The Facts About SARAWAK

A documented account of
the Cession to Britain in 1946


Anthony Brooke
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ANTHONY BROOKE

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FOREWORD

The documents contained in this book were somewhat hastily assembled and privately printed in England in booklet form in the late summer of 1946. By then it had become evident to my father and myself that representative elements among the Sarawak people disassociated themselves from cession to the British Crown and strongly challenged the apparently unconstitutional and unseemly manner in which the so-called cession had been brought about.

Appeals couched in compelling and touching language were being sent from within Sarawak to my father and myself which neither of us felt we could honourably disregard and it was evident that a resolute struggle lay ahead which it was to be our privilege, our responsibility and our right to support to the utmost of our ability.

The initial compilation of historical documents, letters, telegrams and factual statements was designed for distribution among individuals of influence and the media. In 1947 further copies were printed in India and these were distributed mainly throughout Malaya, Singapore and Sarawak.

In view of the interest in this period being shown by a growing number of students of Sarawak history and the demand for factual information regarding this crucial era, I have been glad to give Summer Times Publishing permission to reprint this compilation together, for clarification, with the Joint Opinion given by Sir Arnold McNair and Mr Justice Wynn-Parry regarding the international status of Sarawak, which reached the British Colonial Office on 4th October, 1945, the date the members of the Provisional Government of Sarawak were "dismissed" by the Rajah, whom the British Government then regarded as being empowered to negotiate the future status of the country.

In the three decades and more since these traumatic events took place, the Sarawak people have grown vastly in political maturity. For them, as for all of us in our respective countries, it can be both sobering and healing to look our history directly in the face so that we may learn to the full the lessons it offers to teach us. Then, with thankful hearts and deepened understanding we can leave the old and together build the new, conscientiously — our contribution to a better world.

Anthony Brooke
January, 1982

FOREWORD

PUBLIC INTEREST HAS BEEN AROUSED BY the hurried transformation of the independent State of Sarawak into a Crown Colony. It is believed that a study of the relevant facts will convince the reader that the means taken to secure cession of the State were irregular and improper ; that, contrary to the declarations of the Atlantic Charter, the wishes of the indigenous peoples of Sarawak were disregarded and overruled ; and that the claim made on behalf of those peoples by the Malay Union of Sarawak and the Dayak Association for the restoration of their independence and of their ancient Raj is just and should be conceded. This document sets out, without argument, the salient facts on which anyone interested in the problem and in the international reputation of Great Britain can base a judgment.

FACTS ABOUT SARAWAK

1 SARAWAK is in North West Borneo and has now an area roughly equivalant to that of England. It has a coast line of about 500 miles, and a population of approximately half a million.

2 IT was originally part of the dominion of the Sultan of Brunei but in 1841 in return for services rendered in making peace among warring tribes, it was ceded to James Brooke an English gentleman who became Rajah.

3 IN 1851 Sarawak was recognised by the U.S.A. Government as an independent State ; similar recognition was afforded by the British Government in 1863.

4 JAMES BROOKE died in 1868. His Will dated 15 April 1867, (Appendix A) established the line of succession in the following words :—

> " I . . . give devise and bequeath all that my Sovereignty of Sarawak . . . and all the rights and privileges whatsoever thereto belonging unto my nephew Charles Johnson Brooke, Tuan Muda of Sarawak . . . and the heirs male of his Body lawfully issuing and in default of such issue unto my nephew Stuart Johnson . . . and the heirs male of his Body lawfully issuing and in default of such issue I give devise and bequeath the said Sovereignty and rights and privileges unto Her Majesty the Queen of England her heirs and assigns for ever . . ."

5 THE nephew Charles Johnson Brooke succeeded to the Raj and reigned from 1868 to 1917.

By a Treaty of 5 Sept. 1888 (Appendix B) made between Great Britain and Rajah Charles Brooke it was agreed

1. Great Britain should
   (a) protect Sarawak
   (b) have no right to interfere with internal government of the State.

(c) control Sarawak's foreign relations
(d) decide any question respecting the right of succession to the Raj

2. Sarawak should not cede the State without Great Britain's consent.

6 HIS Political Will dated 16 Dec 1913 (Appendix C) reads :—

"in confirmation of the Will of my predecessor I give devise and bequeath my Sovereignty of Sarawak and all the rights and privileges thereto belonging . . . unto my eldest son Vyner and the heirs male of his body with remainder to my second son Bertram and the heirs male of his body with remainder to my third son Harry and the heirs male of his body with remainder to the son of my late younger brother Stuart and the heirs male of his body with remainder to H.M. the King of England . . ."

7 THE testator appointed his said second son Bertram "to hold a position of authority in the Raj second only to that of" his eldest son Vyner and urgently enjoined "that no material developments or changes in the State or in the Government thereof . . . shall be initiated by my son Vyner without first consulting with my son Bertram."

He further urged that the policy and methods of government of Sarawak as hitherto carried out by the first Brooke Rajah and himself should not be departed from. That policy (upon which the Will enlarged) may be paraphrased as meaning that the Brooke family should not look upon Sarawak as private property to be exploited for their own benefit, but should regard themselves as servants and trustees of the natives whose interests and advancement should come before every other consideration.

8 VYNER BROOKE the third Rajah succeeded to the Raj in 1917 and in his accession oath (Appendix D) swore "on behalf of himself and his successors" to abide by the conditions expressed in the Will of his father and "to obey and carry out the wishes of the late Ruler as forming the Constitution of the State."

9 VYNER BROOKE has three daughters but no son. His younger brother, Bertram Brooke, the Tuan Muda, is accordingly heir presumptive. Bertram has a son, Anthony (the Rajah Muda), who also has a son.

10 ON 31 March 1941 the Rajah without reference to his brother Bertram (that is to say in breach of the provisions of his father's Will which he had sworn to uphold), entered into an agreement with the Committee of Administration of Sarawak whereby, for certain financial considerations including a payment of a lump sum of £200,000 to be made to him, he was to enact certain constitutional Reforms. (Appendix E.)

11 ANTHONY BROOKE was at that period a junior officer in the Sarawak Civil Service and incurred the displeasure of the Officer Administering the Government there (Mr. C. D. Le Gros Clark) by opposing the constitution in its proposed form and by proceeding to Singapore without permission to invoke the assistance of Sir Shenton Thomas, the Governor of the Straits Settlements, who was British Agent for Sarawak. Anthony Brooke was summarily dismissed the service.

12 THE Rajah made an Order C. 21 (Constitution) (Appendix F) entitled

"An Order to provide for the future Government of Sarawak" enacted 24 Sept 1941 and to have effect from that date.

By this Order :—

(*a*) he re-established the two existing Councils, i.e., the Council Negri and the Supreme Council and defined who should be members.

(*b*) he purported to effect certain constitutional changes, which would seem quite clearly to have been beyond his legal powers, for example :—

(1) although his inheritance of the Raj was for life only and the remainder-men to succeed him were nominated by his predecessors' Wills (the ultimate remainder-man being H.M. The King of England),

he purported to enact that on the death of the Rajah "... the person who shall have been proclaimed Heir to the Raj of Sarawak shall ... be proclaimed Rajah of Sarawak by the Supreme Council," words which although vague may be construed in conjunction with the agreement for the Constitution which provided that if Bertram should die before the proposed Reforms should be effective the Committee of Administration "after due consideration and circumspection" should appoint "an heir" to the Sarawak throne.

(2) although his predecessor's Will provided that during the Rajah's absence from Sarawak his brother, Bertram, should act in his place the Order purported to give the Rajah in Council power to choose and appoint such a deputy.

13 THE new Constitution gave ultimate legislative power to the Council Negri.

14 UNDER this Constitution (clause 6 (1)) there is a Council Negri of 25 Members; 14 to be "official" members appointed from the Sarawak Civil Service, the other 11 to be "unofficial" members "representative as far as practicable of the several peoples dwelling within the State and of their various interests." These "unofficial" members are to be appointed by the Rajah-in-Council for a period of 3 years with power to re-appoint. Natives of Sarawak who were members of the old Council Negri were to be life members of the new one.

There is also (Clause 3 (1)) a Supreme Council of not less than 5 members, a majority of whom must be Sarawak Civil Servants, the Chief Secretary and the Treasurer to be members *ex officio* and the rest to be appointed by the Rajah. Membership, as in the Council Negri, is for 3 years and the members of the old Supreme Council are life members of the new.

15 ON 22 Nov 1941 H.M. Government made an agreement with the State (Appendix G) supplemental to the 1888

Treaty providing for the appointment to the Court of the Rajah of a British representative whose advice on external relations and defence was to be "asked and acted upon" and who was to be free to offer his opinion "on matters touching the general administration of the State" and to attend the Supreme Council and Council Negri and to address the latter but without power to vote.

16 IN Dec 1941 Great Britain finding herself unable to afford the protection called for by the 1888 Treaty, the State was overrun by the Japanese.

17 THE Rajah was at that time in Australia, where he set up a provisional Government subsequently dismissing it and transferring responsibility for the administration of the State funds to a Commission in England over which Bertram Brooke the Tuan Muda (who had always acted as Sarawak Special Commissioner in England) presided.

18 BY letter of 19 June 1944 the Colonial Secretary had made a proposal to the Rajah for reviewing the existing Treaty relationship and for increasing the control of H.M. Government in Sarawak's internal affairs. The Rajah in his reply said :—

"I and my family are Trustees for the State and people of Sarawak, who are well aware that it is not in the position of a 'Colonial Dependency,' so their consent to any step which would tend to approach such a relationship would naturally have to be obtained. It can scarcely be obtained at the present time when, owing to the unavoidable inability of the Protecting Power to preserve them from invasion, they are under alien rule."

19 IN Dec 1944 Anthony Brooke, by arrangement with the Rajah and the Colonial Office, was brought back to England from active service with H.M. Forces in India to take part in discussions which the Colonial Office wished to initiate with a view to clarifying the post-war relationship between Sarawak and H.M. Government. The Tuan Muda for reasons of health retired from active administration and

Anthony Brooke who had been restored in the title of Rajah Muda (previously conferred and withdrawn) became head of the Sarawak Government Commission which was reconstructed by the Rajah as a Provisional Government. The actual members were :—

H. D. Aplin, Retired Sarawak Civil Servant
T. Corson, Sarawak Civil Servant
F. H. Pollard, Sarawak Civil Servant
J. A. Smith, Chief Clerk, Sarawak Govt. Office, London
J. C. Swayne, Retired Sarawak Civil Servant

20 ANTHONY BROOKE on 28 Feb 1945 with the unanimous support of his colleagues wrote to the Colonial Secretary that while he and his colleagues would at all times be very glad, as representing the people of Sarawak, to discuss with the Secretary of State any matters of common interest "it would be morally indefensible for the Provisional Government to prejudice the post-war relations of the Government of Sarawak and H.M. Government by entering at this time into discussions inconsistent with the existing treaty relationship between the two Governments" which should "form the basis of relationship for such discussions as may take place before the people of Sarawak have been liberated and the *status quo* has been duly restored."

21 THE negotiations ultimately broke down on that note ; the Provisional Government would not meet the demand of the Colonial Office for

(*a*) the right to legislate for Sarawak under the Foreign Jurisdiction Act
(*b*) the extension of the authority of the British Representative to give him an effective voice in all substantial matters of policy and administration.

22 THE Colonial Secretary then wrote the Rajah (July 1945) complaining that the representatives of the Provisional Government were "personally unresponsive" to the Government's suggestions. The Rajah at first referred the Colonial Secretary back to the Provisional Government but,

in circumstances which cannot at this stage be established, the Rajah subsequently assumed personal control of Sarawak affairs in place of the Provisional Government (which he abolished). He then wrote Anthony Brooke "I am deeply shocked that you should have adopted such an intransigent attitude in diplomatic negotiations," and told him he might in future neither use the style and title of Rajah Muda nor consider that he had any right of succession. Anthony Brooke in a respectful and explanatory reply disagreed that he could be deprived of his title or debarred from the succession. Contemporaneously Messrs. Corson and Pollard, the two members of the Provisional Government who had been denounced as "personally unresponsive," were compulsorily retired from the Sarawak Civil Service. At some date thereafter, in the autumn of 1945, the Rajah apparently told the Colonial Secretary he desired to cede the State to H.M. The King. The Colonial Secretary answered that such a cession would be acceptable to H.M. Government.

23 ON 6 Feb 1946 the Colonial Secretary, in the House of Commons (Appendix H) said that the Rajah, after this indication had been given to him, had sent his private secretary (Mr. G. T. M. MacBryan) to Sarawak to consult "leading representatives of the people," that their reaction to the cession question had been very favourable as recorded "in letters addressed to him (the Rajah) by the leaders of the Malay and Chinese communities" and in consequence the necessary document was being drawn up and would be presented to the representatives of the people for their agreement upon the Rajah's return to Sarawak towards the end of March. MacBryan had been accompanied by "a high official of the Colonial Office" as observer. The Colonial Secretary explained that Sarawak's reserve funds amounted to £2,750,000, that, with the concurrence of the people who had been consulted, these would be handed over with the territory but £1,000,000 would be set aside for a trust fund to provide in the first place, during their lifetimes, for the Rajah and his dependants and certain local functionaries on a scale similar to that on which provision for

them had been made before the Japanese invasion. Thereafter the income would be for social measures to benefit the people of the territory.

24 ON 6 Feb 1946 the Rajah also issued a "Message" to his people :—

> ". . . It is the case in SARAWAK that all authority derives from THE RAJAH. The people trust the RAJAH and what the RAJAH advises for the people is the will of the people. I am the spokesman of the people's will. No other than myself has right to speak on your behalf. No one of you will question whatsoe'er I do in his high interest. No power nor personal interest shall subvert my peoples' happiness and future. The happiness of your future lies within another realm. There shall be no RAJAH of SARAWAK after me. My people will become the subjects of THE KING. . . .
>
> THIS IS FOR YOUR GOOD MY ROYAL COMMAND."

25 ALTHOUGH, under the Political Will of his father, the Rajah was under an obligation to consult the Tuan Muda on any important matter affecting the government of Sarawak, in fact the Tuan Muda was not consulted at all about the proposed cession and first heard of it in a B.B.C. broadcast concerning the Colonial Secretary's Statement of 6 Feb 1946 in the House of Commons.

26 ON 27 March 1946 the Colonial Secretary in the House (Appendix J) said he was arranging for two M.Ps., Capt. Gammans and Col. Rees-Williams, to visit Sarawak "for the purpose of confirming by independent enquiry that the Rajah's proposal for the cession of the territory to His Majesty was broadly acceptable to the native communities." If they were so satisfied (he said) "there would seem to be no reason for delaying the submission to the Sarawak Councils of the legislation authorising cession."

27 AT first the Colonial Secretary refused to afford facilities for the Tuan Muda, who wished to visit Sarawak for the purpose of expressing his views to the Councils ; the attitude

taken by the Colonial Secretary was that this was a matter for the Rajah. The Rajah refused permission for the journey. Under pressure, however, on 2 April 1946 consent was finally given on the condition that the Tuan Muda was prepared to accept the Council's decision on cession (Appendix K) and the Tuan Muda flew out to Sarawak with three companions, Mr. F. H. Pollard, Mr. J. R. Combe (both ex-Sarawak Civil Servants) and Sir Theodore Adams, former British Resident of Selangor, Malaya.

28 THE terms of the documents in which the leaders of the Malay and Chinese communities were said by the Colonial Secretary to have recorded their "favourable reaction to the cession proposal" have, it is believed, not been published. According to a statement made by Mr. MacBryan to the Press, the translated text read :—

> "We hereby affirm and declare our complete confidence in the judgment and sagacity of your Highness and our unreserved support for whatever measures your Highness determines to pursue since we know full well that the paramount interest of your Highness is the welfare of all the people of all the races dwelling in Sarawak."

29 DATU PATINGGI (the oldest Malay Chief in Sarawak) gave an account of this in a letter which he wrote to the President of the Malay Union, Sarawak (10 Feb. 1946). He said :—

> ". . . as regards the document to which the members of the Supreme Council appended their signatures as far as I know it contained a request that the Rajah should return to Sarawak in accordance with Mr. MacBryan's statement. If I refused to sign the Rajah would certainly not return ; this was the reason I appended my signature. On 8 Feb I was startled and dismayed to read in a message from the Rajah dated 6 Feb that the Members of the Supreme Council had agreed with him that the country should be ceded to the King. I never suspected this could happen and it never crossed my mind in view of what MacBryan had said to me which I have mentioned above."

30 ON 4 January 1946 Datu Patinggi had addressed the following letter, which he says was never answered, to Lt.-Col. C. E. Gascoigne of the British Borneo Civil Affairs Unit, Kuching,

"I respectfully wish to bring to the notice of the Government a certain matter which is causing me some concern.

On 1 January 1946 Mr. G. T. M. MacBryan, H.H. the Rajah's private secretary, unexpectedly visited my house bringing with him a document signed by the Rajah ordering me to carry out whatever may be the wishes of Mr. MacBryan. On his arrival he ordered me to sign a letter which he brought with him, the contents of which were not clear and I would not therefore agree to sign it. At the same time he told me not to mention the matter to any European.

On 2 January Datu Amar and Datu Mentri, accompanied by Abang Mohamed Daim came to coax me to sign and they also intimidated me.

Because I fear that this matter may bring danger to me I sincerely hope the Government will enquire into what is behind Mr. MacBryan's visit and advise me, at the earliest possible opportunity, what I should do.

On Monday 7 January it has been arranged on Mr. MacBryan's orders that I should sign the letter at my house with Datu Amar, Datu Mentri and Datu Pahlawan, and I write this to let you know the position, and I hope you will inform Lt.-Col. Ditmas also."

Lt.-Col. Ditmas was an administrative Officer of the Sarawak Civil Service at that time attached to the British Military Administration.

31 IT transpired that Datu Patinggi, a life member of the Council Negri and Supreme Council, received at that time from MacBryan what he says MacBryan described as a "gift" of $12,000; that three other life members, Datu Mentri, Datu Hakim and Datu Amar similarly received $10,000 each, and that Datu Pahlawan (Assistant Commissioner of Police) who had been appointed to the Council Negri and Supreme Council in September 1941 for three years also had $10,000. Datu Patinggi, in another letter to the Malay

Union, Sarawak (12 Feb 1946) mentions the foregoing payments and adds that MacBryan also gave $2,000 to Haji Nawawi (another life member of the Council Negri) who witnessed the signatures. The letter read:—

> "The money I receive from Mr. MacBryan I forthwith handed over to the B.B.C.A.U. as I regarded the money as a bribe."

32 DATU PATINGGI in fact at once turned his $12,000 over to the British Administration with an explanatory letter. The other four informed the Tuan Muda, in answer to his subsequent enquiry, that the money they received was assistance from the Rajah on account of the hardships they suffered under Japanese occupation. The Rajah subsequently, in a Press interview, denied that these payments were bribes and said they "represented the annual allowances due to the chiefs since the Japanese occupation."

It is to be observed that no other Asiatic members of the Service have received allowances of this character, that the Sarawak Treasury has indicated to claimants that there is no intention of paying any persons other than those who were interned during the occupation, and that it is difficult to conceive any reason why these payments were made in a private house and not, as is usual, through the Treasury.

33 THERE was at this period no properly constituted Council Negri or Supreme Council existing in Sarawak, most of the memberships (which, as already said, are for three years only) having expired long before, and no re-appointments having been made. Nevertheless, it transpires that during MacBryan's visit, what purported to be meetings of those two Councils were held (that is to say, meetings of the recipients of the payments mentioned above—the other available life-members, some dozen in all, do not seem to have been invited), and Orders were passed *repealing the 1941 Constitution* and "to vest in . . . the Rajah absolutely all those powers and prerogatives of sovereignty exercised by the Rajah-in-Council . . ."

It is understood that the Colonial Office representative, who went out from England with MacBryan, was present

at these irregular proceedings ; irregular in a double sense because the sole legislative power in Sarawak was at that period vested in the British Military Administration then in control of the State.

34 IT is not known when the Colonial Office first realised that these Orders were null and void, but by Orders No. 56 and 63 (Appendix L) the Council Negri and Supreme Council (properly re-established) " for the removal of doubts " declared that the abortive Orders above mentioned should " cease to have any effect ".

35 WITH regard to the re-establishment of the two Councils, it is understood that Mr. Aikman, Resident-elect of the 3rd Division, and who therefore should have been *ex-officio* member of the Council Negri and who was in Australia after internment, wrote the Sarawak Government Office, London, opposing any increase of H.M. Government's influence in Sarawak's affairs. He was instructed by cable not to report back in Sarawak before the end of May (that is to say, not until the Councils would have voted on the cession proposals).

On the other hand, Mr. Field, a Sarawak Customs officer also in Australia after release from internment (not a member of the Councils), received a cable contemporaneously instructing him to report for duty by the end of April.

36 THE fact that the two senior Sarawak Civil Servants already mentioned, Corson and Pollard (the latter an *ex-officio* member of the Council Negri), who were known to be opposed to cession, had been placed on the retired list by the Rajah, although neither of them had reached the age when they could be required to retire was, it is contended, calculated to dissuade and intimidate other Civil Servant members of the Council Negri from voting against the Rajah's wishes and in favour of what they might conscientiously believe to be the wish of the people.

Outstation members of that Council were interviewed by the Chief Secretary on their arrival in Kuching for the

Council Meeting and were told that they were expected to vote in favour of the Bill.

37 THE TUAN MUDA and his party satisfied themselves on arrival in Sarawak that a great part of the population was originally under the impression that cession had been accomplished and that it had taken place with the full agreement of the Tuan Muda and his son.

The Malay and Dayak versions of the proclamation issued by the Rajah on 6 Feb 1946, gave this impression and certainly one Resident had believed that cession was concluded. It is perhaps noteworthy that this Proclamation was issued after the alleged but abortive Council Negri meeting, which, had it been legal, would have vested full powers in the Rajah to sign a cession instrument.

Mr. Philip Jitam and Mr. Edward Jerah, two Dayak members of the Council, had no doubt that the Tuan Muda was in full agreement with cession and, on discovering from him that he had not even been informed beforehand of the intention to cede, they became ardent antagonists of the proposal.

It was also apparent that the Rajah's statement that he was retaining use of the Astana, his official residence, and would visit Sarawak regularly "as before" misled a large number of up-country Dayaks, who assumed that cession would effect no change at all. The Colonial Office pointed out to a Dayak enquirer during the Victory Celebrations in London, that "the people of Sarawak still have their Rajah," whereas in truth they will only have, during the lifetime of Sir Charles Vyner Brooke, an individual with that title but no power.

38 CAPTAIN GAMMANS wrote while in Sarawak an article which appeared in the "Sunday Times" on 2 June 1946 (Appendix M). In it he said :—

> "My Parliamentary colleague, Lieutenant-Colonel D. Rees-Williams, and I were asked to go to Sarawak to find out to what extent the native peoples were in favour of cession. We could both speak Malay.
>
> There are no recognized organs of public opinion as in Great Britain. The population of Dyaks, Malays,

Chinese and various pagan tribes, is largely illiterate in the ordinary sense of the word, and their interests, to some extent, clash. The only faintly representative body, the Council Negri, formed in 1941, held only one meeting before the country was overrun by the Japanese. Its members are nominated by the Rajah, and the majority Dyak community is inadequately represented as compared with the Malays. A number of European Government servants are also members.

And :—

"The vast majority of the representatives who met us were quite incapable of understanding the virtues or otherwise of British colonial rule. To them it was the simple issue of being ruled by the King of England, whom they did not know, or by their own Rajah.

The only people who favoured cession for its own sake were most of the Chinese, who obviously felt that British rule would lead to more trade, and probably, if what has happened recently in Malaya is any criterion, to ultimate political domination."

39 IT is the view of the Tuan Muda, Mr. Pollard, Mr. Combe and Sir Theodore Adams that the conduct of business at the Council meetings voting on cession was most reprehensible. The Chief Secretary, Mr. Archer, who presided, made three speeches and passionately urged everyone to vote for cession, saying it was the Rajah's wish and that without it (in a financial sense) Sarawak would be "sunk", that it was bankrupt and could not raise a loan. When someone asked if there had been any attempt to raise a loan, the Treasurer replied that he had no comment to make. [Enquiries indicate that, in view of Sarawak's sound economic resources (there are reserves of 2¾ millions sterling), there would be no difficulty in finding financial backing.] He also said that he had the authority of the Secretary of State for saying that neither "adat lama" nor "undang-undang" would be altered in the slightest degree. The literal translation of these expressions ("old custom" and "law") does not adequately convey their full meaning and it may confidently be stated that, at least to a Dayak,

any sort of change would be regarded as a change from either "adat lama" or "undang-undang".

The relevant facts were not put before the members, they were just begged to vote—in most cases in ignorance—to please the Rajah. The English, Malay and Dayak tongues were used. Mr. F. H. Pollard, in a letter to "The Times" (2 July 1946), said :—

> "I was present at the Council Negri Meeting and can state categorically that, although speeches were made in all three languages, none of the speeches of the English members was translated into Dayak or—except for some isolated sentences in the President's final exhortation—into Malay.
>
> Not one word of the most impressive speech of all, that of the Rev. P. Howes, who opposed cession, was translated into either. The President said in English and Malay that the country, in a financial sense, was "sunk." Asked in English whether there had been any attempt to obtain a loan, the reply, given by the Treasurer in English, was 'I have no comment to make.' Neither the question nor the answer was translated.
>
> No official interpretation was provided, though speeches were being made in three languages. Except to the comparatively few trilingual persons present, the proceedings must have been largely incomprehensible. For instance, when it was asked in English whether it was to be understood that the British Government had in effect said to the Sarawak Government, 'No cession, no loan,' the question was never translated and no reply was given."

The Cession Bill was seconded by a Dayak member, Mr. Philip Jitam, already mentioned, but on learning that the Tuan Muda had not been consulted about the cession proposal, he spoke with deep emotion condemning the Bill and cast his vote against it.

40 THE relationship between the people of Sarawak and their ruler is such, and their trust in him is so implicit, that their natural instinct is to accept and applaud anything he proposes for them. In this particular instance, in view of the circumstances already mentioned, the intimidation or fear

of losing the Rajah's goodwill, the financial benefits bestowed upon five of the members and the manner in which the members were misled and subjected to misrepresentation, it might have been expected that the Rajah's wishes would have been accepted with unanimity. Time did not allow the comparatively new Malay and Dayak Unions, who were fully alive to the issue, to educate the native communities to a true realization of the problem. The Tuan Muda conceived it would be improper for him or any member of his party to indulge in any form of propaganda or to do anything more than answer questions addressed to them. Nevertheless, and in spite of the strong pressure exercised upon them, the native members of the Council outvoted the cession proposal by 12 votes to 9.

In view of the apparent anxiety of the Colonial Office to be satisfied that the cession proposal was " broadly acceptable to the native communities " one would have thought that this majority against the cession would have been accepted as conclusive. But the white members of the Council, mostly Civil Servants dependent upon the Sarawak Government for their posts were allowed to vote and in so doing they over-rode the wishes of the Native communities and produced in favour of cession a majority of 3. The Colonial Office representative thought this sufficient to justify or at least excuse completion of the Cession instrument.

It would seem that the publicity given to the transaction has gradually enlightened the Native communities to the fact that the Brooke Raj has been extinguished. Although the Natives of Sarawak are not acquainted with western methods, parades and demonstrations, to give public expression to their feelings, there is no doubt that these feelings exist. Whatever may be the end of this transaction whereby Great Britain has brought half a million subjects under the British Flag, it is indisputable that the vast majority of that half million will bitterly resent the loss of the Raj and the way in which that loss was brought about.

APPENDIX A

THE LAST WILL AND TESTAMENT OF SIR JAMES BROOKE, K.C.B.

FIRST RAJAH OF SARAWAK

I JAMES BROOKE Rajah of Sarawak of Burrator in the County of Devon give devise and bequeath all that my Sovereignty of Sarawak aforesaid and all the rights and privileges whatsoever thereto belonging unto my Nephew Charles Johnson Brooke Tuan Muda of Sarawak Son of The Reverend Francis Charles Johnson and the heirs male of his Body lawfully issuing and in default of such issue unto my Nephew Stuart Johnson another son of the said Francis Charles Johnson and the heirs male of his Body lawfully issuing and in default of such issue I give devise and bequeath the said Sovereignty and Rights and privileges unto Her Majesty the Queen of England her heirs and assigns for ever And I appoint Miss Angela Georgina Burdett Coutts of Stratton Street Piccadilly and Thomas Fairbairn of the City of Manchester Esquire and John Abel Smith of Chester Square in the County of Middlesex Esquire M.P. Trustees of this my Will to see the purposes aforesaid carried into effect. I bequeath to my said Nephew Charles Johnson Brooke his heirs executors and administrators all my real and personal Estate in the Island of Borneo and England and constitute him likewise my Residuary Legatee and I require him to pay at his earliest convenience from the debt due to me by the State of Sarawak the sums hereinafter mentioned and bequeathed by me To Arthur Crookshank £2,000 And I bequeath to my son George Brooke his wife Eliza Brooke and their children from my property which may remain in England and from the debt which is due to me by the State of Sarawak the sum of £5,000 free of Legacy Duty to be reinvested in trust for their joint benefit and until my Nephew Charles Johnson Brooke can realize the necessary money to make up the sum of £5,000 I desire that he will pay to my Executors yearly a sufficient sum to raise the income of my son George to £250 a year And I desire

that my Nephew Charles Johnson Brooke will furnish to my Executors from the debt due to me by the State of Sarawak sufficient money to purchase annuities of £52 a year each free of Legacy duty for John Sauls of Burrator John William Moy of Sarawak William Froom of Burrator and William Read of Burrator and until my Nephew Charles Johnson Brooke can realize the necessary money he will pay to each of them the sum of £52 a year and I bequeath to Mary Sauls and Jane Greening one years wages as a token of goodwill to be paid to them free of Legacy Duty I desire also that Messieurs Blackwood and Gordon of Glasgow should be paid for the Steamer at present building by them from the balance in my favour now at Messieurs Coutts & Company and that the management of the Vessel should be left to Mr. Arthur Crookshank and Messieurs Compton and Reid and I leave all my papers to the care of Spenser St. John Esquire H.B.M. Chargé d'affaires at Hayti whom I appoint as one of my Executors together with Alexander Knox Esquire of 91 Victoria Street Westminster and John Gillam Booty and Richard Butt of Raymond Buildings Grays Inn Solicitors In Witness whereof I the said James Brooke have hereunto set my hand this 15th day of April 1867.....J. Brooke.....
Signed by the said James Brooke the Testator as and for his last Will and Testament in the presence of us who in his presence at his request and in the presence of each other all being present at the same time have hereunto subscribed our names as Witnesses. Robert Beith M.D. Deputy Inspector General Royal Naval Hospital Plymouth William Pollard Surgeon Torquay.

APPENDIX B

Title

AGREEMENT between HER MAJESTY'S GOVERNMENT and CHARLES BROOKE, SECOND RAJAH OF SARAWAK

Preamble.

WHEREAS CHARLES BROOKE Esquire Rajah and lawful Ruler of the State of Sarawak, in the island of Borneo, has represented to Her Majesty's Government the desire of that State to be placed under the protection of Her Majesty the Queen under the conditions hereinafter mentioned; it is hereby agreed and declared as follows :—

Article 1.

Sarawak to be an independent Protected State.

The State of Sarawak shall continue to be governed and administered by the said Rajah Brooke and his successors as an independent State under the protection of Great Britain but such protection shall confer no right on Her Majesty's Government to interfere with the internal administration of that State further than is herein provided.

Article 2.

Question of succession.

In case any question should hereafter arise respecting the right of succession to the present or any future Ruler of Sarawak, such question shall be referred to Her Majesty's Government for decision.

Article 3.

Relations with Foreign States.

The relations between the State of Sarawak and all foreign States including the States of Brunei and North Borneo shall be conducted by Her Majesty's Government or in accordance with its directions; and if any difference should arise between the Government of Sarawak and that of any other State, the Government of Sarawak agrees to abide by the decision of Her

Majesty's Government and to take all necessary measures to give effect thereto.

Article 4.

British Consular Officers.

Her Majesty's Government shall have the right to establish British Consular Officers in any part of the State of Sarawak who shall receive exequaturs in the name of the Government of Sarawak. They shall enjoy whatever privileges are usually granted to Consular Officers and shall be entitled to hoist the British flag over their residences and public offices.

Article 5.

National and most favoured nation treatment.

British subjects commerce and shipping shall enjoy the same rights privileges and advantages as the subjects commerce and shipping of the most favoured nation, as well as any other rights, privileges and advantages which may be enjoyed by the subjects commerce and shipping of the State of Sarawak.

Article 6.

Alienation of territory.

No cession or other alienation of any part of the territory of the State of Sarawak shall be made by the Rajah or his successors to any foreign State or the subjects or citizens thereof, without the consent of Her Majesty's Government but this restriction shall not apply to ordinary grants or leases of lands or houses to private individuals for purposes of residence, agriculture, commerce, or other business.

Given under my hand and seal this 14th day of June in the year Eighteen hundred and eighty-eight.

Seal. (*Signed*) C. BROOKE, Rajah.

Seal. (*Signed*) SALISBURY.

5 September 1888.

APPENDIX C

THE LAST WILL AND TESTAMENT OF SIR CHARLES BROOKE,

SECOND RAJAH OF SARAWAK

THIS IS THE LAST WILL AND TESTAMENT of me CHARLES BROOKE Rajah of Sarawak in the Island of Borneo respecting the State of Sarawak and the public and political affairs thereof.

For very many years I have been Rajah of Sarawak, an independent sovereign recognized as such by H.B.M. Government and the Governments of the Powers, bound only by a treaty into which I entered some years ago with the Government of Her late Majesty Queen Victoria by which the State of Sarawak became and still remains a British Protectorate although that treaty does not in any way affect my status as an independent sovereign nor authorize the British Government to control or interfere in the internal affairs of the State.

Apart from that sovereignty I am in my private or individual capacity possessed of certain property in England and also of certain property in Sarawak. And by a Will in English form made in the year 1903 with certain Codicils I disposed of that private property and added in that Will the expression of my views and wishes with respect to the succession to the Sovereignty of Sarawak and the Policy and government of that State after my death and in that Will and its Codicils I directed certain payments to be made out of the revenues of the said State. But now after giving the matter careful consideration I have come to the conclusion that it is not desirable that the disposition of my own private property and the expression of my views and directions with respect to the State of Sarawak and its public and political affairs should be contained in the same document or set of documents. And accordingly by a Will in English form bearing the same date that this document bears but executed immediately before it I have revoked the Will I made in the year 1903 and all its Codicils and

all other testamentary dispositions made by me (whether relating to my own private property or to the State of Sarawak or the public or political affairs of that State) and by my new Will have disposed of my own private property but have not expressed any views or directions as to the State of Sarawak or the public or political affairs of that State all of which are intended to be contained and set out in this present testament.

NOW THEREFORE I DECLARE that this present document or testament shall be deemed and taken to be the final statement of my Will with respect to the State of Sarawak and the succession to the sovereignty of that State and its policy government and revenues after my death and generally with respect to the public and political affairs of Sarawak and I desire that what I now say shall supersede all former expression of my views and wishes with respect to any of those matters AND FURTHER I say that nothing in this document shall be read as disposing of my own private property or any part of it (whether in England or in Sarawak or elsewhere) or as entitling or requiring this testament to be admitted to probate in England but always reserving to myself full power hereafter to revoke alter vary or modify this testament.

1. It is my urgent hope and direction that my successors in the Raj will to the best of their power uphold the dignity of Rajah of Sarawak never forgetting the very grave responsibility which that position entails and will ever bear in mind that the essence and well-being of Sarawak rule depends on the proper amalgamation of Native and European Communities and that the former ought always to be fully represented in the Councils or other Public assemblies as on this properly arranged amalgamation the stability of the State of Sarawak depends.

I urge that the policy and methods of government of Sarawak as hitherto carried out by the first British born Rajah and myself may not be departed from after my death. I cannot help feeling anxiety lest the attractions of Europe may prove too strong a temptation for my successors who may not be prepared to give up the luxury of life in the West in order to live in the East and devote their lives and energies to the good of an Eastern people. If that should prove to be the case the future of Sarawak after my life is over will remain unstable and uncertain. Therefore I wish to impress upon each and everyone of my successors the

necessity of establishing himself in Sarawak immediately after his accession and of taking up life there and carrying on the Government of the Country on the lines laid down and followed by my predecessor and myself and of not allowing Western attractions to separate his mind from the inhabitants and the interests of the State. Let him devote himself to the duties of the Government let him consult and employ his brothers and other members of our family and the tried and faithful servants of the State to aid and assist him in his task and let him keep the Sarawak State Advisory Council in England together as a substantial support to his unique position and great inheritance the duties of which he is in honour bound to fulfil to the best of his ability. Then he may call himself a true Rajah of the Country. Otherwise he will never make a Rajah of an Eastern people of the same type as his predecessors. Unless my successors are prepared to live and govern on the lines above laid down I should wish the Sarawak flag to be hauled down for good and all and the era of the British-born Rajahs of Sarawak to be brought to an end.

In order to do his duty properly and effectually it is necessary that the Rajah should spend at least eight months of each year in Sarawak at his post unless his health or other unexpected difficulties or old age prevent. As Rajah he should be the slave of his country and people. Otherwise the Raj will merely be a form, a display, a title to be kept up in society in England and not a reality. The Rajahs of Sarawak should have but one home and that Sarawak. As the first Rajah used to say to me "The head can not be long separate from the heart." I am positive that my predecessor during his many years of devotion to the cause of the natives of Borneo and his desire to found a stable country and Government for them in Sarawak never entertained the idea of thereby founding a family of Brookes to be European millionaires. Those who worked for Sarawak and assisted his cause were worthy of reward but all others however closely related had no right to expect to be made rich at the expense of Sarawak. I think it is right that the State should make provision in a moderate and reasonable degree for the family and dependents of the Rajah but even that only to such an extent as may be decided upon by the reigning Rajah and now with the additional approval and consent of the members of the Sarawak State Advisory Council in England. I have never sought to store nor did my predecessor

ever store a farthing towards any fund for our private purposes. Such riches as the country produces ought to be and have hitherto been applied solely for the good of Sarawak and for the pensioning off of Officers who have been in the service of the Country. It must be clearly understood and recognized that the State of Sarawak is not private property and that it does not in any way belong to a Company of shareholders or speculators.

With regard to pensions I have for many years past had considerable anxiety as to the future payment of pensions to the European staff of Officers my faithful followers who have worked and are working and may hereafter work under me or my successors in the Government of Sarawak as I consider the pensions and pay of those Officers should be the Rajah's first consideration in consequence of their devotion to their duties. I have consequently been year by year saving from the revenues for this purpose and there is now a fund of about £100,000 which it is my wish and intention to increase to at least £150,000 invested in the names of two Trustees both members of the Sarawak State Advisory Council in England and held by them under a separate trust deed and the income derived from this source will in future be a guarantee and safeguard against any Officer failing to get his well earned pension. It has been a great satisfaction to me to see this arrangement completed before my death especially as the collection of the fund has not checked the material development of the State.

The State property is in a flourishing condition. The Country is well supplied with public works and buildings comprizing a dry dock, a Museum, which is considered one of the best in the East, Government Offices, a Chinese Court House, two large Hospitals, a lay School, Village Schools for native instruction, a Fortress and Barracks for the drilled and uniformed force of 500 strong composed of Malays Dyaks and Indians under a European Commandant and Instructor, powder magazine, dwelling houses for officers, police quarters, public bath houses, recreation grounds, metalled roads and a water supply led from a Mountain ten miles distant with pipes leading to the Bazaars and dwelling houses and to some of the more important native villages. Along the Coast of over 356 miles are Outstation Settlements under the Charge of European and Native Officers all supplied with the necessary buildings and armaments and police. There are six steam Vessels belonging

to the Government of from 50 to 300 tons employed in Government service. It should be the first care of my successors after making due provision for salaries and pensions to continue the regular development of the material resources of the State and to promote to the utmost of their power the prosperity and happiness and the moral and material welfare of the inhabitants.

The policy hitherto pursued has made the people happy and contented and has fostered an excellent spirit of sympathy and goodwill between the Government and the governed.

The danger which I apprehend is lest in the future too much money may be spent out of the Country and too much time and attention may be devoted to matters unconnected with its prosperity and well being. In that case the sympathy and good feeling heretofore existing will soon be at an end.

The State is free from debt. My motto has always been to keep out of debt and I recommend my successors to follow my example.

In giving the directions which follow I have endeavoured on the one hand to make proper and adequate provision for my family, friends and dependents and on the other hand to avoid placing too heavy a burden on the State Revenues.

My own private property is small but the material progress of Sarawak during the last few years has been very great and after taking all the circumstances into consideration I am satisfied that the revenues of the State can well and easily bear the charges which I propose to put upon them. Therefore I hold it due to me and to my services to Sarawak for close upon sixty years that the State of Sarawak should assume bear and pay (in addition to the pensions payable to retired Officers of the Sarawak Service and other pensions or allowances latterly paid by its Treasury) the several pensions annuities and sums of money hereinafter directed to be paid to the members of my family and my relations, faithful friends and dependents.

2. In confirmation of the will of my predecessor I GIVE DEVISE AND BEQUEATH my sovereignty of Sarawak and all the rights and privileges thereto belonging in manner following (that is to say) Unto my eldest Son Vyner and the heirs male of his body with remainder to my second son Bertram and the Heirs male of his body with remainder to my third son Harry and the heirs male of his body with remainder to the son of my late

younger brother Stuart and the heirs male of his body with remainder to H.M. the King of England.

[*Here follow directions relating to bequests and legacies*]

16. And finally for the better administration of the Government and affairs of the country which covers so large an extent and considering that two heads are better than one to weigh the business that will come before the Rulers of Sarawak also being fully aware that my eldest son Vyner and his wife will be unable to spend so much of their time in Sarawak as I have done I hereby having regard to the above consideration appoint my second son Bertram to hold a position of authority in the Raj second only to that of my eldest Son Vyner and I direct that my Son Bertram shall carry out the duties of Rajah and administer the Government of the State during such times as my son Vyner may be in England or absent from Sarawak and that my Son Bertram shall hold the position of Vice-President in the Supreme Council and other Councils in Sarawak and be President of the Advisory Council in Westminster when he is not in Sarawak and that during his absence in Sarawak the member of the Advisory Council Senior in point of view of his previous service in Sarawak shall replace my Son Bertram as President of that Council. I furthermore urgently enjoin that no material developments or changes in the State or in the Government thereof and no new works such as public works and buildings estates railways or waterways and other extensions that may from time to time be required shall be initiated by my Son Vyner without first consulting my Son Bertram. I also direct that my son Bertram shall at all times when residing in Sarawak have free admittance to and use of the Astana with its table and other furniture and it is my wish that the Government European and Native Officers as well as the inhabitants shall pay him the same respect as is shown to his eldest brother. I raise my second son to this position hoping that he will by his extended experience be an additional safeguard against adventurers and speculators who would desire to make profits out of the country without regard to its real welfare. And I fervently hope that my two sons will see the necessity of acting together to keep intact and develop the resources of the country which has been brought to its present state by myself and my faithful followers after so many years of devotion to it. The two

together I am persuaded will have the necessary power to carry out the object in view and it is my firm belief that it will require both of them working hand and heart together to keep the edifice on a firm base more especially in these times when eager speculators are always seeking for some new place to exploit in a money making sense when the white man comes to the fore and the dark coloured is thrust to the wall and when capital rules and justice ceases, whereas the main consideration should be an honest and upright protection afforded to all races alike and particularly to the weaker ones. I furthermore direct that on my death and when my successor is proclaimed my second son Bertram shall by the Supreme Council in Sarawak be given the title of Tuan Besar and thenceforth shall be known by that title. With these my last wishes I bid my two sons Adieu and may they both prosper.

Given under my hand and seal this 16th day of December 1913.

(*Signed*) CHARLES BROOKE (LS), Rajah.

APPENDIX D

ACCESSION OATH OF SIR CHARLES VYNER BROOKE, *THIRD RAJAH OF SARAWAK*

(*Extracts from report in "Sarawak Gazette" of 1st August* 1918.)

His Highness then stepping down from the dais took the Oath of Accession thus :—

"Kita Vyner Brooke pada masa ini bersumpah diatas Bible mandirikan serta menerangkan dengan betul pasal pasal yang demikian."

Pasal yang pertama.

"Kita berjanji mengaku agama Islam serta dengan adatkan hukum yang tersebut pada agama itu."

Pasal yang kadua.

"Kita berjanji seperti hukum dan adat diatas orang Malayu buleh seperti yang sudah diletakan Parentah selama ini. Maka jikalau mengganti atau mengobah itulah serta pikiran dan partimbangan daripada Tuan Tuan yang dudok didalam Council Negri."

Pasal yang katiga.

"Kita berjanji mana-mana pergantian kita yang menjadi Rajah Sarawak maka sahingga buleh mengikut pasal-pasal yang tersebut didalam Wasihat Rajah Sir Charles Brooke."

.....

.....

"Maka menurutkan mengambil sumpah dan mengikut seperti adat Negri yang seperti maksud almarhom ayanda kita."

The translation of which is :—

"WE, VYNER BROOKE, herewith take oath upon the Bible to establish clearly and honourably our attitude concerning the matter set forth in the following Articles :—

Article 1.

" We undertake to acknowledge and support the religion of Islam together with the laws and customs pertaining to that religion."

Article 2.

" We undertake that such laws and customs as affect the Malay race shall follow the principles laid down by this Government in the past. And no question of any change or alteration shall be entertained except such as may be in accordance with the opinions and deliberations of the members of the Council Negri."

Article 3.

" We undertake on behalf of ourselves and of our successors as Rajahs of Sarawak to abide by the conditions expressed in the Will of Rajah Sir Charles Brooke."

.....

.....

" And we swear to obey and to carry out the wishes of the late Ruler, our honoured Father, as forming the Constitution of this State."

APPENDIX E

AGREEMENT made this thirty-first day of March one thousand nine hundred and forty-one between SIR CHARLES VYNER BROOKE, G.C.M.G., RAJAH OF SARAWAK (hereinafter referred to as His Highness) of the one part and JOHN BEVILLE ARCHER, CYRIL DRUMMOND LE GROS CLARK, THOMAS CORSON, JAMES GORDON ANDERSON, CECIL PITT-HARDACRE, the members for the time being of His Highness's Committee of Administration (hereinafter referred to as the Committee) of the other part WHEREBY IT IS AGREED AS FOLLOWS :

1. In consideration of His Highness enacting an Order (a copy of which is annexed to this Agreement and marked "A") to provide for the transfer of certain legislative powers from Himself to the Chief Secretary, in the capacity of Officer Administering the Government, as advised from time to time by the Committee, the Committee hereby promises and undertakes :—

(1) To do everything in its power or in the power of its individual members to facilitate the payment to His Highness of the sum of two hundred thousand pounds (£200,000) in cash from the funds of the Sarawak Government, such payment to be made on or before the fifteenth day of April nineteen hundred and forty-one.

(2) To write off the loan of thirty-two thousand dollars ($32,000) advanced to His Highness for the purchase of His Highness's house at Cameron Highlands.

(3) To include in the proposed Constitutional Reforms provisions adequate to safeguard absolutely for the remainder of His Highness's lifetime :—

(a) The payment of the sum of sixty thousand dollars ($60,000) a year to His Highness for the upkeep and maintenance of the Astana ;

(b) The payment of the sum of twenty-one thousand dollars ($21,000) a year to His Highness for charitable disbursements, which sum His Highness is entitled to expend at His absolute discretion ;

(c) The payment of the sum of seven thousand dollars ($7,000) a month to His Highness by way of personal emoluments ;

(d) The payment annually to His Highness of the net income received from the Sarawak Advisory Council Trust Fund ;

(e) The right of His Highness to sole and undisputed possession and use of the Astana and its grounds ;

(f) The right of His Highness to sole and undisputed possession and use of His Highness's Motor Yacht "Maimuna" ;

(g) The right of His Highness to confer titles and award decorations at His Highness's absolute will and discretion ;

(h) The right of His Highness to visit any part of Sarawak at His Highness's absolute will and discretion and to exercise His customary prerogatives in accordance with the advice of His responsible advisers ;

(i) The vesting in His Highness in his personal capacity with full rights of transfer and devise of all His Highness's personal lands in Sarawak, including "Bedil House" and grounds ;

(j) The right of His Highness to confer or to refuse to confer titles on members of His Highness's family ;

(k) The maintenance of the present annual payments to members of His Highness's family ;

(l) The maintenance of the pay of the Datus now holding office in accordance with the scale approved by His Highness.

(4) To do everything in its power or in the power of its individual members to ensure that the proposed Constitutional Reforms are carried through with proper respect and regard for His Highness's personal position, to make it clearly understood throughout the State that the reforms are inaugurated in commemoration of the Centenary of the rule of His Highness's family in Sarawak, and to secure adequate native representation in any legislative body that may be set up.

(5) To guarantee that any person to whom His Highness has given permission in writing to reside in Sarawak shall continue to be permitted to reside there for so long as he does not commit an offence against the criminal law or engage in subversive activities.

(6) To refrain, until the enactment of the Constitutional Reforms, from increasing the number of members of the Committee of Administration above the number at the time of the signing of this Agreement.

(7) In the event of the death of His Highness the Tuan Muda before the enactment of the Constitutional Reforms, to appoint, after due consideration and circumspection, an heir to His Highness's throne.

(8) On His Highness's death to assume responsibility for the payment of all pensions granted by His Highness to Asiatics and debited to the Astana account not exceeding the sum of five thousand dollars ($5,000) a year.

(9) To honour any written contracts entered into between His Highness and officers of the Sarawak Government prior to 16th March 1941 and subsisting on the day of the signing of this Agreement.

2. In consideration of the foregoing convenants His Highness expressly promises and undertakes on behalf of Himself and His successors that neither He nor any member of His family has or will have any claim on the funds of the Government of Sarawak other than those claims set out in this Agreement.

In Witness Whereof We Have Hereunto Set Our Hands This Thirty-first Day of March One Thousand Nine Hundred and Forty-one.

Signed by SIR CHARLES VYNER BROOKE, G.C.M.G. (Rajah of Sarawak).

Signed by JOHN BELVILLE ARCHER, CYRIL DRUMMOND LE GROS CLARK, THOMAS CORSON, JAMES GORDON ANDERSON, CECIL PITT-HARDACRE.

APPENDIX F

ORDER No. C-21 (CONSTITUTION) 1941

(*An Order to provide for the future Government of Sarawak.*)

[Enacted 24th September, 1941.]
[Gazette 24th September, 1941.]
[Operation 24th September, 1941.]

WHEREAS IN A PROCLAMATION dated 31 March 1941, We pronounced Our WILL and INTENTION to commemorate this Centenary year of the government of Sarawak by English Rajahs by terminating for ever the Era of Autocratic Rule which has so far characterized OUR GOVERNMENT and by substituting therefor a CONSTITUTION whereby to bind Ourselves and Our Heirs and Successors in such manner as to ensure that Our BELOVED SUBJECTS shall ultimately enjoy their inherent right to control their own lives and destinies.

AND WHEREAS We are profoundly conscious of the responsibilities that are Ours by reason of the possession and enjoyment of Our UNIQUE HERITAGE by virtue of which We have become the TRUSTEE for the time being of the lives, welfare and future of persons of divers races and creeds who are Our Subjects.

AND WHEREAS it appears to Us that the people of Sarawak have not yet attained that sufficient degree of advancement and education which would permit Us, with a proper and conscientious regard for their benefit and interests, to release to them the power of the governance of themselves.

AND WHEREAS, nevertheless, it seems to Us to be now right and proper that a step forward should be taken in the direction of the ultimate goal of the self-government of Our people.

AND WHEREAS We do this day sign this Order which will not only give effect to the aforesaid decision but will inaugurate a CONSTITUTION designed to introduce into Sarawak a system of Government which we are convinced will contribute to the happiness, welfare and prosperity of Our people.

NOW THEREFORE IS IT MEET that we should PRONOUNCE and DECLARE the PRINCIPLES of GOVERNMENT which have actuated Our predecessors and Ourselves during the one hundred years of the rule of the English Rajahs. And We do urge that these same PRINCIPLES which have brought peace and contentment to Our people may serve to guide the MEMBERS of the COUNCILS of STATE who will hereafter be responsible for the good Government of Sarawak.

LET THE CARDINAL PRINCIPLES of the Rule of the English Rajahs as set out hereunder, therefore, ever be remembered :—

(1) That Sarawak is the heritage of Our Subjects and is held in trust by Ourselves for them.

(2) That social and educational services shall be developed and improved and the standard of living of the people of Sarawak shall steadily be raised.

(3) That never shall any person or persons be granted rights inconsistent with those of the people of this Country or be in any way permitted to exploit Our Subjects or those who have sought Our protection and care.

(4) That justice shall be easily obtainable and that the Rajah and every public servant shall be freely accessible to the public.

(5) That freedom of expression, both in speech and writing, shall be permitted and encouraged and that everyone shall be entitled to worship as he pleases.

(6) That public servants shall ever remember that they are but the servants of the people on whose goodwill and co-operation they are entirely dependent.

(7) That so far as may be Our Subjects of whatever race or creed shall be freely and impartially admitted to offices in Our Service, the duties of which they may be qualified by their education, ability and integrity duly to discharge.

(8) That the goal of self-government shall always be kept in mind, that the people of Sarawak shall be entrusted in due course with the governance of themselves, and that continuous efforts shall be made to hasten the reaching of this goal by educating them in the obligations, the responsibilities, and the privileges of citizenship.

(9) That the general policy of Our predecessors and Ourselves whereby the various races of the State have been enabled to live in happiness and harmony together shall be adhered to

by Our successors and Our servants and all who may follow them hereafter.

It is hereby enacted by His Highness the Rajah as follows :—

Short title and commencement.

1. (i) This Order may be cited as Order No. C-21 (Constitution) 1941, and shall come into operation forthwith.

(ii) Order No. C-11 (Committee of Administration) 1936 is repealed.

Repeal.

Definitions.

2. In this Order :—

"member of the Sarawak Civil Service" includes any person of whatsoever race who is employed by the Government of Sarawak upon duty within the State of Sarawak ;

"native of Sarawak" means a subject of the Rajah of any race which is now considered to be indigenous to the State of Sarawak as set out in the First Schedule to this Order ;

"the Rajah" means the sovereign ruler of the State of Sarawak, and includes an officer appointed under the provisions of this Order to administer the Government ;

"the Rajah in Council" means the Rajah acting with the advice and consent of the Supreme Council ;

Where any Government officer is referred to by the title of his office such title includes any person appointed for the time being to act in such office.

Supreme Council.

3. (i) There shall be a Supreme Council composed of not less than five members, a majority of whom shall be members of the Sarawak Civil Service, and a majority of whom shall be members of the Council Negri : Provided that for the purpose of this subsection "Council Negri" includes the Council Negri that was in existence prior to the enactment of this Order.

(ii) The Chief Secretary and the Treasurer of Sarawak shall be members of the Supreme Council ex-officio, and those Sarawak subjects who were members of the Supreme Council immediately

prior to the enactment of this Order shall remain members of the Supreme Council for the remainder of their lives. The other members of the Supreme Council shall be appointed by name by the Rajah.

(iii) Members of the Supreme Council appointed by name shall hold office for a period of three years: Provided that on the expiration of his term of office a member of the Supreme Council may always be reappointed: and Provided further that a member of the Supreme Council who ceases to be a member of the Sarawak Civil Service or who is absent from Sarawak for more than twelve consecutive months shall forthwith cease to be a member of the Supreme Council, notwithstanding that the period for which he was appointed has not expired.

(iv) Nothing in this section shall prevent a member of the Supreme Council, appointed by name, from resigning such membership if he so desires.

(v) Three members of the Supreme Council shall constitute a quorum for the transaction of business.

Powers of the Rajah in Council.

4. (i) All powers purported to be conferred on the Rajah by any written law enacted or made prior to the enactment of this Order shall be deemed as from the date of the coming into operation of this Order to have been conferred on the Rajah in Council and not otherwise.

(ii) All the prerogatives of the Rajah shall be exercised by the Rajah in Council and not otherwise except in so far as the Rajah in Council may from time to time determine.

(iii) Nothing in this section shall prejudice in any way the power of the Rajah personally to appoint the members of the Supreme Council, as provided in Subsection (ii) of Section 3 of this Order.

Advice of majority to be advice of Supreme Council.

5. The advice of the majority of the members of the Supreme Council present and acting shall

be construed as being the advice of the Supreme Council.

Council Negri.

6. (i) There shall be a Council Negri consisting of twenty-five members, fourteen of whom shall be official members appointed from the Sarawak Civil Service and eleven of whom shall be unofficial members representative as far as practicable of the several peoples dwelling within the State and of their various interests.

(ii) The following officers shall be official members of the Council Negri ex-officio :—

The Chief Secretary ;
The Treasurer of Sarawak ;
The Resident, First Division ;
The Resident, Second Division ;
The Resident, Third Division ;
The Resident, Fourth Division ;
The Resident, Fifth Division ;
The Secretary for Native Affairs ;
The Secretary for Chinese Affairs.

Five other official members shall be appointed by name by the Rajah in Council and shall hold office during the pleasure of the Rajah in Council.

(iii) The unofficial members of the Council Negri shall be appointed by the Rajah in Council and shall hold office for a period of three years : Provided that on the expiration of his term of office a member of the Council Negri may always be reappointed : and Provided further that an unofficial member who without reasonable excuse fails to attend two consecutive meetings of the Council Negri may be removed by the Rajah in Council.

(vi) Nothing in this section shall prevent an unofficial member of the Council Negri from resigning such membership if he so desires.

(v) Five members of the Council Negri shall constitute a quorum for the transaction of business.

Native members.

7. (i) At least five members of the Council Negri shall be natives of Sarawak.

(ii) The fact that a native of Sarawak is a member of the Sarawak Civil Service shall be no bar to his being appointed an unofficial member of the Council Negri.

Absence of members.

8. If a member of the Council Negri shall be absent from Sarawak or ill or in any other way incapacitated from attending a meeting of the Council Negri or, by virtue of being appointed to act in an office, become temporarily an ex-officio member of the Council Negri, the Rajah in Council may appoint a person to take the place of such member, and such person shall have all the rights and privileges of a member of the Council Negri until the member in whose place he is appointed ceases to be absent or ill or incapacitated or an ex-officio member, as the case may be.

Provision in respect of members of previous Council Negri.

9. Notwithstanding anything in Section 6 of this Order and notwithstanding the fact that the number of members of the Council Negri may thereby be increased beyond twenty-five, a native of Sarawak, who was a member of the Council Negri immediately prior to the enactment of this Order, and who is not appointed a member of the Council Negri constituted under the provisions of this Order, shall nevertheless be deemed to be a member of the Council Negri : and shall have the right of attending all meetings of the Council and of speaking and voting therein until he shall die or resign or cease to be a member of the Sarawak Civil Service, and Section 8 of this Order shall have no application in respect of such person.

Proceedings of Council Negri.

10. (i) The official language of the Council Negri shall be English and all proceedings of the Council shall be conducted in that language.

(ii) The Council Negri shall meet in such place and at such times and on such dates as the Chief Secretary may from time to time prescribe by notification in the Gazette : Provided that the

Council Negri shall meet at least twice in every year.

(iii) The President of the Council Negri shall be the Chief Secretary and in his absence such officer as he may appoint. In the case of an equality of votes the President shall have a second or casting vote.

(iv) Meetings of the Council Negri shall be open to the public except in so far as the Council Negri may from time to time determine.

Standing Orders and committees of Council Negri.

11. (i) The Council Negri may, with the approval of the Rajah in Council, frame and approve by resolution Standing Orders for the transaction of its business and may from time to time similarly amend, rescind or add to such Standing Orders.

(ii) The Council Negri may form such committees and delegate such powers to those committees as appear to it to be most convenient for the transaction of its business.

Strangers may be requested to attend meetings.

12. The President of the Council Negri may request any person not appointed to the Council Negri to attend any meeting of that Council and assist in the discussion of any question or questions that may arise in the course of its proceedings, but such person shall not be entitled to a vote.

Oaths.

13. A person appointed to be a member of the Supreme Council or a member of the Council Negri shall, before performing any of the duties or exercising any of the rights attached to such appointment, take the oath prescribed in the Second Schedule to this Order for members of the Council to which he is appointed.

Legislative power.

14. (i) As from the date of the coming into operation of this Order the sole power of legislating by the enactment of Orders is vested in the Rajah acting with the advice and consent of the Council Negri.

(ii) All Orders which purport to be enacted by the Rajah with the advice and consent of the

Council Negri shall be valid and effectual and duly recognized and judicially noticed as part of the law of Sarawak, and except as is provided by Section 15 of this Order no other person or body of persons shall be deemed to have any power of legislating whatsoever.

Saving.

15. Nothing in this Order shall affect :—

(a) the validity of any Order enacted according to law before the enactment of this Order except in so far as it is repealed or amended by this or a future Order ;

(b) the power of any person or body of persons to make any regulations or rules or by-laws, or to issue any directions or orders, vested in them by any written law, whether such law is made or enacted before or after the enactment of this Order.

Expenditure of public money.

16. As from and including the first day of January, Nineteen Hundred and Forty-two no public money shall be expended or any charge whatsoever made upon the revenues of the State except with the consent of the Council Negri : Provided that the Treasurer of Sarawak may with the concurrence of the Rajah in Council authorize the appropriation of any sum subject to the subsequent consent of the Council Negri being obtained.

Power of disallowance.

17. (i) The Rajah may refuse to enact any Bill passed by the Council Negri, but on exercising this right of refusal he shall forthwith refer the Bill back to the Council Negri together with his views in writing thereon. Any Bill duly passed by the Council Negri and submitted to the Rajah on three separate occasions shall forthwith be enacted by the Rajah.

(ii) The members of the Council Negri shall be entitled to vote freely in respect of any Bill referred back to that Council under Subsection (i) of this section.

Decease, absence or incapacity of the Rajah.

18. (i) If the Rajah shall die the person who shall have been proclaimed Heir to the Raj of

Sarawak shall, subject to the provisions of Article 2 of the Treaty, dated the fifth day of September, Eighteen Hundred and Eighty-eight, and made between the Rajah of Sarawak and the Government of Her Britannic Majesty Victoria, be proclaimed Rajah of Sarawak by the Supreme Council within one calendar month, and until such proclamation the Supreme Council shall have and exercise all the powers conferred on the Rajah in Council by this or any other Order.

(ii) In the event of the Rajah having occasion to leave the State or to be temporarily absent from the seat of Government the Rajah in Council may appoint an officer to administer the Government and such officer shall forthwith assume all the powers and prerogatives of the Rajah subject to the provisions of this Order.

(iii) If the Rajah shall be in any way incapacitated from performing his duties or shall be a minor the Supreme Council may appoint an officer to administer the Government until such time as the Rajah recovers his capacity or attains his majority as the case may be.

(iv) No person who is not a British subject or a native of Sarawak shall be competent to be or become Rajah of Sarawak.

Rules.

19. The Rajah in Council may make rules :—

(a) to provide for the nomination by any bodies of persons, incorporated or unincorporated, or by the general public, or any part of such public, in such areas of the State as may be prescribed, of persons for appointment as unofficial members of the Council Negri ;

(b) to prescribe the payment of allowances to unofficial members of the Council Negri ;

(c) generally to carry out the provisions of this Order.

Kuching, 24th September, 1941. C. V. BROOKE, Rajah.

APPENDIX G

AN AGREEMENT between HIS MAJESTY'S GOVERNMENT and the RAJAH IN COUNCIL of the STATE OF SARAWAK.

Whereas by an Agreement dated September 5th, 1888, between Her Majesty's Government and Charles Brooke, Esquire, Rajah and lawful Ruler of the State of Sarawak it was, inter alia, agreed that the State of Sarawak should continue to be administered by the said Rajah Brooke under the protection of Great Britain, but that such protection should confer no right on Her Majesty's Government to interfere with the internal administration of the State further than was therein provided :

And Whereas it is the desire of His Majesty's Government and of the Rajah in Council of the State of Sarawak that further provision should be made regulating the relations between His Majesty's Government and the State of Sarawak :

Now, therefore, it is agreed between His Majesty's Government and His Highness the Rajah in Council of the State of Sarawak, as follows :—

1. This agreement is supplementary to the above-recited agreement of September 5th, 1888, and the said agreement shall be read subject to the provisions of the agreement hereinafter appearing.
2. The State of Sarawak will receive and provide a suitable residence for a British Officer to be called the British Representative who shall be accredited to the Court of the Rajah, and whose advice must be asked and acted upon on all matters affecting the relations of the State of Sarawak with foreign states or the rights and status of foreign nationals and on all matters of defence.
3. The British Representative shall be appointed by His Majesty's Government.
4. The services of the British Representative shall be available for consultation and he shall be entitled to offer his opinion on matters touching the general administration of the State. He shall have access to such State documents and records

as concern matters in respect of which his advice is sought under this Clause or under Clause 2 of this Agreement. He shall be entitled to attend meetings of the Supreme Council when such matters are discussed, but he shall not be entitled to a vote. He may attend all meetings of the Council Negri and he may address that Council if invited by the President to do so, but he shall not be entitled to vote therein.

5. His Majesty's Government will at all times to the utmost of its power take whatever steps may be necessary to protect the territory of Sarawak from external hostile attacks.

In Witness Whereof the parties hereto have hereunder set their hands this twenty-second day of November 1941.

Signed by His Excellency the Governor of the Straits Settlements and High Commissioner for the Malay States for and on behalf of His Majesty's Government in the presence of :— } T. S. W. THOMAS.

G. R. DON FOX.

Signed by His Highness the Rajah of Sarawak in the presence of :— } C. V. BROOKE.

G. T. MacBRYAN.

APPENDIX H

(*Extract from "Hansard,"* 6 *February*, 1946.)

SARAWAK (PROPOSED CESSION)

The following Question stood upon the Order Paper in the name of Mr. Gordon-Walker:

98. "To ask the Secretary of State for the Colonies whether he is yet in a position to make the promised statement on Sarawak."

The Secretary of State for the Colonies (MR. GEORGE HALL): With your permission, Mr. Speaker, and the permission of the House, I would like to answer Question 98, which deals with the future of Sarawak. (Hon. Members: "Agreed").

By an agreement concluded with the Rajah of Sarawak in 1888, His Majesty's Government have exercised control over Sarawak's foreign relations. The Agreement further provided that any question respecting the right of succession to the rulers of Sarawak should be referred to His Majesty's Government for decision. Another clause required the consent of His Majesty's Government to the cession or alienation of any part of the territory of the State of Sarawak.

A supplementary agreement concluded in 1941 gave His Majesty's Government the right to appoint a resident British representative to advise on certain matters. With the Rajah's concurrence, the whole question of His Majesty's Government's position in regard to Sarawak was further considered during the Japanese occupation of the territory, with a view to ensuring their ability to discharge the responsibilities which they have towards and for Sarawak under the above Treaties and in the eyes of the world. The conclusion reached was that it was desirable that there should be an extension of the authority of the resident British representative so as to give him an effective voice in all substantial matters of policy and administration, and that His Majesty should be accorded such jurisdiction as would enable him to legislate for Sarawak under the Foreign Jurisdiction Act.

Negotiations on this basis were accordingly opened with representatives nominated by the Rajah, and, as this House is aware from my reply to a Question on 5th December, the Rajah subsequently decided himself to conduct those negotiations. While the discussions were in progress the Rajah, for reasons which he will no doubt wish to explain himself, represented to His Majesty's Government that these proposals did not, in his opinion, go far enough, and that the time had arrived when the territory itself should be ceded to His Majesty the King. It was intimated to the Rajah that such a proposal would be acceptable to His Majesty's Government.

The Rajah then sent to Sarawak his private secretary as his personal emissary to consult leading representatives of the people on the question of ceding the territory to His Majesty. His emissary has now returned, and the Rajah has informed His Majesty's Government that, in consequence of the very favourable reaction of those representatives, which is, I understand, recorded in letters addressed to him by the leaders of the Malay and Chinese communities in Sarawak, he now feels able to proceed with the cession of the territory. Accordingly the necessary document is being drawn up and will be presented to the representatives of the people for their agreement upon the Rajah's return to the territory, which will probably take place towards the end of March.

The accumulated reserve funds of Sarawak at present amount to approximately £2,750,000 including the currency reserve of £1,100,000 and a sum of £77,000 held on account of the Post Office Savings Bank. With the concurrence of the representatives of the people who were consulted, the Rajah has intimated that he would propose to hand over with the territory these moneys, on the understanding that £1,000,000 would be set aside for a trust fund. This fund would provide, in the first place, for the Rajah and his dependents and certain local functionaries on a scale similar to that on which provision was made for them from the revenue of the territory prior to the Japanese occupation. The beneficiaries under the trust would be named and the benefits would be limited to their lifetimes. Thereafter, the income deriving from the trust would be devoted to social and other measures designed for the progress and benefit of the people of the territory, thus providing a permanent memorial to the rule of the Brooke family in Sarawak.

I have been informed that the Rajah is today issuing in this country, the text of a message which he has sent to the people of Sarawak and which explains the reasons for his conclusion that the territory should be ceded to His Majesty.

MR. OLIVER STANLEY: Is the right hon. Gentleman satisfied that there is a real desire in Sarawak for this complete cession, in view of the facts first that the Rajah has been absent from the country for some time, and, for several years had abandoned any connection even with the Provisional Government in this country; and secondly, that the representative of the Rajah who went to Sarawak is, I believe, one in whom, certainly in the old days, the Colonial Office had no confidence whatever? Will the Minister take steps to ascertain and inform the House whether the people of Sarawak in fact desire this action on the part of the Rajah which goes far beyond what was required by His Majesty's Government for the purpose of being able to conduct their communications with that colony?

MR. HALL: The information which is at the disposal of the Colonial Office has been obtained not solely as a result of the visit of the Rajah's private secretary, of whom there has been some doubt. At the same time, it was not for me or for anyone else to dictate to the Rajah, on who should be appointed by him as his private secretary. His private secretary was accompanied by a very high official from the Colonial Office. The representatives of the Supreme Council of State were met by these two representatives. They have, as I have already stated, sent declarations to the Rajah, that it is their desire that this territory should be ceded to His Majesty. I do wish to assure the House, that there has been no pressure whatever exercised upon the Rajah. The cession of this territory is at the request of the Rajah, and of the Supreme Council through the Rajah.

MR. THOMAS REID: May I ask my right hon. Friend to reassure the House upon one point? As I understand the constitution of Sarawak, a decision of this kind must be taken by the State Council. I wish to know if the State Council in session formally agreed to the cession of this country.

MR. HALL: I should make it clear that an approach was made to a majority of the members of the Council meeting. (HON. MEMBERS: "By whom?") By the Rajah's private secretary. It would appear strange to suggest that the Rajah is not the best

judge of his emissary, and of who should be his private secretary. In addition to that, a responsible official of the Colonial Office accompanied the private secretary of the Rajah. But the fact that they signed this declaration did not, in itself, cede the territory to His Majesty. It is the intention, as I endeavoured to point out in my statement, that the Rajah himself shall visit Sarawak, and convene a meeting of the Supreme State Council to submit to them his views, and he will, of course, we hope, get their consent.

MR. GAMMANS: Might I ask the Minister two questions? Would he first confirm the report that some senior British official accompanied this private secretary to Sarawak, so that we may be perfectly sure—— (HON. MEMBERS: "He said so.") Second, what is to be the status of Sarawak relative to ourselves. Is it to be a Crown Colony or a Protectorate, and is the Brooke family now abdicating?

MR. HALL: I have attempted to assure the House on two occasions that a senior Colonial Office official accompanied the private secretary to Sarawak. The status of Sarawak, if ceded, will be that of a Crown Colony.

MR. GAMMANS: And the Brooke family?

MR. HALL: The Brooke family has, through the Rajah, the right of giving cession, and relinquishing any further right to be Rajah.

MR. GAMMANS: And abdicating?

MR. HALL: And abdicating.

MR. PICKTHORN: Can the Secretary of State tell us whether, when this proposal of cession was made, His Majesty's Government advised the Rajah about the best method of consulting local opinion; and, in view of the immense importance now of avoiding any charge of a bogus invitation into territory not hitherto belonging to a Great Power, can we be assured that the House will have a full opportunity of discussing this proposal before it is made effective?

MR. HALL: I would like to read two paragraphs of a statement which is to be issued today by the Rajah himself:—

> "The members of my Supreme Council of State, and myself, rejoice, that His Majesty's Government have intimated that my proposal to cede the State of Sarawak to His Majesty the King, is acceptable. We delight to know that the exercise of any authority in the State, except that of His Majesty, will,

hereafter, be determined. We believe that there lies in the future hope for my people in the prospect of an era of awakening, enlightenment, stability, and social progress, such as they have never had before. We regard the acceptance of the cession as the consummation of the hopes of the first Rajah of Sarawak."

MR. PICKTHORN: May I ask the right hon. Gentleman whether he does not see that that quotation answers neither of my questions? Does it not appear to make plain that His Majesty's Government were making an accomplished fact of this before the Rajah consulted anyone? May I repeat my second question? Would it be decent that this matter should become unalterable, without a full discussion in this House?

MR. HALL: I assure the hon. Member that the Rajah himself came to the Colonial Office and volunteered the cession. He regarded the negotiations in connection with a change in the status, which after all were initiated by the right hon. Gentleman opposite, as not going far enough, and he offered the cession provided the Supreme State Council agreed. With regard to the question of Debate, that is not a matter for me; that should be put to the Leader of the House.

MR. STANLEY: May I put this question to the Leader of the House? The right hon. Gentleman has referred to me and the negotiations that I undertook. May I say, first, that those negotiations were for an agreement as to some legislative power on our part. Secondly, those negotiations were undertaken not with the Rajah but with the Provisional Government, on the ground that the Rajah was never going to return to Sarawak, and, therefore, left such negotiation to this Provisional Government. I think it will be agreed that, if the people of Sarawak really wished cession to take place, all of us would be prepared to accept it, but I feel it quite wrong that, in the face of the world, something which might appear as annexation should be allowed to depend upon the expressions of opinion of the Rajah—who had already expressed his determination never to go back to Sarawak, and, therefore, has no personal interest in its future—and the visit of a representative of whom I do not hesitate to say that he is a man with whom the right hon. Gentleman should not be associated.

MR. HALL: I do not quite understand the heat with which my right hon. Friend has entered into this matter, because he must

know that the negotiations for the application of the Foreign Jurisdiction Act to this territory was initiated by himself as Secretary of State. Indeed, when one understands the application of the Foreign Jurisdiction Act, it is impossible to understand why the right hon. Gentleman is getting hot and bothered about it. The 1941 constitution has laid down the basis but it did not take from the Rajah very much of his powers, notwithstanding the fact that it did appear to be a little more liberal. But the so-called liberal constitution was made up by a majority of members nominated by the Rajah himself, and indeed the Rajah could interfere with any legislation or any financial matter. I wish to assure the House that, so far as we are concerned, if cession takes place, it must take place after full consultation with a properly constituted Supreme State Council in Sarawak.

MR. W. J. BROWN: Assuming that the Rajah wants to cede Sarawak to this country, it seems to be clear, assuming that the people of Sarawak want to be ceded, which appears to be less clear, may I ask if this House is to have the opportunity of saying whether this country is willing to accept this increase in the burden of Empire ?

MR. HALL: If it is a question of a Debate, then that question must be put to my right hon. Friend the Leader of the House.

MR. SYDNEY SILVERMAN: Is it a fact that, in the bad old days, large parts of the British Empire were acquired by means much less respectable ?

MR. EDEN: May I ask the Leader of the House a question ? I think the point is one on which the House would like to be reassured because it is important, not only from the position of the House but from our position *vis-a-vis* other countries, that there should be no doubt as to what is going on. I would ask the Leader of the House whether he would consider trying to afford an opportunity—I know the difficulties—so that Parliament can fully discuss and approve this step after adequate discussion.

MR. H. MORRISON: That point seems to me to be quite premature. These discussions are going on and we will see how they turn out. If great trouble emerges that point may arise, but I am bound to say there is something curious about this indignation of the Conservative Party over a little bit being added to the British Empire.

CAPTAIN SIR PETER MACDONALD: May I ask the right hon. Gentleman to give us an assurance that no final decision will be come to until the Rajah has returned to his country, and that any decision taken has the approval of the provisional Government?

MR. GEORGE HALL: I thought I had made it quite clear that the Rajah intends going back to his territory and meeting his Supreme State Council and consulting with them concerning this matter.

CAPTAIN BLACKBURN: May I ask the Leader of the House whether he would give the House an assurance that before an irrevocable step is taken over this very important matter, the House may have an opportunity of expressing an opinion?

MR. H. MORRISON: I cannot give the House such an undertaking. We must see how things go on. Let me add that this Government has as much right as any previous Governments in these matters.

LIEUT.-COLONEL SIR THOMAS MOORE: Could we have an assurance from the Colonial Secretary that no decision on this matter will be taken until after a referendum has been taken of the people of Sarawak?

APPENDIX J

(*Extract from "Hansard," 27th March,* 1946.)

SARAWAK (PROPOSED CESSION, INQUIRY)

14 and 33. MR. TEELING asked the Secretary of State for the Colonies (1) if he has any further statement to make with regard to the negotiations with the Rajah of Sarawak ;

(2) if he will give an assurance that no final decision will be taken on the future of Sarawak before this House has been given an opportunity to discuss it.

MR. GEORGE HALL : Arrangements are being made for the Rajah to leave this country for Sarawak by air on 5th April. On arrival His Highness will take over the administration of that territory from the military authorities. In agreement with the Rajah, I am also arranging for my hon. Friend the Member for South Croydon (Mr. Rees-Williams) and the hon. Member for Hornsey (Mr. Gammans) to visit Sarawak for the purpose of confirming by independent inquiry that the Rajah's proposal for the cession of the territory to His Majesty is broadly acceptable to the native communities.

The House will appreciate that in the circumstances this inquiry must necessarily be of an informal nature. If the Members are satisfied as to the acceptability of the proposal, there would seem to be no reason for delaying the submission to the Sarawak Councils of the legislation authorising cession. Facilities for a Debate are not a matter for me but should be referred through the usual channels.

MR. TEELING : Surely the right hon. Gentleman will not allow a matter of such importance as this to be finally decided without a report by the two Members who go there not only being sent back to this House, but brought back, for further discussion ?

MR. HALL : The question of a discussion is not for me to decide. That matter can very easily be raised through the usual channels.

MR. OLIVER STANLEY : In view of the fact that the Under-Secretary gave an unconditional pledge that before the future of

Malaya was decided the House would have an opportunity of discussing it, would not the right hon. Gentleman do the same about Sarawak ?

MR. HALL : No, Sir. Under-Secretaries can take greater risks than Ministers can.

MR. STOKES : While not objecting to the Members being sent, may I ask whether there is not some responsible representative of the Government there who could make a report ?

MR. HALL : My two hon. Friends have been sent out at the desire of the House.

MR. STANLEY : Would the right hon. Gentleman recommend to the Prime Minister that if Under-Secretaries are to take greater risks they should also receive greater salaries ?

SQUADRON-LEADER DONNER : Would the right hon. Gentleman provide air transport to Sarawak for the Tuan Muda and the Rajah Muda, if he is so requested ?

MR. HALL : There is a Question on the Order Paper dealing with that matter.

34. MR. TEELING asked the Secretary of State for the Colonies if he has considered the request from the Tuan Muda and the Rajah Muda of Sarawak to visit Sarawak in connection with the negotiations which are about to take place ; and whether the necessary travelling facilities will be provided for them.

MR. GEORGE HALL : I have not so far had an actual request, but the Tuan Muda referred to the question of his visiting Sarawak in recent correspondence with me. I intimated to him that I consider this to be a matter for the Rajah to decide, since any visit would take place when the Rajah will have resumed his administration in Sarawak.

MR. TEELING : In view of the fact that we all know that the Rajah of Sarawak is keen on annexation and that his heir and large numbers of people in Sarawak are far from keen, am I to understand that the Colonial Office is not going to give an opportunity for the Rajah's heir and his family to discuss this matter with the people in Sarawak who are on his side ?

MR. HALL : I am sure the House will appreciate that Sarawak is not British territory. The Rajah is the supreme ruler and it is a matter for him. It is not a question of transport. It is a question whether any person should visit Sarawak, and it is entirely one for the Rajah to decide.

MR. STANLEY : In view of the fact that the right hon. Gentleman and the Government are considering whether to accept the Rajah's offer to sell Sarawak for £1,000,000, surely they are entitled to insist on the Rajah giving any facilties they think right in order that they may determine what is the feeling of the people of Sarawak. If the right hon. Gentleman thinks that, in order to add to the knowledge of this House as to what the people of Sarawak think, the Rajah Muda or the Tuan Muda should go, surely he is entitled, is he not, to ask the Rajah to give these facilities ?

MR. HALL : I would like to state emphatically that the Rajah is not selling Sarawak for £1,000,000. What the Rajah is asking is that £1,000,000 of £2,750,000 of the Sarawak State funds, which really are his funds, should be set aside as a trust fund, and only the income from the £1,000,000 will be used. After the beneficiaries who will receive the income from the £1,000,000 have died, the £1,000,000 will revert to Sarawak, so really there is no sale of Sarawak for £1,000,000. With regard to the visit, really I must leave that matter for the Rajah to decide. (HON. MEMBERS : "Why.") Because he is the ruler of the territory, whether we like it or not. (An HON. MEMBER : "Have not the people some rights ? ") As a matter of fact, the House has agreed and indeed, the Rajah, upon representation from myself, has agreed, that two Members, one from the Government side and one from the Opposition, shall go out to Sarawak to see whether people on the spot desire or do not desire that cession shall take place.

MR. THOMAS REID : Might I ask my right hon. Friend if he will raise any objection to the Rajah Muda going to Sarawak in case the Rajah is willing to let him go ?

HON. MEMBERS : Answer.

MR. HALL : I did not quite catch the question.

MR. REID : Will my right hon. Friend state that he has no objection to the Rajah Muda going out to Sarawak, in case the Rajah allows him to go ?

MR. HALL : I certainly have no personal objection and, indeed, I do not intend interfering in this matter.

MR. SKINNARD : Will the Minister inform the House whether there is any functionary or personage called the Rajah Muda at present, as the title is entirely derived from the Rajah, and the

last person holding the office was demoted from that office in September by an Act of State by the Rajah ?

MR. HALL : That is so, Sir.

MR. TEELING : As the members of the Malayan Union, which I believe have considerable standing and numbers in Sarawak, have already said they want the Raja Muda to go out there, will that also be considered.

MR. HALL : The standing and numbers of the Malayan Union is not such as the hon. Member suggested. The total membership of the Malayan Union, as far as my information goes, is fewer than 2,500.

APPENDIX K

Colonial Office,
2nd April 1946.

DEAR CAPTAIN BROOKE,

I have recently had some discussion with His Highness the Rajah concerning your wish to go out to Sarawak to place before the people your views on the proposal to cede the territory to His Majesty's Government. I find that on further consideration of the matter the Rajah is ready to agree to your proceeding to Sarawak for this purpose, accompanied by Mr. Pollard as an adviser, on the understanding that you are prepared to accept the decision of the Councils on the question of cession.

My object in writing this letter to you is to say that if you decide to take advantage of the Rajah's decision and would like priority passages for yourself and your adviser, my Department will be happy to arrange them for you. In that event, we should want to know the date by which both you and Mr. Pollard would be ready to travel to Sarawak. It will, of course, be necessary for you to be inoculated and vaccinated and this is likely to take about a fortnight or three weeks.

Yours sincerely,
G. H. HALL.

104 Paramount Court, University Street, W.C.1,
5th April 1946.

DEAR MR. HALL,

I have your letter of the 2nd inst. and am obliged to you for your intervention with the Rajah.

The condition made that I must accept the decision of the Councils on the question of cession presents no difficulty ; my only anxiety has been that the people of Sarawak shall clearly understand what the proposed cession involves and that they shall freely express their wishes on the matter. The proper way for them to express their wishes is, of course, through their representatives on the Councils.

Three points arise :—

(a) You appear to limit me to one travelling companion, Mr. F. H. Pollard. I should like permission and facilities to take two others.

(b) May I assume that we shall be properly accommodated and have freedom and facilities to travel about Sarawak on our arrival ?

(c) The journey is a very tiring one ; may I assume therefore, that the first Council meeting will not take place until at least ten days after we reach Kuching ?

Yours sincerely,

BERTRAM BROOKE.

Rt. Hon. G. H. Hall, P.C., M.P.,
The Colonial Office, Downing Street, S.W.1.

APPENDIX L

No. 56.—ORDER NO. C—23 (CONSTITUTION RE-ENACTMENT) 1946

Constitution

(*An Order to remove any doubts as to the continuance in force of Order No. C—21 (Constitution) 1941.*)

[Enacted 17th April, 1946.]
[Gazette 24th April, 1946.]
[Operation 17th April, 1946.]

WHEREAS at a meeting of members of the Council Negri held on the 6th day of January, 1946, an Order (hereinafter referred to as "the Order of 1946") was made entitled "An Order whereby to vest in His Highness the Rajah absolutely all those powers and prerogatives of sovereignty exercised by the Rajah in Council and the Council Negri subject to the provisions of Order No. C—21 (Constitution) 1941" (hereinafter referred to as "the Order of 1941"), whereby the Order of 1941 was repealed:

AND WHEREAS doubts exist as to the validity of the Order of 1946, but if that Order is valid the sole power of making laws for Sarawak is vested in His Highness the Rajah:

AND WHEREAS it is expedient that the Order of 1941 should have the force of law and that, for the removal of the aforesaid doubts, provision for that purpose should be made:

NOW THEREFORE it is hereby enacted by His Highness the Rajah as follows:—

1. This Order may be cited as Order No. C—23 (Constitution Re-enactment) 1946 and shall come into operation forthwith.

2. For the removal of doubts it is hereby declared that the Order of 1946 shall cease to have any effect which it may hitherto have had, and the Order of 1941 shall have the force of law.

Given under Our hand at
Kuching, Sarawak, this
seventeenth day of April, 1946.

C. V. BROOKE,
Rajah of Sarawak

No. 63.—ORDER NO. C—21 (CONSTITUTION) 1941.

Order of his Highness the Rajah in Council.

(Revocation of Order regarding the Rajah's Prerogatives.)

WHEREAS by subsection (ii) of section 4 of Order No. C—21 (Constitution) 1941, it is provided that all the prerogatives of the Rajah shall be exercised by the Rajah in Council and not otherwise except in so far as the Rajah in Council may from time to time determine :

AND WHEREAS at a meeting of the members of the Supreme Council held on the 5th day of January, 1946, an instrument was executed whereby it was determined that, as from the 1st January, 1946, all the prerogatives of the Rajah should be exercised by the Rajah and not otherwise :

AND WHEREAS doubts exist as to the validity of the said instrument and it is expedient that the said determination (if valid) should be revoked :

NOW THEREFORE, by virtue of the powers vested in the Rajah in Council by the aforesaid subsection, the Rajah in Council hereby revokes the said instrument and determination and determines that all prerogatives of the Rajah shall be exercisable by the Rajah in Council or as they may hereafter determine.

Given under the hand of His Highness the Rajah, by and with the advice and consent of the Supreme Council, this 24th day of April, 1946.

C. V. BROOKE,
Rajah of Sarawak.

APPENDIX M

(*Extract from "Sunday Times," 2nd June*, 1946.)

THE DEATH OF A STATE.

BY L. D. GAMMANS, M.P., Member of the Parliamentary Mission to Sarawak.

IT is an unforgettable experience to be present consciously at the end of a national era, even if it is in a small country like Sarawak. When the Council Negri agreed to cession to the Crown by nineteen votes to sixteen, Sarawak as an independent State ceased to exist, the Brooke dynasty came to an end, and the country for good or ill passed under the Colonial Office.

During 100 years the three white Rajahs practically created the country, giving to its people peace and a greater degree of contentment and happiness than is found in most parts of the world. The position had perhaps become in some ways an anachronism, and in any case some more intimate relationship with Great Britain was desirable and inevitable. But fundamentally there was no reason why the Brooke dynasty should not have continued.

Sir Charles Vyner Brooke is over seventy. He has no sons and normally he would have been succeeded by his younger brother, Captain Bertram Brooke, the Tuan Muda, whose son, Mr. Anthony Brooke, was the ultimate heir. But the Rajah stated in his proclamation advocating cession : "You may be asking why my nephew, Anthony Brooke, who was formerly proclaimed Rajah Muda, should not succeed me as Rajah. My answer is that I would have no confidence that he would be a good ruler." It is therefore not surprising that many bewildered people in Sarawak regarded the proposal of cession not so much as an act of high statesmanship as an unfortunate family squabble.

My Parliamentary colleague, Lieutenant-Colonel D. Rees-Williams, and I were asked to go to Sarawak to find out to what extent the native peoples were in favour of cession. We could both speak Malay.

Virtues of Brooke Rule

There are no recognised organs of public opinion as in Great Britain. The population of Dyaks, Malays, Chinese and various pagan tribes is largely illiterate in the ordinary sense of the word, and their interests to some extent clash. The only faintly representative body, the Council Negri, formed in 1941, held only one meeting before the country was overrun by the Japanese. Its members are nominated by the Rajah, and the majority Dyak community is inadequately represented as compared with the Malays. A number of European Government servants are also members, and, although the Cession Bill was left to a free vote, the fact remains that it was the vote of the majority of the European Civil Servants which passed it.

Superficially the Brooke regime is open to several criticisms. It has appeared to favour the Malays at the expense of the Dyaks ; far too much of the national revenue has been spent on the capital, Kuching ; the standards of education and public health services are admittedly low, and the public servants have not had the same degree of security as in the British Colonial Service.

But its shortcomings are all in the shop window. Its solid virtues lie deep in the hearts of the people. It has brought peace to a turbulent part of the world. It has prevented a simple peasant population from being overwhelmed by alien influences, whether Chinese or European, and it has resisted the temptation to create national wealth and prosperity in a hurry by the easy way of unrestricted immigration. Above all, it has provided the country with a personal rule, which most simple peoples in Asia prefer to an impersonal, even if more efficient bureaucracy.

Apart from the vote of the Council Negri, what was the opinion of as much of the country as we were able to visit ? The vast majority of the representatives who met us were quite incapable of understanding the virtues or otherwise of British colonial rule. To them it was the simple issue of being ruled by the King of England, whom they did not know, or by their own Rajah.

What is Our Policy ?

The only people who favoured cession for its own sake were most of the Chinese, who obviously felt that British rule would lead to more trade, and probably, if what has happened recently in

Malaya is any criterion, to ultimate political domination. Some of the more educated Malays and Dyaks, while expressing no dissatisfaction with Brooke rule, felt that under the Colonial Office there would be an expansion of education and social services. On the other hand, many Malays, Dyaks and some local-born Chinese were bitterly opposed to cession, as the voting in the Council showed. But the majority either regretfully but fatalistically accepted the Rajah's proclamation as something which could not be altered, or obviously had so much faith and confidence in him that when he said that it was for their benefit they were prepared to trust him and support him.

So half a million simple people have entrusted themselves rather sorrowfully and with many misgivings to our charge. What is our policy for their future ? We shall certainly rule them honestly and justly, but shall we do it intelligently and according to a definite and accepted long-term policy ? Shall we be guided by our experience and mistakes in other parts of the world ? How are we going to protect them against the onrush of Western civilisation which may destroy their own culture without substituting anything really worth while or permanent ? Are our ideas of education still dominated by the Victorian conceptions which have proved so disastrous elsewhere ? What is to be our policy over immigration and development by European plantation and oil interests ? In particular, what are we going to do about the Dyaks ? They are an intelligent, manly, virile and outspoken race. With the right handling they will have a great future.

Probably on balance, when all those factors which only a visit to the country can allow one to appreciate are taken into account, cession to the British Crown is the best thing for the people. But one cardinal error we must not commit. Any violent and sudden changes must be avoided at all costs if we are to gain their confidence and convince them that the change is for their benefit.

APPENDIX N

LETTERS AND TELEGRAMS

Colonial Office, Downing Street, S.W.1.

Secret and Personal. 19th June, 1944.

DEAR RAJAH,

My colleagues and myself have recently had occasion, in reviewing our plans and policies in the Far East generally, to consider the question of the future relationship between His Majesty's Government in the United Kingdom and the Government of Sarawak, and the progress of the war prompts me to suggest that it is not too soon for the question to be discussed between us.

You will appreciate that the liberation of Sarawak, as of other occupied territories, will attract much public interest in the future government of the State and it appears to us inevitable that Parliament and public opinion at home and among our allies will to a large measure hold His Majesty's Government responsible for the policies followed in the future development of the State, and its political, social and economic progress. We feel that the existing agreements between His Majesty's Government and the Government of Sarawak do not sufficiently provide His Majesty's Government with the means to discharge fully the responsibilities which will thus be placed on them, and I accordingly suggest that conversations should be opened between us with a view to agreeing on the terms of a future relationship between His Majesty's Government and your Government which will be more in keeping with the circumstances we foresee.

I should be happy to see you and any members of the Sarawak Commission whom you may wish to be associated with such talks, at any time which may be mutually convenient. I must ask, however, that the fact that the question is under discussion may be kept strictly confidential for the present.

Yours sincerely,
(*Signed*) OLIVER STANLEY.

His Highness, The Rajah of Sarawak, G.C.M.G.,
Sarawak Government Offices, Westminster, S.W.1.

3rd August, 1944.

DEAR COLONEL STANLEY,

I have received Mr. Aplin's report on his meeting with Mr. Gent to discuss the question of an alteration in the future relationship between His Majesty's Government and the Government of Sarawak, as suggested in your letter to me dated 19th June, 1944.

Personally, I think that nothing but good could ensue from some closer liaison between the two Governments whereby Sarawak would benefit by friendly consultations concerning its political, social and economic progress, and His Majesty's Government would be kept in touch with steps to this end being taken within the State.

I think the desirability of such closer liaison must be apparent to anyone, and that it can and would be effected with the

agreement of all concerned when settled government is again restored within the State.

I do not see how any change in our mutual relationship can be effected—in fairness to the people of Sarawak—at the present juncture.

I and my family are Trustees for the State and people of Sarawak, who are well aware that it is not in the position of a "Colonial Dependency," so their consent to any step which would tend to approach such a relationship would naturally have to be obtained. It can scarcely be obtained at the present time when, owing to the unavoidable inability of the Protecting Power to preserve them from invasion, they are under alien rule.

I have given this matter much thought, and I am convinced that if I were now to enter into a fresh agreement my right to do so would almost certainly be challenged in the future with embarrassing results to myself and possibly to His Majesty's Government.

I should place myself in the position of agreeing to bind down my successor and his advisers to a form of Government which, owing to my age, I could not have any hope of bringing into effect, and leaving them to face any unforeseen difficulties which might arise.

I should be willing to return to Sarawak for a short period on its reoccupation, if thought desirable, but I feel that the future must lie with those who have the physical vigour not only to make a fresh start, but to continue firmly along such lines as will ensure internal peace within the State.

With kind regards,

Believe me,

Yours sincerely,

(*Signed*) C. V. BROOKE,

Rajah of Sarawak.

Colonel The Rt. Hon. Oliver Stanley, P.C., M.C., M.P.,
Colonial Office, Downing Street, S.W.1.

Sarawak Government Offices, Millbank, S.W.1.

28th February, 1945.

DEAR COLONEL STANLEY,

Thank you for your letter of the 22nd February.

I am glad you hold the view that our talks should begin as soon as possible, and I shall be delighted to come round to the

Colonial Office with Messrs. Pollard and Corson at 11 a.m. on the 13th March.

Before we meet again, however, I would like to take the opportunity of clearing up a not unimportant point which has a fundamental bearing on the nature of such talks as may take place between us. You have rightly observed that the memorandum of proposals, forwarded with my letter of the 13th February, was not altogether in accordance with the proposed basis of discussion set forth in your letter of the 19th June. However, I interpret this letter as envisaging a fundamental change in the treaty relationship between His Majesty's Government and the Government of Sarawak involving—according to unofficial conversations held in your Department to ascertain the precise implication of your letter—the transference of the seat of responsibility for the internal affairs of Sarawak from the Government of Sarawak in Kuching to His Majesty's Government in the United Kingdom, and the direction by His Majesty's Government of the political, social and economic policies of the State.

Whilst I and my advisers will at all times be very glad, as representing the people of Sarawak, to discuss with you any matters of common interest to our two Governments, we are of the opinion that it would be morally indefensible for the Provisional Government of Sarawak to prejudice the post-war relations of the Government of Sarawak with His Majesty's Government by entering at this time into discussions inconsistent with the existing treaty relationship between the two Governments. This relationship, as defined by the Treaty of Protection of 1888, since amended by the Agreement of 1941, should, in the view of the Provisional Government of Sarawak, form the basis of relationship for such discussions as may take place before the people of Sarawak have been liberated and the *status quo* has been duly restored. This Government, in fact, feels itself to be bound both by the letter and by the spirit of paragraph 5 of the Rajah's letter to you dated the 3rd August, 1944.

I would, therefore, be grateful to know whether, pending the time that a free Government of Sarawak may discuss the changes affecting the independent sovereign status of the Raj of Sarawak which you have in mind, you would be agreeable to discuss when we meet on the 13th March the proposals set

forth in the memorandum forwarded with my letter of the 13th February, 1945.

Yours sincerely,
(*Signed*) ANTHONY BROOKE,
Rajah Muda of Sarawak.

Colonel The Right Hon. Oliver Stanley, P.C., M.C., M.P.,
Colonial Office, Downing Street, S.W.1.

Colonial Office, Downing Street, S.W.1.
7th March, 1945.

DEAR RAJAH MUDA,

Thank you for your letter of the 28th February.

It is, of course, the case that my letter to the Rajah of the 19th June contemplated a discussion of important changes in the formal relations between His Majesty's Government and the Sarawak Government. There can, therefore, be no question of any restriction upon my raising in the discussion any proposals which commend themselves to His Majesty's Government. Equally, of course, I shall be ready to discuss with you any proposals which you desire to put forward. As I explained to the Rajah in my letter to him of the 4th September, I quite appreciate the reluctance in present circumstances on the part of the Sarawak Government to enter into a fresh and definite engagement affecting the constitutional position of Sarawak, but it is not too soon to consider the lines on which the relations of the State with His Majesty's Government should be developed.

I shall look forward to meeting you on the 13th March.

Yours sincerely,
(*Signed*) OLIVER STANLEY.

Rajah Muda of Sarawak,
Sarawak Government Offices, Westminster, S.W.1.

Colonial Office, Downing Street,
17th July, 1945.

DEAR RAJAH,

As you know, the representatives of your Government and of this office have had a number of discussions regarding the proposals which we have put forward as a basis for a new agreement

defining the relationship of the Government of Sarawak with His Majesty's Government.

Unfortunately, however, little progress has been made and these meetings have been suspended for over two months while your representatives seek legal advice.

While it is, of course, reasonable that they should wish to consult their legal adviser you will, I am sure, share my concern at this long delay in view of the fact that the Sarawak representatives have so far shown themselves personally unresponsive to the proposals of His Majesty's Government.

You will remember that in your letter of the 18th January you said that one of the reasons for appointing your nephew, the Rajah Muda, to administer the Government with the advice of the Commission was to clarify the position of the Commission in its relations with H.M.G. I welcome this purpose and I should therefore be grateful if it could be arranged that your representatives should give active consideration to those measures which are necessary on their side for the resumption of discussions with the Colonial Office with a view to achieving this purpose.

Yours sincerely,

(*Signed*) OLIVER STANLEY.

His Highness The Rajah of Sarawak, G.C.M.G.,
Sarawak Government Offices, Westminster, S.W.1.

This letter is minuted by the Rajah :—

" Dear Peter, Please deal with this. Vyner Brooke (19.7.45)."

[N.B.—Anthony Brooke is familiarly known as " Peter."]

73 Albion Gate, W.2.
19th July, 1945.

DEAR COLONEL STANLEY,

Thank you for your letter of 17th July.

In my letter of 18th January, to which you refer, I intended to make it clear that it was on the advice of the Commission that I appointed my nephew the Rajah Muda to administer the Government. In accordance, therefore, with the terms of the

Constitution I am passing to him your letter for any action which he may deem necessary.

Yours very sincerely,
(*Signed*) VYNER BROOKE,
Rajah of Sarawak.

Col. The Right Hon. Oliver Stanley, P.C., M.C., M.P.,
Secretary of State for the Colonies,
Downing Street, S.W.1.

Sarawak Government Office,
S.W.1.
4th October, 1945.

DEAR SECRETARY OF STATE,

May I invite you to refer to your predecessor's letter to the Rajah of Sarawak, dated 17th July, 1945? The Rajah who, as you are aware, is not at present constitutionally able to communicate officially with your Department, duly passed your predecessor's letter to me for a reply to the points raised therein.

It is only now that I am in a position to make this reply and to forward to you a copy of the joint opinion of Mr. Wynn-Parry and Sir Arnold McNair regarding the international status of Sarawak, for which the talks taking place between His Majesty's Government and the Government of Sarawak were by agreement suspended. I share the regret of your predecessor that it has taken so long to obtain this opinion, but in view of the internment in Sarawak of the legal adviser to the Sarawak Government, this Government was unavoidably obliged in its search for advice to take its chance with the general public. Furthermore, the experts briefed by the Sarawak Government, despite the note of urgency which, in accordance with your predecessor's wish, was duly conveyed to them, were disinclined to be hurried into giving their considered opinion in regard to a matter of such vital importance. In view of the fundamental differences which appear to exist between the considered view of the Colonial and Foreign Departments of His Majesty's Government and of the opinion which I now forward to you as representing the considered view of the Provisional Government of Sarawak in regard to the international status of Sarawak, I shall be very happy, provided the suggestion is agreeable to you, to resume the talks with legal authorities in attendance on both sides, with the immediate purpose of clarifying the matter of status and thus establishing a sound basis for the

continuance of the discussions between His Majesty's Government and the Government of Sarawak.

I am reluctant to let pass without comment the implication in its context of your predecessor's remark that the Sarawak delegates have shown themselves to be "personally unresponsive" to the proposals of His Majesty's Government. I have noted the concern with which your Department views this attitude, but I trust you will not expect me, especially in view of the rejection by the Supreme Council of Sarawak in October, 1941, of similar proposals to those now put forward by His Majesty's Government, readily to be persuaded that hitherto the Sarawak delegates have been unresponsive.

I cannot be brought to believe that there is no future place for Sarawak in relation to the British Commonwealth and Empire, which would be acceptable to His Majesty's Government, other than the position, now envisaged by His Majesty's Government, which would deprive a progressive people, politically free for a hundred years, of the full control of their internal affairs. I find it difficult to avoid the view that such a position—implicit in the proposal of His Majesty's Government to apply to Sarawak the Foreign Jurisdiction Act, which would give the Crown jurisdiction "in the same and as ample a manner as if His Majesty had acquired that jurisdiction by (the) cession or conquest"—would constitute a violation of the principles for which the war has been fought. Furthermore, there is at least some room for doubt whether such a position would be consistent with the promises and assurances given before the world by His Majesty's Government, jointly with the other United Nations, to those colonies and dependencies which have yet to reach the political maturity and the cherished freedom from centralised imperial control which Sarawak has so long valued and enjoyed.

While now informing you that the Sarawak Government is ready to resume discussions with His Majesty's Government on any date that may be convenient to you, may I add that it is the most earnest desire of this Government that an arrangement may be reached which, while envisaging machinery for the fullest consultation and co-operation on all matters of common interest, will yet leave the people of Sarawak free, as hitherto, to develop their social, political and economic life in their own way. I see no reason why they should not thus develop in the closest

relationship with the British Commonwealth and Empire and in the same proud and grateful association with the Crown which they have enjoyed for nearly sixty years.

I trust it will not be regarded as too great a presumption on my part to express the hope that you may find it possible personally to endorse the broad conception of a future relationship such as I have outlined, and which I do not think can be deemed inconsistent either with the modern trend of political thought in this country and throughout the world, or with the common ideals, aspirations and interests of the British Commonwealth of free nations, on the maintenance of which so largely depend the future welfare and happiness of mankind.

Yours sincerely,
ANTHONY BROOKE,
Rajah Muda of Sarawak.

The Secretary of State for the Colonies,
Downing Street, S.W.1.

Sarawak Government Office,
S.W.1.
8th October, 1945.

RAJAH,

I have the honour to acknowledge the receipt of Your Highness' letter dated 4th October, 1945, informing me that I have been dismissed from the appointment of Officer Administering the Government, and that the Provisional Government, of which I was appointed to be the head, has been dissolved.

In the present interests of Sarawak, there could be no advantage in disputing Your Highness' legal right to take this action and I accept the position that the Provisonal Government has been dissolved and my appointment as Officer Administering the Government terminated. Before proceeding further, however, I would like to assure Your Highness of the simple truth that every member of the Commission, with whom I had the honour and privilege to serve, did his duty as he saw it, in the interests of Sarawak and of yourself. Our every act and thought has been directed to this end, and I shall be well content to leave the judgment of our endeavours to Your Highness and to posterity.

In view of the warm and unanimous welcome which the Provisional Government accorded to Your Highness' decision to resume an active interest in Sarawak affairs, the members of the

Government, as Your Highness' duly appointed advisers, were not a little dismayed when it became apparent that Your Highness was not even prepared to see them to discuss the simple matter of procedure in regard to the best formula for meeting Your Highness' wishes in accordance with the spirit of the Constitution and with a view to creating the most favourable impression for historical record. It was unanimously maintained that unilateral action, even if it should be acquiesced in by His Majesty's Government without demur, might not be the most desirable course for Your Highness to take as a constitutional monarch and, this being the view of your advisers, it was their bounden duty to do all in their power to express this view, with all respect, in Your Highness' presence. From letters which have passed and telephone conversations which have taken place during the past few weeks, the attitude of Your Government is shown to have been consistent and clear, and I do not think Your Highness can have been unaware that it was the united desire of your advisers to be accorded an interview. It was therefore with the most profound disappointment and concern that it was learned that Your Highness was prepared to see neither myself nor any of your advisers until your intention to resume your powers and prerogatives had been made effective. I am bound to express my unalterable conviction that if only Your Highness had found it possible to accord to your advisers the interview which they were compelled by their sense of duty to seek, the dissolution of the entire Government, with all its implications, need never have taken place.

I would remind Your Highness that one of the foremost duties of the Provisional Government, as envisaged in your letter of 18th January, 1945, was to clarify the relationship between His Majesty's Government and Sarawak. The responsibility from the point of view of your Government has not been light, nor its task easy, more particularly in view of the nature of certain proposals put forward by His Majesty's Government which are directly contrary to the terms of the Agreements in force between the two Governments and the decision taken by the Supreme Council in 1941, when similar proposals were put foward and were unanimously rejected ; but Your Highness may rest assured that every proposal prejudicial to the interests of the people of Sarawak, or inconsistent with their last mandate, has been

strenuously resisted. It is, therefore, perhaps unfortunate that Your Highness should have dissolved your Government at this particular juncture, when a favourable Opinion has been received from learned Counsel which may be expected materially to strengthen Sarawak's position in connection with the discussions now taking place. Although a copy of the Opinion is on record in this office, I am taking the liberty of sending for Your Highness' perusal a further copy, since I feel sure you will agree that the value for Sarawak of such a favourable Opinion from learned Counsel cannot be over-estimated.

It would, in my view, have been a decisive advantage for the interests of Sarawak if only circumstances could have been such that Your Highness had reassumed your powers and prerogatives as Head of the Government which has been dissolved, thus preserving continuity in these important talks and presenting to His Majesty's Government a united front in respect of Sarawak's domestic rights which His Majesty's Government seek to acquire. Since Your Highness, on the occasion of our last meeting at Stanford Dingley, reiterated your personal approval of the policy followed by your Government of resisting the demand of His Majesty's Government in violation of Sarawak's treaty rights, continuity, even with new representatives for the Sarawak Government, should not be greatly affected. I would nevertheless wish Your Highness to know that I shall be only too happy to assist in every way possible in connection with these discussions if called upon to do so. In view of the importance for Sarawak of the outcome, I desire to point out to Your Highness that the members of your previous Government are in a position, provided that you will agree to see them, to give you a far clearer picture of what has been taking place since the first meeting at the Colonial Office than can be obtained from a perusal of the bare correspondence, and no doubt many of them would welcome the opportunity of a frank discussion.

In regard to the future, may I assure Your Highness that no matter what may have been the reason for your refusal to see me, it is my most earnest hope that in a short while you may feel disposed to reconsider your decision, so that the unexplained mysteries of the events of the past few weeks may be happily resolved, and I may give Your Highness a detailed account of the political discussions now to be continued by Your Highness and

your new Government, the outcome of which will be so vital for the people of Sarawak, and which will remain indelibly recorded on the pages of Sarawak history.

I have the honour to be, Rajah,
Your Highness' most humble obedient Servant,
(*Signed*) ANTHONY BROOKE,
Rajah Muda.

His Highness the Rajah of Sarawak, G.C.M.G.,
Jewell's House, Stanford Dingley, Reading, Berks.

Sarawak Government Office,
S.W.1.
8th October, 1945.

SIR,

I have the honour to inform you that I have received a letter from His Highness the Rajah of Sarawak, dated 4th October, 1945, advising me that my appointment as Officer Administering the Government of Sarawak has been terminated and that the Provisional Government has been dissolved.

In the present interests of Sarawak I have no desire, despite any legal objections which may exist, to challenge the course of action which the Rajah has seen fit to take and, with the concurrence of the Provisional Government, I have agreed to abide by the Rajah's decision.

With reference to my letter of 4th October which was, of course, delivered to you before the Rajah's decision had been communicated to me, I regret that in the circumstances the Sarawak delegates who have hitherto participated in the discussions which are being held between His Majesty's Government and the Government of Sarawak will not be representing Sarawak when the discussions are resumed, but no doubt the discussions will now be continued by the Rajah and His Highness' new Government, having particular regard to the Joint Opinion by learned Counsel, forwarded under cover of my letter of 4th October, 1945.

I have the honour to be, Sir,
Your Obedient Servant,
(*Signed*) ANTHONY BROOKE,
Rajah Muda of Sarawak.

The Secretary of State for the Colonies,
Colonial Office, Downing Street, S.W.1.

Kuching.
4th January, 1946.

SIR,

I respectfully wish to bring to the notice of the Government a certain matter which is causing me some concern.

On 1st January, 1946, Mr. G. T. M. MacBryan, His Highness the Rajah's private secretary, unexpectedly visited my house bringing with him a document signed by the Rajah ordering me to carry out whatever may be the wishes of Mr. MacBryan. On his arrival he ordered me to sign a letter which he brought with him, the contents of which were not clear and I would not, therefore, agree to sign it. At the same time he told me not to mention the matter to any European (Tuan).

On 2nd January Datu Amar and Datu Mentri, accompanied by Abang Mohamed Daim, came to coax me to sign, saying that they feared for me if I refused to sign.

Because I fear that this matter may bring danger to me, I sincerely hope the Government will enquire into the circumstances of Mr. MacBryan's visit and advise me, at the earliest possible opportunity, what I should do.

On Monday, 7th January, it has been arranged on Mr. MacBryan's orders that I should sign the letter at my house with Datu Amar, Datu Mentri and Datu Pahlawan, and I write this to let you know the position, and I hope you will inform Lt.-Col. Ditmas also.

Yours respectfully,
(*Signed*) A. H. ABDILLAH,
Datu Patinggi.

Lt.-Col. C. E. Gascoigne,
Treasurer, British Borneo Civil Affairs Unit,
Kuching.

Kuching.
8th January, 1946.

SIR,

I write to inform you that before I had received any advice from the B.B.C.A.U. I was compelled to sign a letter to comply with the Rajah's orders as conveyed through Mr. MacBryan. The incident took place on Sunday, 6th January, at about

1.30 p.m. After I had signed, MacBryan gave me twelve thousand dollars, saying: "This money is a gift from the Rajah." But I accepted it with suspicion because there was no evidence that it was from the Rajah. I therefore hand over this twelve thousand dollars to you, so that you may take whatever action you see fit in the matter.

Yours respectfully,
(*Signed*) A. H. ABDILLAH,
Datu Patinggi.

The Hon. J. B. Archer, C.S.S.,
Civil Adviser, British Military Administration,
Kuching.

[N.B.—On 6 Feb. 1946 the Colonial Secretary made a statement in the House of Commons. For Hansard Report see Appendix H at page 47.]

MESSAGE FROM THE RAJAH OF SARAWAK TO HIS PEOPLE

The members of my Supreme Council of State and myself rejoice that His Majesty's Government have intimated that my proposal to cede the State of Sarawak to His Majesty The King is acceptable. We delight to know that the exercise of any authority in the State except that of His Majesty will hereafter be determined. We believe that there lies, in the future, hope for my people in the prospect of an era of awakening, enlightenment, stability and social progress, such as they have never had before. We regard the acceptance of the Cession as the consummation of the hopes of the first Rajah of Sarawak.

It has been suggested in the public Press that His Majesty's Government have sought to impose upon my people a change of political order we do not desire. The contrary is the truth. We have sought the good offices of His Majesty's Government to represent that His Majesty may be graciously pleased to accept the cession of the State. We want that my people may enjoy the more direct protection of His Majesty, and those inestimable rights of freedom which His Majesty's citizens enjoy.

It is the case in Sarawak that all authority derives from the Rajah. The people trust the Rajah and what the Rajah advises

for the people is the will of the people. I am the spokesman of the people's will. No other than myself has right to speak on your behalf. No one of you will question whatsoe'er I do in his high interest. No power nor personal interest shall subvert my peoples' happiness and future. The happiness of your future lies within another realm. There shall be no Rajah of Sarawak after me. My people will become the subjects of The King. Now draws near the time when I will come to you. Expect me soon.

THIS IS FOR YOUR GOOD MY ROYAL COMMAND.

6th Feb., 1946.

C. V. BROOKE,
Rajah of Sarawak.

104, Paramount Court, University Street, W.C.1,
9th February, 1946.

MY DEAR PRIME MINISTER,

I am writing to ask if you would be kind enough to let me come and see you. I am the Tuan Muda of Sarawak and, as brother to the Rajah, Heir-Presumptive to the Raj of that country. Incredible as it must seem to you I have not been consulted in any way either by the Rajah or by the Colonial Office as to the proposed change in the status of Sarawak, though my own rights in the succession and those of my son were very explicitly laid down in the Accession Oath to which my brother, in accordance with our father's political will, subscribed. Personally, I have reached an age when my own rights in the matter can interest me very little, but what I am deeply concerned about is the people of Sarawak for whom I have worked for the greater part of my life and whose independence it is apparently proposed to terminate at a time when, owing to the unavoidable failure of the British protectorate four years ago, they are still under the shadow of their terrible ordeal and are also under military occupation. Such evidence as I have does not in any way bear out the Rajah's contention that the people and their native leaders wish to lose their national identity or even to sever the connection with my family round which that identity has grown up. Indeed, the personal messages I have received from responsible Malays in Sarawak since their liberation suggest exactly the contrary, and I fear the extinction of the State at the present moment might cause grave repercussions throughout Malaya. I will not go into

the record of the person who was employed as the Rajah's emissary in the flying visit to Sarawak referred to in the Colonial Secretary's statement; the Colonial Office is, I imagine, well aware of his history. There are however, certain financial aspects of the case and figures which it will be repugnant for me to have to reveal, but which I think you ought to know, and which might affect the honour of England.

(*Signed*) BERTRAM BROOKE,
Tuan Muda of Sarawak.

The Prime Minister,
10, Downing Street, S.W.1.

Colonial Office, Downing Street, S.W.1,
15th February, 1946.

DEAR CAPTAIN BROOKE,

The Prime Minister has passed on to me your letter of the 9th February and has asked me to reply to it.

As regards the implication that I, as Secretary of State for the Colonies, ought to have kept you informed of the course of my negotiations with the Rajah, I must state that I consider this to be entirely a matter for the Rajah.

I know and fully appreciate your deep concern for the well-being of the people of Sarawak, and I note your conviction that the people of Sarawak feel their happiness and well-being to be bound up with the continuance of Brooke rule. I must, however, point out that, as I have indicated in the House on several occasions, nothing has, as yet, been finally settled in the matter of the cession. It is true that the Rajah has been informed that a proposal to cede would be acceptable to H.M.G., but this proposal is to be put by the Rajah to his Council on his return to Sarawak. I need hardly add that the common purpose of all of us is the development of Sarawak in the best interests of the inhabitants, and though we may have differing ideas now as to how that future should be shaped, we can only endeavour to act in accordance with the wishes of the people themselves, as we are able to determine them. That is the Rajah's intention, as he has revealed it to me. It is the intention of His Majesty's Government also and now we must await the decision of the Councils on this vital matter.

As regards your reference to certain financial aspects, you may have in mind the trust fund which, I understand, becomes payable to the *de jure* Rajah in the event of cession of the territory. You should know that the Rajah has informed me that, in the event of cession, it is his intention to make the capital (which, I understand, is in the neighbourhood of £120,000) available to the trustees of the proposed £1,000,000 trust fund, thus reducing the call on the Sarawak reserve funds to approximately £880,000. If, however, there are other facts concerning the financial aspect of this matter which you feel it is your duty to bring to the attention of H.M.G., I shall of course be ready to consider them.

I have stated my views quite frankly because I feel that there should be no misunderstanding between us as to the position of the Rajah, my own position and that of His Majesty's Government in these matters.

Yours sincerely,
(*Signed*) G. H. HALL.

Captain Bertram Brooke.

Capt. Bertram Brooke, Tuan Muda, to Rajah of Sarawak.

104, Paramount Court, W.C.1,
5th March, 1946.

MY DEAR VYNER,

I understand that you are shortly going to Sarawak accompanied by a party of your officers with the intention of putting before the people there your proposals regarding cession of the State to the British Empire.

Our father by his political Will assigned to me a position of authority in the Raj second only to your own and expressed a clear intention that I should be consulted on all matters of importance relating to Sarawak.

I contend and hope you will agree that I have a right to be present in the State when your cession proposals are under consideration by the Council Negri and, since no independent means of transport are available, I ask that you will make me and Peter members of your own party.

You will, I feel sure, appreciate the justice of this request and I shall be happy to see you in order to make the necessary arrangements.

Yours affectionately,
(*Signed*) ADEH.

Rajah of Sarawak to Capt. Bertram Brooke, Tuan Muda.

Sarawak Government Offices, Millbank House, S.W.1,
9th March, 1946.

MY DEAR ADEH,

Many thanks for your letter. I can't agree that either you or Peter should accompany me to Sarawak. All is peace and quiet there and I don't want any family squabbles upsetting the natives —especially when rice costs 7 dollars 50 cents a gantang !

The " Political Will " is merely the expression of wishes—I'm no more bound by it with regard to "succession" than I was bound by it to maintain your emoluments at £1,500 a year, or to allow the Sarawak Advisory Council to exist indefinitely. It is what a " Rajah " does in a lifetime that counts—not what he would like others to do after him.

After all the vilification that has gone on there can be no question of Peter ever succeeding me. He has had fair trials and proved himself a failure. I enclose a copy of a letter from Colonel Stanley, written last July, with my endorsement on it. All Peter did was to record a minute at a meeting, saying that on legal advice he had decided not to answer it. As to yourself you'll remember my memo. of 25th, of others last shown you by Smith and your reply to Smith. You wrote as follows : " I have not been near the office and have not asked any questions as to what has been done, or suggested to anyone that I should be kept in touch with Sarawak affairs. I have followed Lord Horder's advice to keep clear of any discussions implicitly as it was coupled with the warning that I was bound to get another breakdown if I did not. . . . I must ask H.H. to continue to allow me to continue to follow this advice." I think I have respected your wishes.

As regards financial arrangements for yourself and Peter, both of you will be named as beneficiaries under the Sarawak State Trust Fund for the same amounts as you are now receiving for your respective lifetimes. The Datus, myself and family are also going to be named. You mentioned the revisionary clause attaching to the Advisory Council Trust. Presumably it was either you or Peter who drew the attention of the Secretary of State to that Trust Clause. I had, however, made it quite clear that the capital of that Trust will be included in the new Sarawak

State Trust so that the call on reserve revenues for the purpose of that Trust will be reduced by approximately £120,000.

Yours affectionately,

(*Signed*) VYNER.

Captain Bertram Brooke, Tuan Muda, to Rajah of Sarawak.

104, Paramount Court, W.C.1,
19th March, 1946.

DEAR VYNER,

I have been indisposed.

I know that although you signed it your letter of 9th March is not your own. I could not bear to think that it was.

Our father's Will imposed a solemn trust upon you: you took an equally solemn oath to carry out that trust and it shocks me that you have now been persuaded to break your oath and to say the Will is not binding.

Do please believe that you are being most terribly misled and do, I beg you, abstain from a course of conduct which will, I am convinced, drag your name in the mud for all time.

Yours affectionately,

(*Signed*) ADEH.

TELEGRAM: *From President, Malay Union of Sarawak to His Highness Tuan Muda, Bertram Brooke.*

25th March, 1946.

We wish to convey to Your Highness the wishes of indigenous people regarding problem of Sarawak. They do not accept as valid documents signed by members of Supreme Council regarding cession of Sarawak. They do not agree with cession and their will is that Raj of Sarawak be handed over to Your Highness or son, Rajah Muda, if His Highness Rajah is incapacitated to rule. They therefore request with greatest respect Your Highness and Rajah Muda coming to Sarawak immediately.

From Captain Bertram Brooke, Tuan Muda of Sarawak, to President, Malay Union of Sarawak.

29th March, 1946.

I and my son received your cable of twenty-fifth and offer sincere thanks for your loyalty. Unhappily the situation is that the Rajah refuses permission for us to proceed to Sarawak and British Government accept that situation and will not give us facilities to travel. Whatever anyone may say to the contrary, the truth is that unless the people of Sarawak of their own free will say that Brooke rule must end and that Sarawak must be ceded to the British Crown the British Government will not accept the Rajah's offer of cession. I and my son are only anxious firstly that no improper influence shall be exercised by anyone upon the people and the members of the Council, and secondly that those members, without fear or favour, shall express whatever they truly believe to be the wish of the people in this vitally important matter. Captain Gammans and Colonel Rees-Williams are coming to Sarawak not as representatives of the British Government but as representatives of the British people to see fair play and to make sure by independent enquiry that the Rajah's proposal for cession of the territory is broadly acceptable to the native communities. Those communities may speak with the utmost freedom to those gentlemen without any fear of subsequent victimisation and should not feel under any obligation in this special matter to obey the Rajah's wish unless they honestly believe it to be for the people's ultimate good. I and my son follow the Brooke tradition and regard ourselves as the servants of the people. We have no selfish motives and although our hearts will be full of sorrow if the people of Sarawak wish Brooke rule to end we shall accept their decision loyally and as final subject only to being satisfied that the people know what they are doing and do it without compulsion. Please acknowledge this by cable.

Colonial Office,
2nd April, 1946.

DEAR CAPTAIN BROOKE,

I have recently had some discussion with His Highness the Rajah concerning your wish to go out to Sarawak to place before the people your views on the proposal to cede the territory to His

Majesty's Government. I find that on further consideration of the matter the Rajah is ready to agree to your proceeding to Sarawak for this purpose, accompanied by Mr. Pollard as an adviser, on the understanding that you are prepared to accept the decision of the Councils on the question of cession.

My object in writing this letter to you is to say that if you decide to take advantage of the Rajah's decision and would like priority passages for yourself and your adviser, my Department will be happy to arrange them for you. In that event, we should want to know the date by which both you and Mr. Pollard would be ready to travel to Sarawak. It will, of course, be necessary for you to be inoculated and vaccinated and this is likely to take about a fortnight or three weeks.

Yours sincerely,

(*Signed*) G. H. HALL.

104, Paramount Court, University Street, W.C.1,

5th April, 1946.

DEAR MR. HALL,

I have your letter of the 2nd inst. and am obliged to you for your intervention with the Rajah.

The condition made that I must accept the decision of the Councils on the question of cession presents no difficulty; my only anxiety has been that the people of Sarawak shall clearly understand what the proposed cession involves and that they shall freely express their wishes on the matter. The proper way for them to express their wishes is, of course, through their representatives on the Councils.

Three points arise:—

(*a*) You appear to limit me to one travelling companon, Mr. F. H. Pollard. I should like permission and facilities to take two others.

(*b*) May I assume that we shall be properly accommodated and have freedom and facilities to travel about Sarawak on our arrival?

(*c*) The journey is a very tiring one; may I assume therefore that the first Council meeting will not take place until at least ten days after we reach Kuching?

Yours sincerely,

(*Signed*) BERTRAM BROOKE,

Tuan Muda of Sarawak.

The Rt. Hon. G. H. Hall, P.C., M.P.,

Colonial Office, Downing Street, S.W.1.

The Secretariat, Kuching, Sarawak,
20th April, 1946.

SIR,

I have the honour to inform you that His Highness the Rajah of Sarawak, G.C.M.G., has received the letter of your nine presidents of the Malay National Union of Sarawak dated 12 April, and has carefully considered it.

Your Union is not yet sufficiently informed and cognizant of what caused the Rajah to envisage the cession of Sarawak to H.M. the King, and His Highness instructs me to explain.

His Highness is not indifferent to the distinguished rule of the Brookes in Sarawak in the past, but in times like the present, especially after the troubles consequent on the war, he is of opinion that a small State like Sarawak cannot exist by itself, even under British protection.

His Highness invites you and other members of the Union to consider the difficulties ahead for this country without urgent financial assistance. Trade has almost gone, reserves of revenue are mostly lost, public works like shipping connections, hospitals, education and health services are held up and need enough money for their rehabilitation. A fresh start is required.

In these circumstances thought must be given to the future in order to escape bankruptcy, suspense and confusion. The best we can hope for is to get financial and other aid by placing ourselves under British direction.

His Highness has pondered long on the ignorance about his intention to cede the State. He has never contemplated selling it or deserting it and its people, and he had never expected such a disgraceful and preposterous rumour could have arisen. His Highness has had no thought except for the good of his people and the question of cession is to be brought before the Supreme and State Councils. The Constitution of 1941 has been ratified and is in force and His Highness has signed the enactment setting it forth for publication in the next Sarawak Government Gazette.

Finally, His Highness wants to assure you that the traditional custom which you prize is not being changed at all. The Sarawak civil servants whom you know will not be abolished. His Highness will pay annual visits to Sarawak as hitherto and there will be no dangers to obstruct the development of the State. Great Britain is strong and reliable. His Highness asks you to reflect

long on this cession without thought of self-interest. His Highness is delighted to acknowledge your loyalty and your affection for himself and his forerunners. People of all races have expressed their affection and trust.

This letter is written in the hope that you will all trust the Rajah in this last step and be confident that it is for your good.

Yours respectfully,
(*Signed*) J. B. ARCHER,
Acting Chief Secretary.

President, Malay National Union of Sarawak,
Kuching.

To His Highness the Tuan Muda of Sarawak.

Malay National Union Sarawak, Kuching,
8th May, 1946.

To the Tuan Muda whom we respect

We have the great honour to submit this letter.

According to the annals of Sarawak, the first Rajah, Sir James Brooke, sat on the throne by the consent of the Sarawak Malays. And it was in co-operation with the Malays that His Highness abolished the oppression and cruelty of evil-doers. The Datu' Patinggi knows those who from respect and affection for the Rajah and the Government of Sarawak sacrificed their lives fighting.

It was by the consent of the Sarawak Malays that the first and second and the present Rajah Brooke ruled Sarawak until the present day.

The proposal of His Highness Rajah Sir Charles Vyner Brooke to cede Sarawak to the British Government has caused sadness and dry tears to the sons of Sarawak's soil. We Malays and Milanaus, male and female, dissent unanimously from the cession of Sarawak because we disapprove of the termination of Brooke rule over this independent State. We Malays have heard that the Dayaks of the coast and of the interior cling fast to Brooke rule. So we earnestly beg you and the Sarawak Government to arrange for the withdrawal of the Rajah's proposal. If His Highness feels the infirmity of age, then the office can be given to you according to the Will and Testament of Rajah Sir Johnson Brooke.

The announcement by His Highness the Rajah in the Supreme Council on 24th April, 1946, that His Majesty the King is his

heir does not concern us. His Highness can choose any heir he likes, but the heir to the Sarawak throne is the Tuan Muda Bertram Brooke, as the Rajah himself announced on 31st March, 1941, according to the will of the late Sir Charles Johnson to which all the people adhere.

For a century your servants the people of Sarawak have lived peacefully and prosperously in Sarawak as in an earthly heaven under the rule of the Brooke family and under the shelter of the just British Government.

HOPE WHILE BREATH IS DRAWN.

Your loyal and obedient servant,
ABANG HAJI ZAINE,
President, Malay National Union of Sarawak.

Copies to :

1. The Ag. Chief Secretary, Sarawak.
2. Parliamentary Delegates, Colonel Rees-Williams and Captain David Gammans.

To His Highness the Tuan Muda of Sarawak, with greetings.

Malay National Union, Kuching, Sarawak,
9th May, 1946.

TUAN MUDA,

In continuation of his letter of 8th May, 1946, your obedient servant writes this letter for your information.

Your subjects have heard that His Highness the Rajah will convene the State Council on 15th May. During its assembly the cession of Sarawak will be considered. Your subjects know that the real duty of that Council is to carry on the duties of government and not to consider the cession of the country. If the Council is held with members not elected and installed by the people of the country, its decision is certain to incline heavily to cession because most of the members are foreigners and there are only two Malays, Datu Pahlawan and his younger brother, Abang Haji Abdulrahim. So its decision will not be accepted by the people of the country.

Sarawak is independent and the property of its people. Foreigners in Sarawak come temporarily to seek a livelihood by

commerce or profession and so on, so it is not right that they should join in debate on the cession of this country.

To conclude, your servants, the people of Sarawak, hope that you and your son may maintain the freedom of our country so that it may be ruled by the Brooke family as heretofore.

That is our hope so long as we breathe.

Your loyal and obedient servant,
ABANG HAJI ZAINE,
President, Malay National Union of Sarawak.

Copies to :—

1. The Ag. Chief Secretary, Sarawak.
2. Parliamentary Delegates, Colonel Rees-Williams and Captain David Gammans.

To Capt. D. Gammans and Col. Rees-Williams, Parliamentary Delegates, Sarawak.

Kuching,
12th May, 1946.

SIRS,

With all respect we the undersigned heads of districts in Kuching on behalf of our people inform you that with regard to the Sarawak problem, we are unanimously opposed to the cession of Sarawak to the British Government.

We trust unbiassed consideration will lead Great Britain to confirm the status of an independent Sarawak for ever as hitherto in conformity with the agreement and will of the deceased, Sir Charles Brooke, made by him in 1888.

We attest that during the century of Brooke rule we have lived in peace and independence.

At this juncture many dependent countries are demanding freedom: much more so must Sarawak demand to retain its freedom.

So we still hold firmly by the Brooke family, that they may one generation after another rule Sarawak. For we love them greatly and are mindful of their past kindness and service.

We ardently hope and beg that you will convey our views to the British Parliament for just consideration.

Respectfully from us district chiefs,
(signed by sixteen heads of district).

Kuching,
13th May, 1946.

RAJAH,

I have the honour to inform Your Highness that since my arrival in the country I have ascertained that prominent members of the community were definitely informed, during the secret negotiations carried on by your agent out here prior to the declaration of your intention to cede the State, that your dismissal of your Provisional Government under the chairmanship of my son, Anthony Brooke, as Rajah Muda, and your subsequent direct unilateral confidential conversations with His Majesty's Government had my full approval, as representing the succession to the Raj of Sarawak.

I find also that the majority of the people do not in the least wish the country to come under British rule, and that those who have signified their assent have no idea of what this really means.

I therefore request that you will be so good as to instruct your Council to allow me to make the situation clear to the members immediately after the second reading is moved, although it is obvious to anyone who knows the country that your Council is no representative body assembled to express the real wishes of the people.

I take this opportunity of registering a protest that up to now I have had no official intimation of any kind about this meeting, except the date on which it is to be held.

I *hear* that the financial provisions in the event of cession are to be debated. I submit that whilst the Council can vote the total sum, the allocation of this sum to your "dependents" is no matter for this Council to determine but that the interests of those whom the cession affects should be considered by some independent body after consultation with those concerned.

Finally I register a most emphatic protest against the secrecy and the unnecessary speed with which this whole question has been handled. I submit that the best course would be to defer the matter of cession altogether until further examination has taken place, and further consultations with His Majesty's Government on the lines of the enclosed memorandum.

I have the honour to be, Rajah,
BERTRAM BROOKE,
Tuan Muda.

Copy to :—
Colonel Rees-Williams, M.P., and Captain L. D. Gammans, M.P.

Colonial Office, Downing Street, S.W.1,
1st June, 1946.

DEAR SIR,

In the Secretary of State's absence from the office, I have ventured to open your letter of the 31st May, enclosing a copy of one which you wrote to the Rajah of Sarawak five days after your arrival in Sarawak. It will be laid before Mr. Hall on Monday.

Yours very truly,
(*Signed*) P. ROGERS,
Private Secretary.

Captain Bertram Brooke.

Colonial Office, Downing Street, S.W.1,
7th June, 1946.

DEAR SIR,

With reference to my letter of the 1st June, in which I informed you that your letter of the 31st May would be laid before my Secretary of State on his return to the office, I am now desired by Mr. Hall to inform you that he has seen your letter.

Yours very truly,
(*Signed*) P. ROGERS,
Private Secretary.

Captain Bertram Brooke.

TELEGRAM : *From Datu Patinggi and Presidents, Malay Union and Dayak Association of Sarawak to Rajah Muda*, 31, *Prince Albert Road, Regent's Park, N.W.*8.

Date : 7th June (Kuching).

Dayak and Malay communities throughout Sarawak protest against false report regarding cession. We stand resolutely against cession and strongly and wholeheartedly desire Raj of Sarawak must not be ended. We invoke Atlantic Charter points 2 and 3 to uphold our cause for sake of international justice and integrity. We request Your Highness and your honoured father to intercede to champion for retention of Sarawak's independence intact, if necessary even to United Nations' Organisation till success is achieved. We pledge and reaffirm our full support and allegiance. Please contradict report detrimental to independence

of Sarawak by using this statement which we freely empower Your Highness to use for broadcast or publication. If our independence is violated, what do the Atlantic Charter, United Nations' Organisation and Political Will of Sir Charles Brooke stand for ?

TELEGRAM : *From Phillip Jitam (President, Dayak Association of Sarawak) to Rajah Muda Brooke,* 31, *Prince Albert Road, Regent's Park*

Date : 8th June, 1946 (Kuching).

Dayak communities First, Second, half of Third, Fourth and Fifth Divisions reject cession. Cession was opposed by representatives of First, Second, Fourth and Fifth Divisions in Council Negri which I attended. Views clearly and emphatically expressed by representatives. We desire advocacy by Your Highness and your honoured father to champion our cause till success for independence of Sarawak is achieved. It would be grave miscarriage of justice and fair play for Great Britain to accept cession since Great Britain is a signatory of Atlantic Charter and also member of United Nations' Organisation. Rajah's assent to cession is entirely repugnant to your honoured grandfather's Political Will. We look up to His Highness Tuan Muda and His Highness Rajah Muda to sustain the Brooke traditions. As Saint George stands for England, so a Brooke is to us. Do not fail us. We assure Your Highness of our humble allegiance and full support.

Bath Club, London, W.1,
18th June, 1946.

YOUR MAJESTY,

With my humble duty I venture as Heir Presumptive to the Raj of Sarawak to bring the present situation of that State to your Majesty's attention because the proposed cession involves the British Crown not only in a serious constitutional respect but would seem to affect Your Majesty directly in a personal capacity.

The first Rajah of Sarawak, Sir James Brooke, the creator of the State, at his death willed his Sovereignty to his nephew Charles in tail Male with ultimate remainder to Her Majesty Queen Victoria. Charles, my father, who succeeded, of course followed

that Will and at his death willed the State to his eldest son, Vyner (my brother) in tail Male with ultimate remainder to His Majesty The King of England. It was a condition of that Will that no material changes in the Government of Sarawak should be initiated by my brother Vyner without consultation with me.

It was obvious that in any case no changes could be effected so as to deprive, without their consent, the remainder men (including Your Majesty) of their rights to succession. Nevertheless in 1941, in return for very important cash considerations, my brother, who is without male issue, entered into an agreement with the Committee of Administration of Sarawak whereby, *inter alia*, he purported to empower them in certain circumstances to choose an heir to succeed me although my son, Anthony, entitled to succeed me under my father's Will was (and still is) alive.

In pursuance of that Agreement he purported to grant Sarawak a Constitutional Government, acting through the Rajah in Council and admirable so far as it advances the interests of the population but, as I have always contended, of no legal effect in so far as it may be repugnant to the first two Rajah's Wills and certainly incapable of altering the Succession.

In 1945 my brother offered to cede the State to Great Britain on terms that from Sarawak funds a Trust of a million sterling should be created for him and his family (including me and my son) and certain others for life. It must be clear that he could not make that offer good without the consent of the remainder men, but the attitude which I and my son have taken throughout is that if the native communities of Sarawak should of their own free will, without any fraud or duress being exercised upon them, express a desire for cession, we would willingly agree.

The native communities have not expressed any such desire; on the contrary, the native members of the Council, although nominated by the Rajah and under the strongest natural inclination to obey his wishes, voted against the cession proposal (12 against 9) and that in spite of urgent and in my view unjustified appeals made to them by the Council President the Chief Secretary.

A narrow majority of 3 for cession was secured by taking the votes of the European official members of the Council who are all employed in the Sarawak Civil Service and in spite of the adverse native vote a cession instrument was executed by the Rajah and Your Majesty's representative.

Two members of Parliament were sent to Sarawak by the House of Commons to ascertain before the voting whether the cession proposals " were broadly acceptable to the native communities " ; their reports have, so far as I know, not been published in any detail, but one of the two, Capt. Gammans, in a newspaper article, has said "the only people who favoured cession for its own sake were most of the Chinese " and it is to be remembered that the Chinese are not indigenous to Sarawak and are not so scheduled to the 1941 Constitution.

Having with difficulty secured permission to visit Sarawak to put my views to the Council I am satisfied beyond all doubt that the natives, proud as they are of their association by Treaty with the British Crown, are appalled at the thought of losing their independence and bewildered by the devices which they feel have so speedily snatched that independence from them.

As I understand it, cession will not be complete until Your Majesty executes an appropriate Order in Council.

It is my earnest hope most humbly advanced that Your Majesty may think it proper, in the circumstances which I have outlined above, that this final step should be deferred and that meanwhile an appropriate enquiry may be instituted as to the legality and propriety of the cession proposal which, if it be not offered fully and freely by the native communities, must infringe the undertaking given by Great Britain and U.S.A. in The Atlantic Charter " to respect the right of all peoples to choose the form of government under which they will live."

I am emboldened to write as I have done by the urgent appeals addressed to me in most touching terms by the Malay and Dayak Associations of Sarawak to champion the fight of those communities for retention of the States' independence and by my profound conviction that there is at this time among the natives in Sarawak an overwhelming feeling of bewilderment and betrayal and a loss of confidence in the reality of the Atlantic Charter principle which Great Britain undertook to support.

Your Majesty will graciously believe that at my advanced age I have no selfish desire in this matter and that I am and shall ever be your Majesty's most loyal and humble servant.

(*Signed*) BERTRAM BROOKE,
Tuan Muda of Sarawak.

TELEGRAM: *From Datu Patinggi, Presidents Malay Union of Sarawak and Dayak Association, to Rajah Muda,* 31, *Prince Albert Road, N.W.*8.

Date: 19th June, 1946.

Dayak and Malay communities in Sarawak request His Highness Tuan Muda to assume prerogatives of Raj of Sarawak since Sir Vyner Brooke repudiates oath of accession and has voluntarily relinquished position by acquiescence to cession of Sarawak. We regard his act as breach of faith and trust to the people of Sarawak. Please clarify our resolution to British public, the Secretary of State for the Colonies, the Rt. Hon. Mr. Winston Churchill and the British House of Commons that we desire continuation of Raj and value our independence. We want prompt action since our spontaneous wish and will must be satisfied which only His Highness Tuan Muda can successfully fill morally and legally being Heir Presumptive; hence his or his nominee's presence here is imperative. Please reply acceptance.

104, Paramount Court, University Street, W.C.1,
26th June, 1946.

DEAR SECRETARY OF STATE,

I write to confirm the despatch of the following telegram, which I sent to you yesterday evening:—

"The news from Sarawak that is now reaching me convinces me that opposition to cession is increasing and hardening as the country awakens to a fuller realisation of what is proposed. In view of the insistence of the educated natives on the preservation of the Raj, I fear that this opposition will continue to increase if the final steps are taken to establish Sarawak as a Crown Colony and that it will become really active and lead the country into the same difficulties that have now occurred in Malaya. I should wish to do anything possible to prevent this and, in order to meet the wishes of the great majority of the people and avoid serious friction, would agree to accept an adviser with full powers. I would ask you to give me an appointment at the earliest opportunity to discuss the possibility of a settlement on these lines."

I would assure you that my sole anxiety is to do all in my power to avoid any serious difficulties arising in Sarawak.

Yours sincerely,

(*Signed*) BERTRAM BROOKE,
Tuan Muda of Sarawak.

Rt. Hon. G. H. Hall, P.C., M.P.,
Secretary of State for the Colonies,
Downing Street, S.W.1.

THE SARAWAK CESSION ORDER IN COUNCIL, 1946

AT THE COURT AT BUCKINGHAM PALACE
THE 26TH DAY OF JUNE, 1946,
Present
THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by an Instrument of Cession dated the twenty-first day of May, 1946, His Highness Sir Charles Vyner Brooke, G.C.M.G., Rajah of Sarawak, acting with the advice and consent of the Supreme Council of Sarawak, has ceded to His Majesty, His Heirs and Successors, the territory of the State of Sarawak and the full sovereignty and dominion over the said State, as from the date on which the said Instrument of Cession comes into operation, to the intent that the State of Sarawak shall thereupon become part of His Majesty's dominions ;

AND WHEREAS it is provided by the said Instrument of Cession that it shall come into operation on such date as, by virtue of an Order made by His Majesty in Council, Sarawak becomes part of His Majesty's dominions ;

NOW, THEREFORE, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

Short title and commencement.

1. This Order may be cited as the Sarawak Cession Order in Council, 1946, and shall come into operation on the first day of July, 1946.

Sarawak to form part of His Majesty's dominions.

2. As from the first day of July, 1946, Sarawak shall be annexed to, and shall form part of His Majesty's dominions and shall be called the Colony of Sarawak.

Nationality.

3. All persons who on the first day of July, 1946, are Sarawak subjects by reason of the Sarawak Orders No. N-2 (Sarawak Nationality and Naturalization) 1934, and N-2A (Sarawak Nationality and Naturalization Amendment) 1939, shall on that day become British subjects.

Power to revoke.

4. His Majesty hereby reserves to himself, His Heirs and Successors, power to revoke, alter, add to, or amend this Order.

E. C. E. LEADBITTER.

Colonial Office, S.W.1,
28th June, 1946.

DEAR CAPTAIN BROOKE,

His Majesty the King has commanded me to reply to the petition which you addressed to His Majesty on the 18th June.

His Majesty's Government have already been seized of the constitutional matters to which you refer in that petition, including those connected with your position as Heir Presumptive. These matters have been given full consideration, and His Majesty's Government are advised that all measures necessary from the constitutional point of view in connection with the cession of Sarawak to His Majesty have been taken by the Government of Sarawak.

Although His Majesty's Government were advised that there was no constitutional necessity for your presence in Sarawak at the time when the question of cession was under discussion in the Councils, in view of your position as Heir Presumptive I secured the agreement of the Rajah to your visiting Sarawak for the purpose of putting your views personally before the people, on the condition that you accepted the decision of the Councils in regard to cession. In your letter of 5th April you assured me of your acceptance of this condition, and you did not qualify that acceptance in any way. You were thus enabled to visit Sarawak, the necessary facilities being provided for you and your three advisers on the date which you yourself selected, and although you were not a member of the Council Negri, you were permitted to address the Council during the debate on the Cession Bill. In these circumstances I find it difficult to reconcile your petition with the

above undertaking; and since the necessary constitutional measures have been taken and you were, in addition, granted the facilities to which I have referred above, I am not now prepared to advise His Majesty to take any action on your petition.

Regarding the enquiry undertaken by Colonel Rees-Williams and Captain Gammans as to the acceptability to the native communities of the Rajah's proposal to cede the territory to His Majesty, as I informed the House on 15th May, the two Members of Parliament reported to me their conclusion that there was sufficient acquiescence or favourable opinion in the country to justify the question of cession to be brought before the Council Negri, and they strongly urged that there should be no postponement of that action. Again, as I informed the House on 22nd May, His Majesty's Government reviewed their decision to accept the cession of the territory in the light of the voting in the Council Negri, but reached the conclusion that the results of that voting did not afford grounds for any reconsideration of their attitude.

Yours sincerely,

(*Signed*) G. H. HALL.

Captain Bertram Brooke.

104, Paramount Court, University Street, W.C.1,
6th July, 1946.

DEAR MR. HALL,

I thank you for your letter of 28th June.

Beyond saying that I do not share the view of the constitutional position set out in your letter, there seems nothing to be gained from taking up any more of your time at this stage in discussing points arising from your observations.

It is true that facilities for me to visit Sarawak were, when given, made conditional on my accepting the decision of the Councils. The only qualification I expressed, both in my original letter to "The Times" offering to refer my personal rights to the representatives of the native communities and in my letter to you accepting your offer was, if I may quote my own words from the latter, "that the people of Sarawak shall clearly understand what the proposed cession involves and that they shall freely express their wishes in the matter." It was, I assume, common ground to both of us that the decision should be fairly obtained.

The facts set out in the enclosed paper—and all of them can be fully substantiated—made it clear that the cession vote was not fairly obtained. I think that if you will be good enough to read it, you will agree that the people of Sarawak will have grounds for complaint, both now and in the future, unless some means can be found to meet their legitimate wishes.

I can only assure you of my continued readiness to do anything I properly may to alleviate a situation which, so long as it is not acceptable to the Sarawak people cannot, I imagine, be so to His Majesty's Government, and that I am freely at your disposal for discussion if, in your view, this can be of any assistance.

(*Signed*) BERTRAM BROOKE,
Tuan Muda of Sarawak.

The Rt. Hon. G. H. Hall, P.C., M.P.,
Colonial Office, Whitehall.

TELEGRAM : *From Datu Patinggi to Tuan Muda, c/o Rajah Muda* 31, *Prince Albert Road, N.W.*8

Date : 2nd July, 1946.

As the 14th hereditary chieftain and representative of the people of Sarawak before Brooke rule and the 4th since Brooke rule, I ask that the Tuan Muda or Rajah Muda shall return to Sarawak to initiate fresh discussions on the question of the cession of the country.

TELEGRAM : *From Datu Patinggi and President, Malay Union, to Prime Minister Attlee,* 10, *Downing Street, London*

Date : 1st July, 1946.

Respectfully convey to you our humble protest in regard to cession of Sarawak on following facts. 1st : No lawful assent of representatives of indigenous people has been given to cession. 2nd : People of Sarawak do not want their country to become Crown Colony. 3rd : They desire continuity Raj of Sarawak. 4th : Council Negri's native vote was 12 against, 9 for. The latter includes 5 under monetary influence. Clear 100 per cent. dissentient and it indicates ominous feelings of people in Sarawak. 5th : Therefore, instrument of Cession ratified by Supreme

Council is nullified by paragraph 4. Datu Patinggi, whose rank is like to His Grace the Duke of Norfolk, is not a signatory. 6th : Since Sir Charles Vyner Brooke repudiates Oath of Accession ignored behest in Political Will of Sir Charles Brooke and had voluntarily relinquished Raj of Sarawak by acquiescence to cession, thus by his conduct committed breach of faith towards people of Sarawak, we respectfully request that Tuan Muda, being Heir Presumptive, assumes prerogative of Raj of Sarawak. We look up to you as Great Britain's Prime Minister to uphold justice and respect wishes of Sir Charles as mentioned in Political Will. We gratefully thank you for doing so.

Colonial Office, S.W.1,
3rd July, 1946.

DEAR CAPTAIN BROOKE,

I have received your telegram of the 25th June, with your confirmatory letter of 26th June, and also your earlier letter of the 20th June.

I noted the desire expressed in your telegram and letter of the 26th June to discuss with me a possibility of settlement on the lines of the appointment of an adviser with full powers : also that such a solution would have been acceptable to you. I presume that you had in mind something similar to the original proposals put forward by His Majesty's Government as the basis for the development of Anglo-Sarawak relations in the post-war period.

I should like to point out that these proposals were discussed with the representatives of the "Provisonal Government of Sarawak" over a period of several months, but that owing to the attitude of their representatives no progress was made. I understand that it was only after the "Provisional Government" had resigned, at the request of the Rajah, that the latter became aware of the detailed proposals which had been put forward by His Majesty's Government. As you may know, the Rajah entirely disagreed with the attitude which the "Provisional Government" had adopted in their dealings with His Majesty's Government in this matter. Indeed, he regarded the proposals as eminently reasonable on the part of His Majesty's Government and informed me that he was shocked both by the fact and manner

of their rejection by his delegates. As you are also aware, he reached the conclusion that the proposals did not go far enough.

In any case, as the cession of the territory to His Majesty had already been decided in the Sarawak Councils and the necessary legislative measures had been duly enacted, it was far too late to consider your suggestion. I could not, in any event, have discussed a settlement on these or any other lines with you, except at the request or with the concurrence of the Rajah.

I have further noted your assurance that your sole anxiety is to do all in your power to avoid any serious difficulties arising in Sarawak. I should like, in this connection, to remind you of the undertaking which you gave when you were offered facilities to visit Sarawak that you would accept the decision of the Sarawak Councils in regard to cession. I am bound to say that I have been surprised by your participation, since that decision was taken, in the campaign in this country against the cession of the territory which, if it has any effect in Sarawak at all, can now only create unfounded misgivings or otherwise disturb the inhabitants in a manner detrimental to their true interests.

Yours sincerely,

(*Signed*) G. H. HALL.

Captain Bertram Brooke.

TELEGRAM: *From Tuan Muda and Rajah Muda of Sarawak to Datu Patinggi and Presidents Dayak Association and Malay Union of Sarawak.*

Date: 6th July, 1946.

Deeply moved by your cables. I can assure you that my son and I are doing and will continue to do everything possible to bring your just complaints and appeals to the notice of the British Government, Parliament and people. We cannot hold out much hope that such efforts are likely to have an early effect on present attitude of Government and Parliament, but we shall continue to champion your cause as long as the people of Sarawak wish us to do so. Please cable receipt. Dum Spiro Spero.

TELEGRAM : *From Dayak Association of Sarawak to Tuan Muda and Rajah Muda*, 31, *Prince Albert Road, Regent's Park, N.W.*8

Date : 9th July, 1946.

Gratefully thank you for cable sixth. We have reaffirmed our irrevocable attitude vide telegram today. We reiterate we look to none but you to be our Raj and champion our cause till we achieve what we all have at heart. Deepest respects. We hold on to Dum Spiro Spero.

TELEGRAM : *From Datu Patinggi to Rajah Muda*, 31, *Prince Albert Road, N.W.*8

Date : 26th July, 1946.

Please cable result of our protest to Prime Minister. If negative we have no alternative but to ask you to protest to UNO or America who recognises our independence since 1850 and we prize that recognition. Surely it would militate against U.S.A. avowed policy of maintenance of peace and independence of great and small nations to be impassive of extinction of Sarawak's independence without sanction or choice of Sarawak people.

104, Paramount Court, London, W.C.1,
19th July, 1946.

DEAR MR. HALL,

I have delayed replying to your letter of 3rd July, since it was partly answered by mine of 6th July which, owing to a delay in forwarding, had crossed yours, and because I was hoping that I might first receive your comments on the irregularities in the cession proceedings set out in the document which I had enclosed. Should the cession of Sarawak continue to be challenged by the Sarawak people, it will presumably be necessary for Great Britain as a State that respects the rights of others either to disprove these allegations publicly or, if they are substantiated, to review the policy based on them. I would respectfully suggest that the sooner they can be investigated, the better for the future goodwill of Britain in the south-west Pacific. For, though committed by

the late Sarawak Administration, they go to the root of a transaction in which this country is intimately concerned.

In answer to the third paragraph of your letter, I can only say that you have been gravely misinformed about the circumstances attending the dismissal of the Provisional Government of Sarawak in October, 1945. It is quite untrue to say, as your letter does, that the Rajah only became aware of the attitude of the Provisional Government in its negotiations with His Majesty's Government after he had dismissed the former. Far from being surprised by his delegates' rejection of your predecessor's proposals, he had himself in a letter to Colonel Oliver Stanley of 3rd August, 1944, laid down the principles which in his view must govern any discussions, stating that, while welcoming a closer consultation with the Colonial Office regarding the future political, social and economic progress of Sarawak, he could scarcely as trustee for the Sarawak people, be expected to accede to the arrangement proposed by His Majesty's Government at a time when, owing to the unavoidable inability of the Protecting Power to preserve them from invasion, the people were under alien rule and military occupation and could not, as a result, be consulted as to their future destiny. It was subject to this overriding condition that my son, as Head of the Provisional Government, received the Rajah's authority to negotiate with His Majesty's Government; and it was because the late British Government refused to accept the principle which the Rajah himself had laid down—in my view a perfectly correct one so long as Sarawak was occupied by either Japanese or British troops—that Colonel Oliver Stanley warned the Provisional Government—a warning repeated at a subsequent meeting by Sir Edward Gent—"that in the event of a failure to proceed in agreement His Majesty's Government would take their own course."

The absurdity of the Rajah maintaining that he was unaware of the conditions on which the Provisional Government was negotiating when he himself had laid them down is further shown by the fact that on 17th July—before the Rajah's unconstitutional dismissal of the Provisional Government—Colonel Oliver Stanley himself wrote to the Rajah complaining that the Sarawak delegates were "personally unresponsive." This letter the Rajah, without either recalling or modifying his original instructions, passed to my son as Head of the Provisional Government for his

action, minuting it, "Please deal with this," and at the same time informing the Secretary of State of his action. The charges made against my son in the second part of your letter would therefore appear to be not only completely unfounded, but clearly contradicted by the correspondence in your Department's possession. If you will be good enough to re-read the third paragraph of your letter of 3rd July and compare it with the documents to which I have referred, you will be able to test the reliability of the data on which this part of your letter was compiled. It appears, if you will forgive my saying so, to have been based on a misrepresentation of easily ascertainable facts of which, I am sure, you cannot have been made aware.

I should like, in passing—though it is set out in the document entitled "Salient Facts" already in your possession—to refer to the circumstances in which my son and the other members of the Provisional Government were dismissed by the Rajah. They did not resign as you state in your letter; they were unconstitutionally dismissed. By the so-called "Constitution of 1941" the Rajah bound himself, receiving £200,000 from the Sarawak Treasury at the same time, not to act in future save by and with the "advice and consent" of his Council. In dismissing the Provisional Government and proceeding to negotiate with His Majesty's Government direct he acted on his personal authority alone, without the consent of his Council and therefore, according to the Constitution of 1941, unconstitutionally. It now appears that he empowered his private secretary, during the private visit which the latter, with the assistance of your Department, made to Sarawak last Christmas, to convene a so-called meeting of the Council Negri, which at that time was in abeyance, in order to abolish the Constitution of 1941 and so bestow on the Rajah untrammelled powers to effect cession to His Majesty's Government—powers which he most certainly did not possess before 1941, as is clearly shown by the Political Wills of the first and second Rajahs and the present Rajah's Accession Oath. The "Council Negri" so convened by Mr. MacBryan consisted of some half dozen members, all of whom are now known to have received money gifts from him (subsequently stated by the Rajah to have been for back pay, though the Datu Patinggi, who immediately sent his gift of 12,000 dollars to the British Military Authorities, alleged that it was a bribe). Four months later, on

17th April, 1946, immediately prior to cession, the enactments of this so-called Council Negri constituting the Rajah an autocrat were very properly abrogated, on the advice of the Colonial Office's legal adviser then in Sarawak, by "Constitution Re-enactment" Order No. C.23. Yet it was apparently on the authority granted to the Rajah by this completely illegal Council Negri that the offer was based which you provisionally accepted on behalf of His Majesty's Government and announced to the House of Commons on 6th February, unless—which I find it difficult to believe—you accepted his offer prior to this so-called Council Negri meeting, in which case the Rajah was offering on his sole authority, and without the advice and consent of his Council, what neither under the Constitution of 1941 nor under the Political Wills of the first and second Rajahs, was his to offer.

I note your statement that you cannot discuss any revision of the settlement reached by such questionable means except at the request or with the concurrence of the Rajah. I naturally appreciate the scrupulous regard which you have shown and continue to show for the Rajah's legal and moral rights. What I have never been able to understand is why, when in the past (as the files of your Department must show), your predecessors have reminded the Rajah and assured me that the entailed rights of his heirs were a matter of direct interest to Great Britain under the Treaty of 1888, your Department has since last autumn chosen to act as if those rights were non-existent. As I have said before, I have always been ready to waive my own rights provided the peoples of Sarawak, for whose benefit I alone held them, were first given a proper opportunity to understand the nature of the changes proposed and to express an opinion on them through their own properly constituted councils without misrepresentation, fraud or duress on the part either of the Sarawak administration or of the Protecting Power. It was because the true nature of the changes was never made clear to them and because the proceedings in the Council Negri were most improperly conducted and vitiated by the irregularities which I have specified that I consider myself under a continued obligation to bring to your notice the just resentment of a loyal-hearted and peace-loving people who feel, not unnaturally, that they have been tricked of their birthright. I have cabled to the Datu Patinggi and to the Presidents of the Malay Union and Dayak Association informing

them that, though I and my son (to whom they have appealed and are still appealing) would continue to do whatever we properly could to make their lawful requests known in this country so long as they desired us to do so, we could hold out little immediate hope of being able to influence the present attitude of the British Government and Parliament. They have replied that their own opposition to cession remains irrevocable and that it is supported by the great majority of the people.

I can only hope and believe that, provided that the people of Sarawak do in fact wish to recover their nationhood—and, if they do not, I shall have nothing further to say against the settlement—their wishes will ultimately be respected by His Majesty's Government. I base this on your own Parliamentary statements of 27th March that cession would only be taken if it was found to be "broadly acceptable to the native communities of Sarawak" and that the visit to the country by the two Members of Parliament was being made to see "whether people on the spot"—by which I assume you meant its own inhabitants—"desire or do not desire that cession shall take place." The ultimate issue, as I see it, is not whether Sarawak will be better administered under direct British rule, but whether its administration, however constituted, is broadly acceptable to its people. Anything else would be opposed to the principles which His Majesty's Government have proclaimed to the world. I am ready to abide by any decision reached by a Judicial Commission empowered to enquire into and report on the facts leading up to and resulting in cession, and to submit to any examination on my own part in the matter provided that all others concerned do likewise. That for the good name of Britain and future well-being of Sarawak such facts ought to be investigated I have not the slightest doubt.

Yours sincerely,

(*Signed*) BERTRAM BROOKE,
Tuan Muda of Sarawak.

Rt. Hon. G. H. Hall, P.C., M.P.,
Downing Street, S.W.1.

Colonial Office, Downing Street, S.W.1,
26th July, 1946.

DEAR CAPTAIN BROOKE,

I have received your letter of the 6th July enclosing a copy of a memorandum entitled "Salient Facts in Sarawak Controversy."

I have also received your subsequent letter of the 19th July.

I do not propose to enter into any detailed discussion of either of your letters or of the memorandum. So far as the latter is concerned, I wish merely to state that I am unable to agree that it contains a fair record of events leading up to the cession of Sarawak to His Majesty, or with the implications of the conclusions you draw from it.

As regards your letter of the 19th July, the only modification that appears to be necessary to my letter of the 3rd July is in respect of the reference to the resignation of the members of the "Provisional Government of Sarawak." From a perusal of the relevant documents which have recently been transferred to my Department from the Sarawak Government Offices, I perceive that the members of the "Provisional Government" were in fact dismissed by the Rajah. I had interpreted as tantamount to a resignation your son's statement in his letter to me of the 8th October, 1945, that he had, with the concurrence of his colleagues, agreed to abide by the Rajah's decision. Apart from this, I do not propose to make any other comment on your more recent letter, but you will understand that this abstention is not to be taken as implying my acceptance of, or agreement with any of its contents or conclusions.

In general, I would simply add this. It was only after the two Members of Parliament had reported, as a result of their tour through the country, that there was sufficient acquiescence or favourable opinion amongst the inhabitants to justify the question of cession being put to the Council Negri, and had strongly urged that there should be no postponement of that action, that the question was put to the Council. I am therefore unable to accept the suggestion that there should be some further consultation of the wishes of the people on the cession issue. Now that the territory has been ceded I cannot but feel that anyone who encourages in any way the small group in Sarawak who persist in voicing their opposition to cession is stirring up dissension and is not serving the true interest of the territory and its inhabitants.

I hope I have now made my position quite clear to you. Whilst I shall always be willing to consider most carefully any views you may wish to put to me about the administration of the Colony of

Sarawak, I am of opinion that no useful purpose will be served by the continuance of this correspondence on its present basis.

Yours sincerely,

(*Signed*) G. H. HALL.

104, Paramount Court,
London, W.C.1.
5th August, 1946.

DEAR MR. HALL,

I have to thank you for your letter of 26th July. I note with much regret your desire to terminate our correspondence. I am glad, however, you now admit, after studying the Sarawak Government files, that the Rajah (without the consent of his Council and therefore, according to the Constitution of 1941, unconstitutionally) dismissed my son and the Provisional Government in October, 1945—an illegality which would seem to have invalidated everything which he subsequently did if the validity of the 1941 Constitution is accepted by His Majesty's Government.

But I am sorry that you have not chosen to reply to the serious point raised in my previous letter: that, in preparing your letter of 3rd July, your Department based your justification for refusing to consider the proposal I had made to you on a misstatement of fact which must have been known to be such by anyone in your Department who had seen the letter addressed by the Rajah of Sarawak to your predecessor laying down the principles which governed the proceedings of the Sarawak Provisional Government in its negotiations with His Majesty's Government last summer. This was your implication that the Rajah was justified in dismissing my son because the latter, in refusing at that time to accede to the proposals made by His Majesty's Government, had disobeyed the Rajah's instructions; the Rajah, you said, only became aware of the proposals put forward by His Majesty's Government after the Sarawak Provisional Government had resigned—or, as you now admit, had been dismissed—and was "shocked both by the fact and manner of their rejection by his delegates." In fact, as your Department was aware, the Rajah had laid it down in his own letter of 3rd August, 1944, to your predecessor that he could not accede to any change in the status of Sarawak so long as its people were under military occupation

and could not be consulted. Yet it would appear from your letter of 3rd July that it was on account of this perfectly correct adherence of my son to the Rajah's instructions that His Majesty's Government subsequently endorsed the Rajah's unconstitutional action in dismissing the Provisional Government, accepted the questionable means which he and his officers took to secure the assent of the Council Negri to cession, and permitted him to treat as non-existent an entailed succession of whose force your predecessors had on more than one occasion reminded him and which His Majesty's Government was bound to respect under the Treaty of 1888. By doing so His Majesty's Government enabled the Rajah to secure a considerable capital sum for his own private use while depriving his heirs of their inheritance and—what is infinitely more important—the people of Sarawak of their independence and national status.

I should like to reply to two other points in your last letter. You state that it is only "a small group in Sarawak who persist in voicing their opposition to cession" and that anyone who "encourages" them—by which you would appear to mean makes their wishes known by the ordinary processes of democracy to the people of this country—"is stirring up dissension." I cannot believe that this represents the considered view of either yourself or of your Government. If any group, large or small, in Sarawak holds a political opinion contrary to that of His Majesty's Government, it is surely not only the right, but the duty of any British elector who sympathises with that view, to endeavour to make it known in this country. How could Parliament accept responsibility for peoples not represented on it were this not so? And my opinion for what it is worth—and it is certainly based on a longer experience of Sarawak than that enjoyed by any official in your Department—is that, though those who up to the present have led the opposition to cession are highly responsible and law-abiding citizens—they include both the senior hereditary Malay chieftain and the native member of the Sarawak Administration chosen by the Rajah to second the motion for cession on behalf of the Dayak community—nothing is more calculated to provoke "dissension" and to encourage extremist elements than a continued refusal by His Majesty's Government to investigate the grave and widely believed allegations which have been made about the methods employed to effect cession.

Nor from my knowledge of the country can I agree with you that it is only a small group that is opposing cession. I am convinced that to the extent the people of Sarawak valued their nationhood in the past, they now lament its extinction and deplore the means by which it was brought about. It is, I think, worth your notice that the membership of the Malay Union alone is relatively higher in proportion to the Malay population of Sarawak (about 90,000) than is the membership of the Congress Party to the Hindu population of India ; while the Dayak Association, though only recently formed, is, I understand, composed of village headmen from all Divisions of the Interior, representing communities, who living a purely communal life, have always been accustomed to express their corporate views, not individually but publicly through such headmen.

In your fourth paragraph you say that it was only after the two Members of Parliament reported to you that there was " sufficient acquiescence or favourable opinion among the inhabitants to justify the question of cession being put to the Council Negri," that the question was put. As, however, the result of the vote showed that the majority of the native councillors—in spite of the fact that they were virtually the Rajah's nominees—were opposed to cession, I cannot follow your argument that this prior report of the two Members of Parliament—both strangers to the country —now renders superfluous any further consideration of the people's wishes and negatives the subsequent native vote in the Council Negri. Cession, as you know, was only carried by the votes of the Rajah's European officers, and had not the Rajah previously excluded from the Council Negri former European members who were known to be opposed to cession, the Bill would have been defeated in spite of the inclusion of European votes. As regards the wishes of the natives—wishes which earlier in the year you stated in the House you were resolved to respect—messages continue to reach me and my son from Sarawak from responsible representatives of the indigenous peoples whom I have known all my life urging that the national feelings of the people should be taken into consideration and complaining bitterly of what they regard as hasty and arbitrary measures taken to deprive them of their nationhood and of improper pressure to which they now allege they are being subjected. In these messages they appeal to the justice of the British Government and people, and it

is because I cannot believe that such appeals will permanently fall on deaf ears that I persist in urging that some judicial enquiry should be made into the late proceedings in Sarawak. I cannot see how such an enquiry can in any way prejudice the interests of Great Britain. If the allegations I have set out and which are widely believed in Sarawak are untrue, they should be investigated and disproved ; if, on the other hand, they are true, it can do nothing but harm to the future of Great Britain in the South-west Pacific to persist in ignoring them. Unless it is proposed to hold down the people of Sarawak in perpetuity by force against their will—a policy which I cannot believe to be that of His Majesty's Government—the British future in that country must depend on its people's belief in British good faith.

I am ready, as I said before, to discuss with you at any time any means you may deem expedient for satisfying the legitimate wishes of the Sarawak people while simultaneously ensuring the proper interest of Great Britain in the sound administration and well-being of the country.

Yours sincerely,
(*Signed*) BERTRAM BROOKE,
Tuan Muda of Sarawak.

The Rt. Hon. G. H. Hall, P.C., M.P.,
Secretary of State for the Colonies,
Colonial Office.

*

The following statement sets out the considered opinion of the Colonial Office and Foreign Office in respect of the international status of Sarawak:

"From the point of view of international law the State of Sarawak possesses no personality whatever and is simply a territory within the British Empire. The independence of Sarawak is a purely domestic matter with which no foreign state has any concern. From the point of view of United Kingdom municipal law, Sarawak is foreign in the sense of not being British territory; but from the point of view of international law, Sarawak is British territory and not foreign (vide, for example, the use of the word 'foreign' in commercial treaties in connection with imperial preference). Sarawak is simply a British protected state. The Agreements between the British Government and the Rajah of Sarawak have no existence within the realm of international law, but only operate as domestic matters within the Empire."

OPINION

THE MAIN QUESTION put to us is whether the statement headed "The International Status of Sarawak" numbered S. 6* and handed by the representatives of the Colonial Office to the representatives of the Government of Sarawak as being "the considered opinion of the Colonial Office and the Foreign Office" is a fair and correct statement of the position.

In our opinion it is not, and we shall endeavour to show why.

(a) The legal personality of a Protected State varies according to the degree of dependence upon the Protector, and each case must be considered on its merits. At one extreme there are protected States which are undoubtedly international persons although they have entrusted the conduct of their international relations to their protector; at the other extreme, there are States which have lost all their international personality, and are for all international purposes a part of the protecting State, their relations with it being a matter of domestic constitutional law. The words "protection", "Protectorate", have no single meaning and cover a multitude of relationships.

(b) It is stated (in S. 6 referred to above) that "The Agreements between the British Government and the Rajah of Sarawak have no existence within the realm of international law, but only operate as domestic matters within the Empire."

We are unable to accept this statement.

The precise date at which Sarawak became an independent State may be difficult to fix.

According to the *Dominions Office and Colonial Office List*, 1940, (believed to be the latest), p. 542, Great Britain recognized Sarawak as an independent State in 1864. There is some evidence that the United States of America had done the same thing at an earlier date. Then by an Agreement of September 5, 1888, executed by Lord Salisbury, then Secretary of State for Foreign Affairs, and Raja Charles Brooke the State of Sarawak "was placed under the Protection of Her Majesty the Queen". That Agreement was undoubtedly made between two independent States, operates within the field of International Law and derives its efficacy from that system of law. Its language is such that no other conclusion is possible. It envisages relations between the State of Sarawak and foreign States and provides for their being conducted either by His Majesty's Government or in accordance with its directions, but these foreign relations are the relations of the State of Sarawak. Again, it envisages differences arising between the Government of Sarawak and other Governments, and obliges the Government of Sarawak to abide by the decision of His Majesty's Government upon such differences, but the differences are between Sarawak and other States, not between His Majesty's Government and other States. Again, by Article IV His Majesty's Government received the right to send consuls who shall receive exequaturs in the name of the Government of Sarawak and shall hoist the British flag in their residences, and Article V confers upon British subjects both national and most-favoured-national treatment.

Article VI requires the consent of His Majesty's Government to cessions of territory by the Raja to any foreign State. All these provisions presuppose the existence of the State of Sarawak as an international person, and the effect of the Agreement is to modify its international personality by making it a Protected State. Just as the English Law of status recognizes legal persons of incomplete personality and capacity, so likewise does international law

recognize a variety of status and personality.

What then has happened since 1888 to convert this Agreement and the treaty relations resulting from it from the field of international law into "domestic matters within the Empire"?

Owing to the military occupation of Sarawak the Government is separated from its records and is not in a position to quote from its files. No importance can be attached to the transference of Sarawak affairs by His Majesty's Government from the Foreign Office to the Colonial Office at some time, so we are told, between 1906 and 1912. The change called forth a protest from the Sarawak Government and was ultimately acquiesced in by it as a matter of British domestic convenience on the understanding that it in no way altered the status of Sarawak. Sarawak's foreign relations are for the most part confined to her near neighbours. Two Boundary Agreements were made in 1912 and 1920 with the State of Brunei (See Maxwell's *Treaties and Engagements of the Malay States*, pp. 152-154), and it is significant that they are signed for Brunei by the British Resident and for Sarawak by the Raja's own officer of the appropriate Division. From time to time His Majesty's Government in pursuance of the Agreement of 1888 has made treaties and agreements with other States affecting Sarawak and has previously consulted the Government of Sarawak, for instance, a boundary treaty with the Netherlands Government in 1928 and an agreement with the same Government as to passports in 1926. When such a treaty or agreement requires legislation in Sarawak, it is for the Government of Sarawak to legislate, as in practice it does.

Finally, what is the effect of the Agreement of 22 November, 1941, upon the previous state of affairs?

(i) Instead of wiping out the status quo ante and converting a relation between the two countries operating within the field of international law into a domestic matter within the Empire, it proceeds in the first article to re-affirm the vitality of the Agreement of September 5, 1888, by expressing the Agreement of 22 November 1941 to be supplemental to it.

(ii) It then provides for a British Representative to be "accredited to the Court of the Rajah" and makes it necessary that his advice should be "asked and acted upon" upon all external matters, namely, relations of the State of Sarawak with foreign States, rights and status of foreign nationals (which

involve obligations towards foreign States) and defence (that is, against foreign States). Moreover, the British Representative may offer his opinion "on matters touching the general administration of the State", may attend the Supreme Council for certain purposes without power to vote and may attend and address the Council Negri without power to vote.

It may well be that after some years of the operation of this Agreement the influence of the British Representative might become so great that the internal independence of the State of Sarawak would, de facto and by acquiescence, come to an end, but within about one month of the signature of the Agreement Sarawak came under enemy occupation, and it is impossible to say that Sarawak vis-a-vis His Majesty's Government no longer possesses internal sovereignty and independence. It is hardly necessary to say that enemy occupation does not displace sovereignty.

(c) The independent status of Sarawak is accepted in the latest edition of Anson's *Law and Customs of the Constitution*, Vol.II, Part II (1935) (by Berriedale Keith) pp. 106-108. After stating that "the dependent or protected states may stand in varying degrees of dependence upon the government of this country", the editor continues:

"The Protectorates or Protected States, in which a settled form of government exists — Zanzibar, Tonga, Brunei, North Borneo, Sarawak and the Malay States — possess these features in common, that the British Government by treaty exercises a control over their foreign relations, and in the first three cases a jurisdiction over British subjects within their territories. The Malay States are practically controlled in their internal affairs by the advice of a British Resident, a phenomenon formerly exhibited on a large scale in the case of Egypt. In these cases it is not considered necessary to exercise jurisdiction. North Borneo and Sarawak are curious examples of independent sovereignty exercised by British subjects under the protection of the Crown under treaties of 1888, but not within the dominions of the Crown. In Sarawak foreign relations are controlled and questions of succession are determined by the British Government, which also in the case of North Borneo approves the Governor appointed by the Chartered Company. Zanzibar is governed by a Sultan advised by a British Resident, and has executive and

legislative Councils; natives fall under the Sultan's Court, Europeans under the Resident's Court. Tonga, a constitutional monarchy, has in minor matters jurisdiction over Europeans".

(d) Further evidence of the fact of the State of Sarawak being a foreign country is afforded by its position in regard to the Foreign Jurisdiction Acts, 1890 and 1913. These Acts enable the Crown to direct that certain British enactments shall extend "to any foreign country in which for the time being His Majesty has jurisdiction". Amongst these enactments has been, since 1913, the Colonial Probates Act, 1892. The British Crown appears to have been advised in or about the year 1927 that it had no power to legislate under the Foreign Jurisdiction Acts in respect, amongst other States, of Sarawak, because it did not assert jurisdiction over British subjects there, and the Colonial Probates (Protected and Mandated Territories) Act, 1927, was passed which empowers the Crown to apply the Colonial Probates Act, 1892 "to any territories being either territories under His Majesty's protection or territories in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty, to which it cannot be applied by virtue of the provisions of the Foreign Jurisdiction Acts, 1890, and 1913."

(e) There are other factors which support the view that Sarawak is not an integral part of the British Empire. Not only does Sarawak possess its own flag and currency and postage stamps (as many States forming part of the British Empire do) and an armed force (the Sarawak Rangers), which in the words of Hailsham, *Laws of England* Vol. XI (dated 1933 Sect. 351 "is a force under the Rajah's sole control", but its internal independence differentiates it from many or most of those British Protected States which are regarded as part of the British Empire, in two respects: (a) the absence of any right in the British Crown to exercise jurisdiction in Sarawak, the concession of which by the Government of Sarawak appears to be one of the main objects of the pending negotiations (see the minutes of the Meeting held on March 20, 1945) and (b) the absence of any appeal from Sarawak Courts to the Privy Council or to any other British Court. The following passage may be quoted from Hailsham, *Laws of England*, Vol. XI, Sect. 272, where, after referring to the Agreement of 1888 and the powers conferred thereby upon the British Government, the author continues as follows:-

"Otherwise no intervention in administration is allowed. The administration is controlled by the Rajah and a Supreme Council composed of the heir presumptive (the Tuan Muda), two Europeans and five Malays. There is a large administrative staff and a Chief Justice. No provision is made for British jurisdiction or even for an appeal to the Privy Council", (such as exists in the case of the Federated Malay States, British North Borneo and Brunei (see Hailsham, Vol. IX, Sect. 271, Note (f).)

In short, if the statement made by the Colonial Office that "Sarawak is simply a British Protected State" means that it is a State protected by Great Britain, the claim can be accepted; if it means that Sarawak is British, it goes too far.

(f) The treatment of Sarawak in the *Dominions Office and Colonial Office List*, 1940 (which is believed to be the last issue) lends support to the view that Sarawak is not regarded as "an integral part of the British Empire. Part II (c) is described as an Historical and Statistical Account of the Colonies and other Territories with which the Colonial Office is concerned". This section deals (inter alia) with Malaya which it is stated on p.380, "comprises the Colony of the Straits Settlements, the Federated Malay States of Perak, Selangor, Negri Sembilan, Pahang and the Unfederated States of Johore, Kedah, Kelantan, Trengganu and Perlis. Malaya is also regarded as including the State of Brunei, in the island of Borneo, of which the Governor of the Straits Settlements is High Commissioner and which, like the Malay States in the Peninsula, is in treaty relationship with Great Britain".

It will be noted that two other States in the island of Borneo, namely North Borneo and Sarawak are not mentioned as comprised within Malaya.

Later at p.539 there is an Appendix which gives some account of North Borneo, Sarawak, Trans Jordan and certain miscellaneous British Possessions and Protectorates which are not included in the main portion of the Historical and Statistical portion above. On p. 542 we are told that in 1864 Great Britain recognized Sarawak as an independent State and the Agreement of 14 June 1888 is summarized.

It is also worthy of note that the members of what is called the Malayan Establishment Staff appear in the Record of Services of Dominions and Colonial Officers, while the members of the

Sarawak Service do not. The reason is presumably the fact that the members of the Malayan Service are British civil servants, while the members of the Sarawak Service are not and hold contracts from the Sarawak Government.

Again on p. XIV the description of the establishment of the Colonial Office recognizes the distinction between the Malaya States and Sarawak by describing the affairs assigned to the Eastern Department of the Office as follows: "Hong Kong Straits Settlements, Malay States, Mauritius, Seychelles and Ceylon. Business connected with the Protected States of Sarawak and North Borneo".

(g) It is instructive to compare Sarawak with one of the Unfederated Malay States, Kelantan, in 1924. As a result of a Treaty of 10 March 1909 between Great Britain and Siam and an Agreement of 22 October 1910 between Great Britain and the Raja of Kelantan (see Maxwell's *Treaties and Engagements affecting the Malay States and Borneo*, p. 109) Great Britain exercises (or at any rate exercised in 1924) rights of protection over Kelantan which may be summarized as follows:

(i) Kelantan undertakes to have no political relations or dealings with any foreign power or protectorate except through the medium of His Britannic Majesty.

(ii) His Britannic Majesty reserves power to appoint officers to be Adviser and Assistant Adviser in Kelantan, and the Raja of Kelantan "undertakes to follow and give effect to the advice".

(iii) Posts, telegraphs and railways are under the control of the Raja.

(iv) His Britannic Majesty undertakes not to interfere with the internal administration of Kelantan except as provided in the Agreement so long as nothing is done which is contrary to treaty obligations between His Britannic Majesty and foreign Governments and so long as peace and order and justice are maintained in Kelantan.

An examination of the Agreements between His Britannic Majesty and the Rajah of Sarawak of 1888 and 1941 makes it clear that the rights of the British Crown in the State of Sarawak are less than they were in 1924 in the State of Kelantan.

In the light of the certificate given by the Colonial Office for the purposes of the hearing of the House of Lords in Duff Development Co. v. Government of Kelantan (1924) A.C. 797 it is

instructive to examine the international status of Kelantan at that time as accepted by the House of Lords.

Upon a summons to enforce an award against the Government of Kelantan, the Secretary of State for the Colonies was, in accordance with the usual practice, requested by the Court for information as to the status of Kelantan. The reply from the Colonial Office, dated 9 October 1922, is summarized in the passage about to be quoted from Viscount Finlay's speech. That letter was enough and indeed was conclusive upon the Court, but it enclosed certain documents which enabled the Court to examine the background of the opinion expressed in the letter.

Viscount Finlay (at p.814) said.

"It is obvious that for sovereignty there must be a certain amount of independence, but it is not in the least necessary that for sovereignty there should be complete independence. It is quite consistent with sovereignty that the sovereign may in certain respects be dependent upon another Power; the control for instance, of foreign affairs may be completely in the hands of a protecting Power, and there may be agreements or treaties which limit the powers of the sovereign even in internal affairs without entailing a loss of the position of a sovereign Power. In the present case it is obvious that the Sultan of Kelantan is to a great extent in the hands of His Majesty's Government. The reply of the Colonial Office to Master Jelf on October 9, 1922, states that Kelantan is an independent State in the Malay Peninsula and that the Sultan is the sovereign ruler, that His Majesty's Government does not exercise or claim any rights of sovereignty or jurisdiction over Kelantan and that the Sultan makes laws, dispenses justice through Courts, and, generally speaking, exercises without question the usual attributes of sovereignty".

Viscount Finlay then analysed the Agreement of 22 October 1910 and considered that "while there are extensive limitations upon its independence, the enclosed documents (in the letter from the Colonial Office) do not negative the view that there is quite enough independence left to support the claim to sovereignty".

In our opinion this passage is applicable to the State of Sarawak. Indeed, Sarawak's is an a fortiori case. A comparison of the Agreement of 22 October 1910 with Kelantan and the Treaty of 5 September 1888 and Agreement of 22 November 1941 with the Rajah of Sarawak leaves no doubt in our mind that the State

of Sarawak possessed after the Agreement of 22 November 1941 a larger degree of sovereignty than the State of Kelantan did in 1924.

(h) It is also instructive to examine a case affecting what is now one of the Unfederated Malay States — Johore — Mighell v Sultan of Johore (1894) 1 Q.B. 149 (C.A.) By a treaty of December 11, 1885, the defendant Sultan maintained armed forces and a postal system, dispensed justice through properly constituted Courts, conferred titles of honour "and, generally speaking, exercised without question the usual attributes of a sovereign ruler". By a treaty of 1885 the Sultan's territory was protected from hostile attack by the British Governor of the Straits Settlements and "the Sultan bound himself not to negotiate treaties or to enter into any engagement with any foreign State". In short, the Sultan had parted with his external sovereignty but retained his internal sovereignty. The Secretary of State for the Colonies, when the Court desired to ascertain the status of the Sultan, replied that Johore was an independent State and territory, that the defendant was the present sovereign ruler thereof, and that the relations between the Sultan and Her Majesty the Queen were relations of alliance and not of suzerainty and dependence. The Court of Appeal had no hesitation in holding that the letter from the Colonial Office was "conclusive that the defendant was an independent sovereign" and added "For this purpose all sovereigns are equal. The independent sovereign of the smallest state stands on the same footing as the monarch of the greatest". Thus in 1894 the Colonial Office certified that a Protected State the external relations of which were conducted by His Majesty's Government but which internally possessed the usual attributes of a sovereign, was an independent State, and it does not appear that the condition of Johore then differed greatly from that of Sarawak today. Moreover, it is significant that the Court of Appeal regarded itself as applying international law and not the domestic law of the British Empire.

(i) Finally, we may say that the remark (contained in Memorandum S. 6) that "no foreign State has any concern" with the independence of Sarawak is not understood. The British Crown and the Government of Sarawak are capable of managing and adjusting their relations themselves, and it has not been suggested on behalf of the Government of Sarawak that any other State is interested in the matter.

We shall now answer the specific questions put to us in our Instructions.

(1) For the reasons stated above we do not consider that Memorandum S. 6 is an adequate statement of the position.

(2) The combined effect of the Agreements of 1888 and 1941 upon the internal administration of Sarawak is twofold. (a) The conduct of Sarawak's foreign relations conceded to His Majesty's Government by the Agreement of 1888 and elaborated in the Agreement of 1941 carries with it the powers necessary to implement these relations internally where required, and if the Government of Sarawak declined to implement internally a treaty or other agreement with another State purporting to affect the State of Sarawak, His Majesty's Government would be entitled to take the steps necessary for the application and enforcement of that Agreement. Moreover, the British representative accredited to the Court of the Rajah has access to the relevant Sarawak documents and records. (b) In what may be described as purely internal affairs, the British Representative has a right to offer his opinion upon matters touching the general administration of the State. In matters on which his advice is sought he has access to Sarawak State documents and records. He may attend certain meetings of the Supreme Council and all meetings of the Council Negri. These rights in themselves do not give His Majesty's Government the right to intervene in purely internal affairs.

(3) In our opinion Sarawak is a Protected State possessing incomplete international personality but not an integral part of the British Empire.

(4 and 5) The statement quoted in this question from the Colonial Office's Memorandum S. 6 contains a twofold assertion, namely that responsibility for the administration of Sarawak already rests upon His Majesty's Government (a) in fact and (b) in public estimation.

As regards (a) we assume that by the words "in fact" the writer of the memorandum meant "in law". For the reasons discussed at length above, we are of opinion that, as a matter of law the extent of the responsibility of His Majesty's Government for the administration of the affairs of Sarawak is as follows and no further:-

(1) His Majesty's Government is responsible to other states for the conduct of the external affairs of Sarawak, including the rights

of foreign nationals and the defence of Sarawak; and

(2) as regards the internal affairs of Sarawak His Majesty's Government is responsible to the extent to which the Agreements of 1888 and 1941 confer rights and impose duties upon His Majesty's Government in relation thereto, including by necessary implication the right of requiring any internal legislation to be passed, which may be necessary to give effect to action taken by His Majesty's Government in the matter of the foreign relations of Sarawak.

His Majesty's Government have no further responsibility in law (or in fact) for the administration of Sarawak.

As regards (b) on the facts and documents before us we find it difficult to appreciate the accuracy of this assertion.

In view of the extent of the existing rights of His Majesty's Government which have been stated above, the assertion under discussion involves the allegation that a public opinion exists, of which His Majesty's Government ought to take notice, demanding that His Majesty's Government should take control or a substantial measure of control of the internal affairs of Sarawak.

We know of no circumstances which would justify such a public opinion, assuming it to exist; and there is before us one fact, which would seem to rob any such opinion of any justification, namely the admission of the Colonial Office that there exists no ground for complaint as regards the manner in which the internal affairs of Sarawak were administered before the Japanese occupation.

In view of the extent of the existing rights of His Majesty's Government under the existing Agreements and in view of this very important admission by the Colonial Office, it is difficult to appreciate either that any such body of public opinion exists, or, if it does exist, that, at the expense of the State of Sarawak, it should be heeded by His Majesty's Government, the relevant department of which Government has made the important admission referred to above. Speaking with all respect, if the suggested opinion exists (which we doubt), the case would appear to us to be one calling for the education of the public opinion in question, rather than one for bringing pressure upon or taking unilateral action against a state, with whom His Majesty's Government has two existing Agreements and against the administration of whose internal affairs no complaint can be made.

In the above circumstances we are of opinion that the Government of Sarawak should dispute with the Colonial Office the correctness of the view put forward in the Memorandum S. 6 and the twofold assertion made in the Memorandum S. 5 and referred to at the beginning of this paragraph of our Opinion, and in particular should request the Colonial Office to justify its assertion that a body of public opinion exists, of which His Majesty's Government ought to take official notice, holding the view that a case exists for the interference of His Majesty's Government in the internal administration of Sarawak.

H. WYNN PARRY.
ARNOLD D. McNAIR.

18th September, 1945.

An anti-cession demonstration in Kuching in 1946. Note the sizeable contingent of young Malay women.

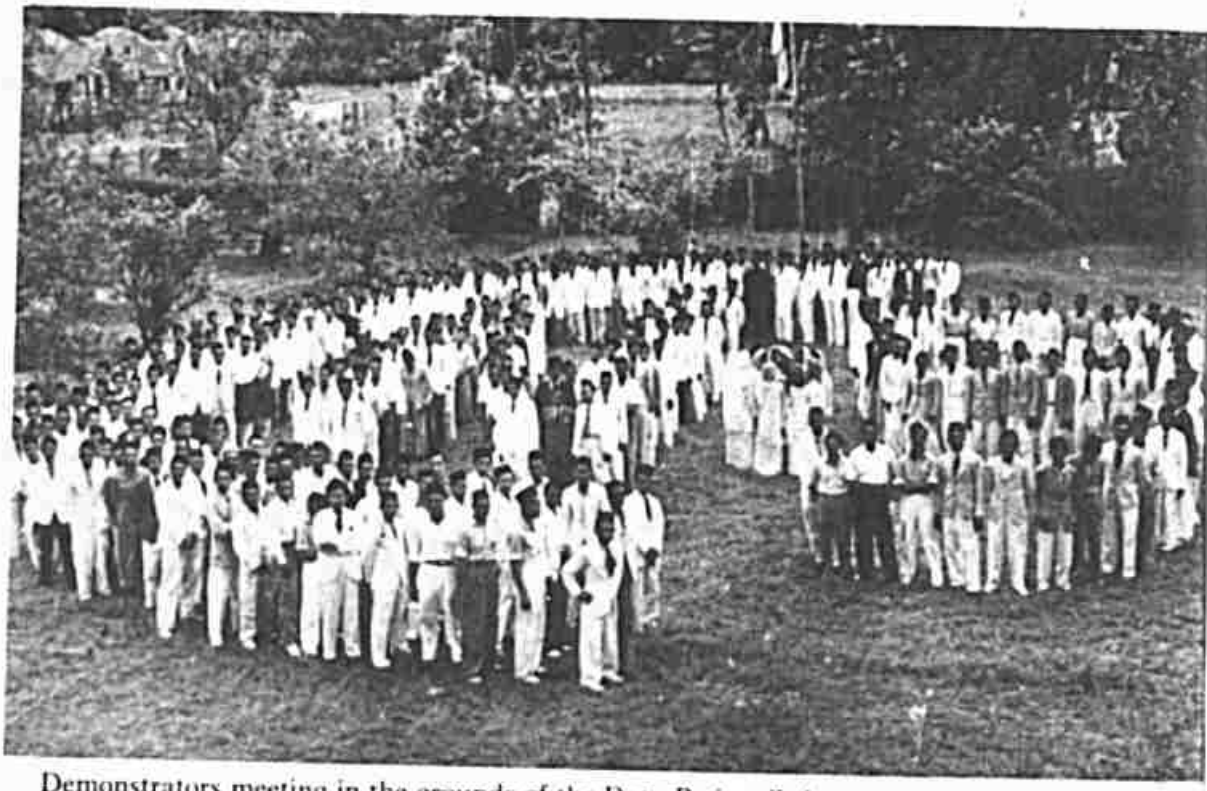
Another anti-cession march, this time with a poster saying "Long live H.H. the Rajah Muda" in English, Chinese and Malay.

At times Malay women staged their own protests. This Kaum Ibu demonstration was in Kuching on July 1, 1947.

Another view of the Kuam Ibu demonstration in Sibu.

A show of hands at a protest meeting in Kuching on July 1, 1947, demonstrates anti-cession solidarity.

"Sarawak cession is illegal" is the main theme of posters at this Kuching demonstration in 1946, protesting at the ban on Anthony Brooke.



Demonstrators meeting in the grounds of the Datu Patinggi's house on April 2, 1947, arrange themselves to form the anti-cession slogan, "No Circular No. 9." The circular was a government warning to all civil servants that they would be liable to instant dismissal if they associated with any activity designed to keep the question of cession open, or committed any act of disloyalty to the government."