E. Harvey, *History of Burma* (London, 1925).

by a succession of "do-nothing" Kings, and most of the Siamese monarchs during the same period could only boast of being less worthless than the Cambodian. The vigorous Nguyen line, on the other hand, absorbed what was left of the ancient kingdom of Champa, which brought them into contact with Cambodia, and then proceeded to annex and occupy the entire delta of the Mékong, with scarcely a verbal argument from Siam, which still claimed to be Cambodia's overlord and protector.

The third Burmese sack of Ayuthia (1767) brought to the throne of Siam a vigorous half-Chinese warrior called Tak-Sin (1767-1781). About the same time, a powerful family called the Tayson began to dispute with the Nguyen the control of southern Annam. While this was going on, Tak-Sin intervened in the affairs of Cambodia, placed his candidate on the throne, conquered Korat and the upper Sé Mun valley (1775), captured Vientian (1778) and began to assert his suzerainty over the two Laotian kingdoms of Luang Prabang and Vientian, into which the kingdom of Lan Chang had split in 1707. Tak-Sin was overthrown and put to death in 1781 and Phya Chakri, founder of the present Siamese dynasty, came to the throne.

In 1783, during an insurrection in Cambodia, the young King, Ang Em, nine years of age, fled to Siam with all his suite, while a Cambodian minister named Ben ruled as Regent at Oudong. In 1795, Phya Chakri (later known as Rama I) crowned Ang Em—now 21 years old—at Bangkok and restored him to the throne of Cambodia. The price of Siam's support of Ang Em was that Ben, who was under the influence of Siam, was to receive permanent government of the provinces of Battambang and Angkor.⁹ Whether it was understood at the time that this was to be a hereditary fief, is a matter of dispute, which will perhaps never be settled, as no written documents on the subject are extant. (In immediate practice, the dispute was settled by Ben, who transferred his allegiance to Siam, and the power of Siam was sufficient to secure the succession to his family until France insured the recession of this territory to Cambodia by the treaty of 1907.) This was annexation by seduction, without treaty or other agreement, written or oral, express or implied, then or thereafter, between the two countries.

Through the influence of a French missionary, Pigneau de Béhaine, the French aided the Nguyen claimant in Annam, and by 1802 he had triumphed over the Tayson, the Trinh and the Lê, and on that date he was crowned Emperor of Annam, under the name of Gialong. During most of the next half-century, the throne of Cambodia was occupied by two Kings, Ang Chan

⁹ J. Moura, *Le royaume du Cambodge* (Paris, 1883), vol. 2, pp. 90-97; A. Leclere, *Histoire du Cambodge* (Paris, 1914), pp. 401-402.

(1806–1834) and Ang Duong (1842–1859), who paid tribute to both Siam and Annam and frankly played these two countries against each other. It was during the reign of the former that Siam seized the Cambodian provinces of Mlu Prey, Tonlé Repu and Stung Treng on the northeast (1810–1815),¹⁰ and, while Annam, which claimed sovereignty over Laos, was engaged with revolt in Cochin China and with the French over religious persecutions, that Siam captured and destroyed Vientian (1828) and laid claim to its territory, systematically depopulating most of the left bank of the Mékong by carrying the inhabitants to the right side of the river or in captivity to Bangkok.¹¹

On the death of Ang Chan in 1834, Annam got the upper hand in all Cambodia except that governed by the family of Ben, seated a woman on the throne, organized the country into Annamite subdivisions and openly prepared to annex it. With the assistance of Siam, Cambodia succeeded in driving out the Anamites, and seated Ang Duong on the throne (1842); but Siam's attempts to conquer the delta ended in disastrous defeat and, in 1847, Ang Duong resumed the vassalage to both countries.¹²

THE ESTABLISHMENT OF THE FRENCH PROTECTORATE OVER CAMBODIA¹³

Suspicious of the motives of both of his overlords, Ang Duong sought a French protectorate; but, through a blunder of Montigny, French diplomat who was sent to arrange the matter, the proposition fell through and France lost its opportunity. Ang Duong died late in 1859 and was succeeded by his son, Norodom, who had been brought up as a hostage in Bangkok and even preferred, it was said, Siamese to his native tongue. A revolt by his young brother, Votha (1861–62) drove him out of his kingdom. The revolt was quelled by another brother, Sisowath, with some aid from a French gunboat. The French, in the meantime, had conquered Saigon and three adjacent provinces, which they organized as the colony of Cochin China, with an Admiral-Governor. Siam sent troops to restore Norodom to the throne, but the French took Sisowath to Saigon.

The French Admiral-Governor now persuaded Norodom to accept a protectorate (August 11, 1863), giving France control of Cambodia's external affairs, with a French Resident Superior at Phnom Penh, under the Governor

¹⁰ Moura, *op. cit.*, pp. 104–105; Leclerc, *op. cit.*, pp. 411–412.

¹¹ F. Garnier, *Voyages d'exploration en Indochine* (Paris, 1873), vol. 1, pp. 247–262.

¹² Moura, *op. cit.*, pp. 111–120; Leclerc, *op. cit.*, pp. 419–430.

¹³ Moura, *op. cit.*, pp. 136–164; Leclerc, *op. cit.*, pp. 443–459; A. de Villemeseuil, *Explorations et missions de Doudart de Lagree. . . . Extraits de sus manuscrits* (Paris, 1883), pp. 112–114, 116, 443–449. See also articles by R. Stanley Thompson in the *FAR EASTERN QUARTERLY*, 4 (Aug. 1945), 313–340 and 5 (Nov. 1945), 28–46.

of Cochin China. The Protectorate was proclaimed April 12, 1864. But it soon transpired that, on December 1, 1863, Norodom had signed a secret treaty with Siam, giving that country also a protectorate over Cambodia. So, a new treaty was made in Paris, on July 15, 1867, by which, in return for Siam's nullification of her secret treaty with Cambodia and her recognition of the French Protectorate, France recognized Siam's claim to Battambang and Angkor and guaranteed Cambodia's observance of the treaty.

THE LAOTIAN QUESTION AND THE TREATY OF 1893

The dispute between France and Siam broke out next along the middle and upper Mékong. It was prompted by the trade-rivalry between France and Great Britain. The French thought they could tap the trade of southern China by ascending the Mékong. When they found this was impossible, they secured the Red River route by establishing protectorates over Tonkin and Annam (1884). French operations in Tonkin had two important and immediate results—(1) the Siamese occupation of Laos and (2) the British seizure of Upper Burma.

During the eighteenth and nineteenth centuries, Laos had been divided into the kingdoms of Vientian and Luang Prabang. During most of the eighteenth century, Annam's loose and occasional suzerainty had been scarcely disputed; but while the Annamites were engaged in dynastic disputes and later with France, Siam intervened. In 1828–32, as already noted, Siam ended the kingdom of Vientian by destroying the capital, carrying off the King and princes, transporting most of the Laotians *en masse* to the opposite bank of the Mékong or carrying them into captivity to other parts of the kingdom. During the middle part of the nineteenth century, lower Laos was like the Chaco before the discovery of oil there—almost deserted, considered worthless, no one knew nor cared where the boundary was. Luang Prabang was governed by a descendant of the old dynasty of Lan Chang, under the occasional suzerainty of both Siam and Annam, except for Tran-ninh, which was annexed to Annam and divided into Annamite administrative districts. But for 20 years, Upper Laos was raided by "Hos" or "Haws," outlaws from China, without much attempt at protection from either Annam or Siam.¹⁴

So when France was engaged with Annam, Siam began to take notice. Chulalongkorn had had a British governess in his youth, was under British influence and had absorbed the idea of a Pan-Thaism with Siam in some

¹⁴ Le Boulanger, *op. cit.*, pp. 149–151, 166–179, 192–204; Capitaine de Pelacot, "Le Tran-ninh historique," *Revue Indo-Chinoise* (Hanoi, 1906), 755–56.

sort of hegemony over all the Thai (which some of its advocates claim is equivalent to Tai).¹⁵ So, in 1885, Chulalongkorn sent an expedition to seize Laos and the Tai country up to the Black River of Tonkin, where there were no Siamese at all and never had been. The French countered by sending Auguste Pavie as Vice-Consul to a newly-established post at Luang Prabang, and Pavie soon (1887–88) persuaded the Laotians and other Tai chiefs of that region to accept French suzerainty. Meantime, trusting she would be backed by Great Britain, Siam drifted willingly—almost merrily—into war with France. British aid did not materialize. Statesmen, sitting at their desks in capitals, with the weight of empires on their shoulders, rarely satisfy the importunities of partisans on the rim of those empires. So Siam was compelled to sign a treaty (October 3, 1893), dictated by France, but qualified by France's fear of Great Britain.

The treaty of October 3, 1893 provided, among other things, that Siam should renounce all pretensions to the territory on the left bank of the Mékong and to the islands of the river (art. 1). The Siamese agreed not to fortify the provinces of Battambang and Siem-Reap (Angkor) nor a strip 25 kilometers wide on the right bank of the Mékong, and that all these neutralized territories should be policed by the local authorities (art. 2, 3, 4). An annexed convention of the same date provided that the Siamese posts on the left bank of the Mékong should be evacuated within a month (art. 1); that all fortifications in the neutralized zones should be destroyed (art. 2); that French, Annamites and Laotians of the left bank of the Mékong and all Cambodians detained in Siam for any reason whatever should be delivered to French authorities at Bangkok or at the frontier and that no obstacle be placed in the way of the return of the ancient inhabitants of the left bank to their old homes (art. 4); and that the French should continue to occupy Chantabun until all the stipulations of the convention should be carried out (art. 6).¹⁶

The boundary between Laos and the British Shan States (subject to Burma) was settled by the convention of London of January 15, 1896, which accepted the Mékong, from the border of Siam to that of China, as the dividing line

¹⁵ *Tai* is the generic name of a people residing in south China, Burma, Siam, Laos and Tonkin. *Thai*, in its strictest sense, includes only the Tai of the Ménam-Mékong valley proper and adjacent coasts. But there are other conceptions of the meaning of Thai. A speech from the throne, said to have been made by King Chulalongkorn on September 21, 1884, and his expedition in 1885 to seize Laos and Tai country in Tonkin, indicate that Pan-Thaism had a broader conception of the meaning of Thai (See Col. F. Bernard, *A l'école des diplomates* [Paris, 1935], p. 92).

¹⁶ L. de Reinach, *Recueil des traités conclus par la France au Extrême-Orient* (Paris, 1902, 1907); vol. 1, pp. 315–317; *Bulletin de la comité de l'Asie française* (Paris, Jan. 1902), 13–16. Hereafter referred to as *BCAF*.

between French and British spheres of influence.¹⁷ This convention also provided for the neutralization of Siam proper; i.e., the delta and drainage-basins of the Mékong-Ménam. As Great Britain and France promised to respect the integrity of Siam within the limits mentioned above and to guarantee its protection against a third power, the convention established a sort of joint protectorate of those two powers over Siam. In point of fact, such a protectorate had already existed for some time.

EXTRATERRITORIALITY OF ASIATICS AND THE CONVENTIONS
OF 1902 AND 1904

The treaty of 1893 pleased no one. The Siamese complained that the French had not returned Chantabun and that their lists of protégés (see below) were too long and too inclusive.¹⁸ The French claimed the Siamese were slow in carrying out the terms of the treaty, particularly the evacuation of Laos and restraints on the return of Laotians carried off by the Siamese.¹⁹ From the Cambodian standpoint, no treaty on the subject could be final which left in Siamese hands Battambang and Angkor, the most Cambodian of Cambodian provinces.²⁰ The opposition of Great Britain had prevented France from demanding the return of these provinces to Cambodia in 1893.²¹ But the convention of London (1896) had given France a clear hand in this region.

But what caused the most uneasiness in Siam was that, just at the time when Chulalongkorn was trying to modernize Siam and was about to start a movement to secure the nullification of the extraterritorial jurisdiction of Europeans and Americans, European countries having Asiatic subjects or protégés in Siam began to interpret their extraterritorial provisions as extending to their Asiatics. This was alarming. In 1907, de Caix²² estimated that there were 18,500 French Asiatics in Siam.²³ Some of them had resided there for many years, even generations, had intermarried, and had business there. Most of the Cambodians living in the Khmer-speaking settlements in the Sé Mun valley were descended from the Khmer inhabitants living in those regions when they were conquered by Siam a century or more earlier. Garnier says that when he passed through that valley in 1867, he was sur-

¹⁷ Reinach, *op. cit.*, vol. 1, pp. 338-340.

¹⁸ *BCAF* (Jan. 1902), 13.

¹⁹ *Livre jaune. Affaire de Siam, 1893-1902* (Paris, 1902), pp. 8-9.

²⁰ According to the *Annuaire generale de 1921* (p. 300), Cambodians constitute about 90% of the inhabitants of these provinces, while there were no Siamese inhabitants there at all.

²¹ A. Berjoin, *Le Siam et les accords franco-siamois* (Paris, 1927), pp. 119-120.

²² Robert de Caix was editor of *BCAF*.

²³ *BCAF* (1907), 113-114.

prised to find that Khmer was understood almost everywhere and in some places was the only language of the inhabitants, although parts of this region had been in Siamese hands since the end of the seventeenth century.²⁴ Cambodians living elsewhere in Siam had been carried off by Siamese raids in the eighteenth and nineteenth Centuries, and their descendants had lived there ever since. All these Cambodians had been justiciable in the Siamese courts according to the treaty of 1867. Most of the Annamites in Siam were descended from Annamite Christians who had gratefully taken refuge there during the persecutions of Ming Mang and his successors (1820–60). Most of the Laotians had been—either they or their ancestors—carried off by Siamese raids on east Laos during the nineteenth century.

All these people and their descendants were now urged to register at the French Consulates and the French authorities insisted on extending the privilege of extraterritoriality to them. This application of a principle intended for barbarous or backward countries to the Siam of Chulalongkorn's day, which was making such rapid progress in westernization, especially in matters of jurisprudence, could not help being very offensive to Siamese national pride. Some, at least, of the French officials seemed to have stretched this point to its utmost, possibly with the idea of giving it the greatest possible nuisance value in the trading-market. Then, too, the possession of such a large and growing number of subjects by a potential enemy at strategic points in the kingdom, was a threat to that country's sovereignty. According to de Caix, the Siamese were alarmed that the Japanese might ask similar rights of protection for the Chinese in Siam, to permit her to intervene in Siamese affairs.²⁵ The new and obnoxious form which this question assumed at this time has never been sufficiently emphasized as a reason for Siam's eager acceptance of the treaty of 1907 and its willingness to return Battambang and Angkor to Cambodia.

Chulalongkorn had been alarmed when Great Britain deserted him in his hour of peril in 1893 and positively frightened when she signed the London convention of 1896.²⁶ So when the dispute over extraterritoriality became acute, he decided to go to Paris and clear up the whole matter. He made the voyage in 1897 and was well received. A Siamese embassy called on Governor-General Doumer at Saigon in March 1899 and the Governor-General returned the visit the next month. Conditions seemed propitious for a new consideration of all the points at issue.

²⁴ Garnier, *op. cit.*, vol. 1, pp. 234–235.

²⁵ *Questions diplomatiques et coloniales* (Paris, March 16, 1907), 615.

²⁶ F. Bernard, *op. cit.*, pp. 138–139; Berjoin, *op. cit.*, p. 83.

The matter was taken up in Paris and a convention was signed October 7, 1902. Siam agreed (1) to recognize the claim of Luang Prabang to the strip on the western bank of the Mékong (art. 1) and (2) to return the provinces of Mlu Prey, Tonlé Repu and Stung Treng (art. 1-2), taken from Cambodia in 1810-15, in exchange for (1) the cancellation of the neutral zone on the right side of the Mékong (art. 3), (2) the evacuation of Chantabun (art. 2), (3) the restoration of the extraterritoriality of France's Asiatic protégés to persons born in the territory of a French protectorate, before or after French acquisition, and to their children, but not grandchildren (art. 5) and (4) the revision of the French lists in accordance with article 5 (art. 6). A period of four months was prescribed for ratification (art. 10).²⁷ This convention raised such a storm of opposition in France that it was never even submitted for ratification. The arguments of the opposition centered chiefly in France's abandonment of the rights of some of its Asiatic protégés.²⁸

Negotiations were again taken up and a new convention was signed at Paris on February 18, 1904. Siam ceded the territory it held to the south of the Dangkre Mountains (art. 1)—i.e., Mlu Prey, Tonlé Repu and Basak—and gave up all claim to the territory on the right bank of the Mékong opposite Luang Prabang (art. 4). Siam agreed to use only local troops to police Battambang and Angkor (art. 6) and agreed to consult France regarding public works in the Mékong valley and the employment of non-Siamese engineers there (art. 7). Siam accepted, with some reserves, the lists of French subjects and protégés as of date (art. 10). France agreed (1) to exclude grandchildren of Asiatic subjects and protégés from the privileges of extraterritoriality (art. 11), (2) to some minor matters of native jurisdiction and (3) to evacuate Chantabun when all the terms of the convention were carried out. A mixed commission was to delimit the boundaries (art. 3). A period of four months was established for ratification (art. 16). In protocols of the same dates as the convention, Siam ceded, as rectifications of the boundary, the port of Kratt, on the Gulf of Siam, and the Dan-Sai territory, in Siamese Laos, below Luang Prabang.²⁹ The convention, with its protocols, was ratified by the French Parliament in December, 1904, after a delay of 10 months, the period of ratification having been extended twice.

One of the results of this convention was that King Chulalongkorn began, for the first time, to include Frenchmen among his foreign advisers. In 1902, de Caix said that "of 190 foreigners called to its service by the Government

²⁷ Reinach, *op. cit.*, vol. 1, pp. 439-442.

²⁸ Bernard, *op. cit.*, p. 161; *BCAF* (1907), 113-114.

²⁹ *British and foreign state papers* (1904), vol. 97, pp. 961-965.

of Bangkok, 95 were British, 42 German, 35 Danes, and only 2 Frenchmen, one an engineer in a subordinate capacity, the other a simple subaltern" while Bangkok was policed by Sikhs under regular British officers.³⁰

Two appointments made as a consequence of this convention had an important influence on the negotiation and ratification of the definitive treaty which was to follow in a few years:

(1) Since 1897, a mixed commission—Siamese, Belgian, British and Japanese—had been attempting to draw up a criminal code, based on the most advanced European codes, and had just submitted a project which was not altogether satisfactory. Other codes—civil and commercial, codes of procedure and a law of organization of the courts—were projected. A celebrated French jurist, Georges Padoux, whom the French Government appointed Consul-General at Bangkok, was named by King Chulalongkorn as Legislative Adviser, to take the lead in preparing these codes. Padoux arrived in Siam in 1905 and began work on a revised project of the criminal code.³¹

(2) At the head of the boundary commission, provided for by article 3 of the convention, was named Colonel Fernand Bernard, an intelligent and zealous officer with a keen insight into political and diplomatic problems. Bernard immediately began exploring the regions to be delimited and spent the next three years at this task.

NEGOTIATIONS FOR A NEW TREATY

The convention of February 13, 1904, was about as unpopular as the preceding ones had been and the agitation for a new treaty began even before it was ratified. The two important questions were (1) the return of Battambang and Angkor to Cambodia and (2) the extinction of the extraterritoriality of France's Asiatics in Siam. Any treaty which did not offer a definitive settlement to these two important questions could not be considered as permanent.

Seeing that the convention of 1904 was not a final solution of the questions at issue, Bernard began to search for the bases of a definitive settlement. He found that, because of the miswording of the convention, because of ignorance of the terrain, the territory of Dan-Sai, which had been granted to Luang Prabang, was a long spear running into the interior of Siam, of little use to France or Luang Prabang, but extremely threatening to Siam if France

³⁰ *BCAF* (Jan. 1902), 16.

³¹ Lawrence Palmer Briggs, "The codification of the laws of Siam (1897-1924) and its effect on the extinction of extraterritorial jurisdiction," *American journal of international law*, to appear in the near future.

should choose to fortify it. He found likewise that the port of Kratt was not a natural outlet for any part of Cambodia and that the inhabitants of that region were prevalingly Siamese. So when Bernard returned to Paris in June 1906, he offered a memoir to the Minister of the Colonies, suggesting that France (1) restore Dan-Sai and Port Kratt to Siam, (2) abandon, under certain reserves, extraterritoriality to France's Asiatic protégés and (3) ask for the return of Battambang and Angkor. This memoir was submitted at once to the Foreign Office. Victor Collin de Plancy, a career diplomat, was made Minister to Siam to take up negotiations with Prince Devawongse, Chulalongkorn's brother and Minister of Foreign Affairs, for a new treaty.

Several conditions favored negotiations at this time:

(1) France was willing to abandon extraterritoriality for a proper consideration, as Siam was reforming its courts and a new commission, headed by a Frenchman (Padoux) was just completing a new project of a criminal code, based on the most modern European codes, as far as they could be applied to Siamese conditions. As conditions improved in Siam, extraterritoriality was becoming of less importance to France. It might be said that at this time, the extraterritoriality of France's Asiatic subjects had become to France an object of exchange, to be traded for what she could get for it. On the other hand, to Siam it was becoming more and more a stigma of inferiority which European nations were incomprehensibly slow in removing.

(2) The French were beginning to see that a policy of good will paid returns in Siam. A French Legislative Adviser (Padoux) had been appointed to supervise the preparation of the various codes enumerated above. The French language was being taught in the schools by French teachers. French engineers were being employed in the public works. The idea was beginning to pervade French policy makers that they should atone for their slowness in recognizing Siam's progress by being the first to take steps to remove the stigma of extraterritoriality.

(3) When the question of the return of Battambang and Angkor was first brought up—by accident, because no natural boundaries could be found—the French were surprised at the readiness with which the Siamese were willing to discuss the whole question. The Siamese had made no attempt to colonize these provinces nor to convert the inhabitants into Siamese subjects. During the whole period of Siamese suzerainty this region was the hereditary fief of a Cambodian family³² and was governed according to Cambodian customs. As already noted, it was even policed by local (i.e., Cambodian) troops. After more than a century of Siamese domination, Bernard says one could

³² Villemeseuil, *op. cit.*, p. 116.

search in vain for even a petty officer who could speak the Siamese language.³³ Then, too, the Siamese King was alarmed at the number of protégés registered at the French Consulate at Battambang, which had reached 4,500 at the beginning of 1906. There was talk of one or more French advisers to control the actions of the hereditary governor. A French official named Ponsot had actually been appointed by Chulalongkorn as Siamese Royal Commissioner at Battambang. That official had already talked the matter over with the King of Siam and they had decided to liquidate the whole matter, if France would give them a fair return.³⁴

(4) One reason why it was easy for Siam to reach this conclusion with regard to the return of Battambang and Angkor was the generally accepted attitude that the fate of these provinces was already sealed. In practice, a sphere of influence was generally considered as potential annexation. When the British, who had objected strenuously to a French protectorate over this territory in 1893, were willing to consider it as within France's sphere in 1896, it was generally believed that France would absorb it at its convenience, and this belief was strengthened when Britain signed the *Entente Cordiale* with France on April 6, 1904.

(5) Chulalongkorn's first Adviser in Foreign Affairs, the Belgian jurist, Rolin-Jacquemyns, who the French thought was under the influence of Great Britain, died and was succeeded in 1903 by Professor Edward H. Strobel of Harvard, who soon acquired great influence over the King. Strobel was very willing to listen to French advances regarding Battambang and Angkor and agreed with them on the desirability of liquidating all causes of friction. Although the treaty of 1907 was signed by Collin de Plancy and Prince Devawongse, the correspondence published by Bernard³⁵ shows that its principles were agreed upon in advance by Bernard and Strobel in a conversation which Bernard says lasted less than ten hours. Ernest Outrey, then Deputy in the French Parliament for Cochin China and Cambodia, says Bernard took too much credit to himself for these negotiations and that the return of Battambang and Angkor to Cambodia was due almost entirely to a long report which Strobel made to the King,³⁶ urging their return.³⁷

³³ Bernard, *op. cit.*, pp. 203-204.

³⁴ *Ibid.*, pp. 188-189.

³⁵ *Ibid.*, Appendix.

³⁶ E. Outrey, "Un nouveau traité franco-siamois," *Revue politique et parlementaire*, 121 (Paris, Oct. 1924), 113-116.

³⁷ Frances B. Sayre, also of Harvard and one of Dr. Strobel's successors as Foreign Adviser to the King of Siam, in an article in the *American journal of international law* (January 1928) says that "large tracts of French Indo-China were carved at different times out of Siam" (p. 77) and speaks of "Siam's cession to France of further Siamese territory; i.e., the territory of Battambang, Siem

(6) Another event which contributed much to French demand for the return of these provinces was the accession of the popular Sisowath to the throne of Cambodia on April 25, 1904 to succeed Norodom. A month after his coronation (April 26, 1906), the new King left for France, where he was received with enthusiasm. He was in France during the whole period while negotiations were in progress.

(7) Not the least of the causes leading up to the return of Battambang and Angkor was the determination on the part of everybody concerned to settle the troublesome territorial question once and for all. This appeared nowhere more clearly than in the preamble of the treaty. While the purpose of the conventions of October 7, 1902 and February 13, 1904 were stated "to regulate certain difficulties which have arisen in the interpretation of the Treaty and Convention of October 8, 1893," that of the treaty of March 23, 1907 was "to assure the *final*³⁸ regulation of all questions relating to the common frontiers of Indo-China and Siam."

(8) Finally, King Chulalongkorn was on the point of visiting Europe and wanted all troublesome disputes settled before his departure.

THE TREATY OF MARCH 23, 1907 AND ITS RECEPTION

On March 23, 1907, a treaty based on the understanding reached by Bernard and Strobel, was signed at Bangkok by Victor Collin de Plancy for France and Prince Devawongse for Siam.

Siam ceded the provinces of Battambang, Sisophon and Siemreap³⁹ (art. 1) and received the port of Kratt and the territory of Dan-Sai (art. 2). France agreed that all her Asiatic subjects or protégés registered after the date of the treaty should be justiciable in the regular Siamese tribunals. Those already registered and their children, but not grandchildren, were to be justiciable in the *regular* Siamese Courts, as provided in article 12 of the convention of 1904, until the new Siamese codes should be put into operation, when they would all be subject to the *regular* Siamese tribunals (art. 5).⁴⁰

Siam does not seem at the time to have been greatly concerned with the loss of Battambang and Angkor. They had come to mean little to her. Lunet de Lajonquière, who was making an archeological survey there at the time, estimates the Siamese population of these provinces at the time of the transfer at 2,000.⁴¹ He probably over-estimated it. According to the *Annuaire general*

Reap and Sisophon" (p. 97), unmindful of the fact that the two Frenchmen most concerned with the return of this territory give almost complete credit for its return to one of Dr. Sayre's illustrious American predecessors, Dr. Edward H. Strobel.

³⁸ The *italics* are mine.

³⁹ Sisophon was formed out of Battambang. Siemreap is a name sometimes given to the province of Angkor.

⁴⁰ *BCAF* (1907), 151.

de l'Indochine for 1921 (p. 300)—fourteen years later—not one single Siamese was residing there. A few Americans who have recently lived in Siam and have familiarized themselves with only the last few pages of the history of this region, have given the erroneous impression in the United States that this territory was “Siamese.” In 1907, according to M. Outrey,⁴² Siam was receiving only token tribute, a few fishing privileges and positions for some inspectors.

Cambodia had long since ceased to be a dangerous rival to Siam. Once, it had been a buffer-state between Siam and Annam. When France supplanted Annam in Cochin China, this value ceased. The new question of extraterritoriality had made Battambang a danger point. Siam was glad to trade this troublesome territory, useless to her, for the first step in removing the stigma of inferiority implied in the extraterritoriality of Asiatics. Siam was content with the treaty. According to de Caix,⁴³ the *Siam observer*, which he says was the official organ of the Government, said next day: “If the balance of the territorial exchanges seems to tip in favor of France, the equilibrium will be reestablished by the concessions made by France regarding jurisdiction over Asiatic subjects and protégés.”⁴⁴ Apparently, Siam made no protest against the treaty until she came under Japan’s influence thirty years later.

The return of Battambang and Angkor meant much to Cambodia. Besides their population and territory, with their rice fields and fisheries, Angkor was Cambodia’s only tie to the most glorious past any nation of Indo-China had ever had. It was the capital of the ancient Khmer Empire during the whole period of its greatness. It is still near the geographical center of the Khmer population in Indo-China. After more than a century of Siamese domination, these provinces are the most homogeneous—and Cambodian—of that country.

The articles of the Treaty of March 23, 1907 which provided for the nullification of extraterritorial jurisdiction of France’s Asiatics as soon as the corresponding codes should be promulgated, was the first great step in freeing Siam from this humiliating international servitude, a servitude which must have been much more galling to the Siamese than the extraterritoriality of Europeans and Americans, as Asiatics were much more numerous and troublesome, and it must have been much more humiliating to the Siamese when other Asiatics, whom they considered inferior to themselves, demanded the right to be tried in European courts

⁴¹ E. Lunet de Lajouquière, “Les provinces recouvrés du Cambodge,” *BCAF* (1907), 159.

⁴² E. Outrey, *op. cit.*, pp. 113–116.

⁴³ *BCAF* (1907), 113–114.

⁴⁴ The writer has been unable to find a copy of this publication of this date to verify this state-

Great Britain soon followed France's lead (in 1909), and exacted as its price, the cession of the states of Kelantan, Trengganu, Kedah, Perlis and adjacent islands of the Malay Peninsula.⁴⁵ Other nations with Asiatic subjects or protégés in Siam soon fell into line. The penal code was promulgated in 1908. The work on the other codes required several years. As soon as any part was completed, its provisions became applicable to the Asiatic subjects or protégés until finally they were all under the jurisdiction of the regular Siamese courts.

Remained the matter of the nullification of the extraterritorial jurisdiction of Europeans and Americans. The movement toward this end was agitated largely by a succession of American advisers—Strobel, Westergard and James. Finally, when the codes were nearly completed, December 16, 1920, the United States took the initiative in the relinquishment of the extraterritorial jurisdiction of Americans and Europeans in Siam. In 1924–25, Francis B. Sayre, then Foreign Adviser, made a trip to Europe for the purpose of completing the task of signing the last of these treaties. The story of the nullification of the extraterritorial jurisdiction of Europeans and Americans in Siam has been told in the *American journal of international law* by Dr. C. C. Hyde (1921) and Dr. F. B. Sayre (January 1928). Neither, however, gave due credit to the French for the pioneer and more important task of the elimination of the extraterritoriality of Asiatic subjects and protégés nor for the work of reforming the judiciary of Siam by preparing modern legal codes, based largely on those of Europe, which made it easy to persuade Americans and Europeans to entrust their citizens and subjects to the Siamese courts.⁴⁶

In referring to the treaty of December 16, 1920, Dr. Hyde made this statement: "It should be borne in mind that the indebtedness of Siam to foreign counsellors and jurists is not confined to those of *American* nationality. It is understood that *English* lawyers rendered vast service in the task confronting that country."⁴⁷ The fact seems to be that the final project of the criminal code of 1908 was chiefly the work of a Frenchman, M. Padoux and that the committee which spent many years preparing the other codes and the law of organization of the courts, was composed exclusively of Frenchmen, for several years (1908–1914) under the presidency of M. Padoux. This committee was continued as a school of political science where law was taught by French jurists until the revolution and the consequent treaty of 1938.

⁴⁵ *British and foreign state papers* (1909), vol. 102, pp. 126–128.

⁴⁶ G. Padoux, *Code pénal du royaume de Siam. Promulgué le 1 juin, 1908* (Paris, 1909); R. Guyon, *L'Oeuvre de codification au Siam* (Paris, 1919); Briggs, "The codification of the laws of Siam . . .," cited in note 31.